

Civil Society Movement and Governance Reforms: A Study of Mazdoor Kisan Shakti Sangathan

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I am solely responsible for all the gaps and flaws that remain in the thesis.

Ramesh

Civil Society Movement and Governance Reforms: A Study of Mazdoor Kisan Shakti Sangathan

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Abbreviations

AIS	: All India Services
AFDR	: Association for Democratic Rights
APSS	: Ajmer Prodh Shikshan Samiti
APB	: Advisory Planning Board
APDR	: Association for Protection of Democratic Rights
ARC	: Administrative Reforms Commission
BDO	: Block Development Officer
BJP	: Bhartiya Janata Party
BMC	: Bandi Mukti Morcha
CCSR	: Central Civil Service Conduct Rules
CDRO	: Coordination of Democratic Rights Organisations
COHR	: Coordination for Human Rights
CIC	: Chief Information Commission
CLC	: Civil Liberties Committee
CPDM	: Campaign for Peace & Democracy in Manipur
CPDR	: Committee for Protection of Democratic Rights
CSE	: Civil Service Examination
GOI	: Government of India
GSS	: Gram Sewak Sangh
HRF	: Human Rights Forum
IAS	: Indian Administrative Service
IAY	: India Awas Yojana
ICS	: Indian Civil Service
ICDS	: Integrated Child Development Scheme
IDS	: Institute of Developmental Studies
IEA	: Indian Evidence Act
INC	: Indian National Congress
JCDR	: Jharkhand Council for Democratic Rights
KMCS	: Khedut Mazdoor Chetna Sangathana

MASS	: Manab Adhikar Sangram Samiti
MGNREGA	: Mahatma Gandhi National Rural Employment Guarantee Act
MIS	: Management Information System
MKSS	: Mazdoor Kisan Shakti Sangathan
MoDSI	: Manuals of Departmental Security Instructions
MoL	: Ministry of Labour
MoLJ	: Ministry of Law and Justice
MoOP	: Manual of Office Procedure
MoRD	: Ministry of Rural Development
MWA	: Minimum Wages Act
NAC	: National Advisory Council
NAPM	: National Alliance of People's Movements
NBA	: Narmada Bachao Andolan
NCPRI	: National Campaign for People's Right to Information
NCRWC	: National Commission to Review the Working of the Constitution
NGOs	: Non-Governmental Organizations
NPM	: New Public Management
NPMHR	: Naga Peoples Movement for Human Rights
NSA	: National Security Act
NSD	: National School of Drama
NSS	: National Service Scheme
OPDR	: Organisation for Protection of Democratic Rights
OSA	: Official Secrets Act
PCI	: Planning Commission of India
PCHR	: Peoples' Committee for Human Rights
PDF	: Peoples Democratic Forum
PIO	: Public Information Officer
PRIs	: Panchayati Raj Institutions
PRO	: Public Records Office
PUCLDR	: People's Union for Civil Liberties and Democratic Rights
PUDR	: Peoples Union for Democratic Rights

RTI	: Right to Information
SCS	: State Civil Services
SDC	: State Development Commissioner
SDM	: Sub Divisional Magistrate
SICs	: State Information Commissions
SSS	: Samagra Sewa Sangh
SWA	: Single Window Agency
SWRC	: Social Work and Research Center
UKOSA	: United Kingdom Official Secrets Act
IOSA	: Indian Official Secrets Act
UPA	: United Progressive Alliance

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Chapter 1

Introduction

The civil society organizations such as Mazdoor Kisan Shakti Sangathan (MKSS) launched mass movement for governance reforms against the backdrop of the colonial legacy of administrative culture of the Official Secrets Act and the inadequacy of administrative reforms in post-independent India. The concept of official secrets, as Max Weber asserts, is “the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude, which cannot be substantially justified beyond ... specifically qualified areas”¹. According to him, bureaucrats are guided by their superiority belief that “they are superior to politicians and the ‘people’”, which they think is because of “their expertise, objectivity and rationality”. Bureaucrats have “a wish to eliminate politics altogether, as it is seen as being based upon bias, prejudice, conflict, irrationality, party and special interests, whereas the bureaucracy sees itself as objective, impartial and as representing the general interest”.² Weber suggests that struggle and competition for acquiring office in turn encourages secrecy³.

The assumption that the idea of official secrets is intrinsically linked to the concept of bureaucracy is also asserted by Karl Marx, who argues that bureaucracy, characterized by secrecy, is “a magic circle from which no one can escape. Its hierarchy is the hierarchy of knowledge [...]. The bureaucracy holds the state, the spiritual essence of society, in thrall, as its private property. The universal spirit of bureaucracy

¹ H. Gerthand and C. Wright Mills, (Eds.), *From Max Weber*, New York: Oxford University Press, 1967, p. 233.

² K. G. Robertson, *Public Secrets: A Study in the Development of Government Secrecy*, McMillan Press: London, 1982, p. 19.

³ Ibid., p.20.

is secrecy”⁴. An invention and the spirit of bureaucracy, the concept of secrecy or official secrets⁵, however, has been a matter of contention between the bureaucrats and the people in ‘modern’ democracies⁶. One of the factors responsible for the contention is self-perpetuating nature of bureaucracy and its practices of transforming information, pertaining to matters of public interest, into official secrets. As Max Weber argues, “officialdom’s most important instrument of power is the transformation of official information into secret information by means of the infamous concept of ‘official secrecy’, which ultimately is merely a device to protect the administration from control”⁷.

The contention arising from the administrative practices involving production of official secrets by bureaucracy in favor of self-perpetuation in ‘modern’ democracies is guided by the very idea of secrecy. A dictionary meaning of the term secrecy treats it as “the fact of making sure that nothing is known about something”⁸. While a scholar such as Edward Shils, treats secrecy as the “compulsory withholding of knowledge, reinforced by the prospects of sanctions for disclosure”, Karl J. Frederick compared secrecy to “tampering of communications”⁹. According to Shils, “the restriction on publicity imposed by secrecy has by nature an element of coercion in it”¹⁰.

⁴ Quoted by Stéphane Lefebvre in “A Brief Genealogy of State Secrecy”, *Windsor Yearbook of Access to Justice*, 2013, Volume 31 (1), p.104.

⁵ The two terms have been used interchangeable in the present study in the light of the fact that the idea of office forms the core of bureaucracy.

⁶ It is a historical fact that the concept of secrecy has been in practice since ancient times in the domain of internal and external matters of political institutions ranging from monarchies to contemporary constitutional democracies. However, the concept of official secrets is intrinsically linked to the idea of ‘modern’ office, which in turn is an essential element of ‘modern’ bureaucracy as conceptualized by Max Weber in his *The Theory of Social and political Organization*, (Translated by A.M. Henderson and Talcott Parsons), Oxford University Press: London, 1947, pp.324-421.

⁷ Quoted by Stéphane Lefebvre in “A Brief Genealogy of State Secrecy”, *ibid.*, p. 106.

⁸ A S Hornby (ed), *Oxford Advanced Learner’s Dictionary of Current English*, Oxford University Press: New Delhi.

⁹ Quoted by Susan Maret in self-edited volume, *Government Secrecy*, Emerald Group Publishing Limited: UK, 2011, p. xiv.

¹⁰ Edward A. Shils, *The Torment of Secrecy: The Background and Consequences of American Security Policies*, Elephant Paperbacks: Chicago, 1996 [originally published in 1956 by The Free Press], p.28.

For the limited purpose of the present study, the concept of secrecy will be used to refer to official secrecy, which may be denoted, following Max Weber, as the practices of bureaucracy to transform official information pertaining to matters of public interest into secret information. Such a view enables us to examine the contention between the state and its people, which brings us back to the question concerning the scope of secrecy in terms of official secrets and its limitations in ensuring people's participation.

1.1 The Problem of Official Secrets and Challenges of People's Participation

The concept of official secrecy and the problem of its persistence has been interpreted from different angles by scholars. For example, a scholar such as Jeremy Bentham does not favour secrecy as a system of government. Bentham suggests, secrecy as “an instrument of conspiracy [,] . . . ought not, therefore, be the system of a regular government”¹¹. In a different context, a scholar such as Edward Shils has attempted to deal with the concept of official secrecy from the perspective of political culture, while trying to provide an answer to the question of persistence of the culture of official secrecy. Shils argues that in a given political culture, “the citizenry . . . do not regard it as within their prerogative to unmask the secrets of government”¹².

However, as far as the production of secrecy in a country is concerned, there exists a claim that, “...secrecy is mainly a product of the control of civil service or government bureaucracy and not ideology, inefficiency, corruption, national security, good or bad politicians, right-or left-wing government, pressure groups or

¹¹ Quoted by HLR in “Notes: Mechanisms of Secrecy”, *Harvard Law Review*, Vol. 121, No. 6 (Apr., 2008), p. 1556.

¹² Quoted by Colin Bennett in “From the Dark to the Light: The Open Government Debate in Britain”, *Journal of Public Policy*, Vol. 5, No. 2 (May, 1985), p.1557.

paternalism”¹³. The claim however does not deny the importance of these factors in an explanation, yet it asserts that “It is within the area of civil service/government relations that the level of secrecy or openness is determined”¹⁴.

Apart from these views, there exists the principal-agent perspective, which approaches the concept of official secrecy in relation to the idea of transparency¹⁵. In so doing, the perspective does not treat transparency and secrecy in a dichotomous way and goes on to suggest ways in which practices of secrecy can be turned into a beneficiary mechanism. However, there exist assumptions, which do not support official secrecy in democracies. Such assumptions are highlighted by Colin Bennett in terms of the following four arguments against official secrecy: (1) Official secrecy conceals unethical behavior; (2) Official secrecy hinders democratic accountability; (3) Official secrecy hinders informed decision-making; and (4) Official secrecy hinders the advancement of particular rights and interests¹⁶. In addition to this, there exists a view of official secrecy, which relates it to the expansionist practices of bureaucracy.

Accordingly, when grounded in such practices the concept of official secrecy turns out to be a constraint in access to public information. The argument is that “an expanding bureaucracy tends to develop a more highly refined division of labor and at least one aspect of this development has contributed to the growth of administrative secrecy”¹⁷. It is because, “While from the administrative point of view the institutionalization of the reporting or public-relations function is designed to achieve

¹³ K. G. Robertson, *Public Secrets: A Study in the Development of Government Secrecy*, McMillan Press: London, 1982, p.180.

¹⁴ Ibid.

¹⁵ HLR, “Notes: Mechanisms of Secrecy”, *Harvard Law Review*, Vol. 121, No. 6 (Apr., 2008), pp. 1559-1557.

¹⁶ Colin Bennett, “From the Dark to the Light: The Open Government Debate in Britain”, *Journal of Public Policy*, Vol. 5, No. 2 (May, 1985), pp.196-202.

¹⁷ Francis E. Rourke, “Secrecy in American Bureaucracy”, *Political Science Quarterly*, Vol. 72, No. 4 (Dec., 1957), p.546.

such objectives as the coordination of expressions of policy emanating from an administrative agency, it inevitably tends also to reduce access to information by closing off sources other than that of the public information unit itself”¹⁸. When official secrecy is used for self-perpetuation of the bureaucratic administration, it tends to become authoritarian by nature. However, an authoritarian concept of official secrecy is viewed with suspicion by those who favor the idea of constitutionalism, an idea which is based on the argument that “Public knowledge of the affairs of state is indispensable if the people are...to participate in the governing process”¹⁹.

Moreover, the idea of secrecy may be analyzed from different ideological positions in terms of ‘disclosure and betrayal’, ‘disclosure and power’, ‘disclosure and reason’, and ‘disclosure of liberty’²⁰. From the conventional Marxist perspective, official secrecy is an essential “concealment mechanism that the capitalist state uses to give legitimacy to an exploitative accumulation process”²¹. However, a concept of secrecy, which is understood essentially in terms of a capitalist tool remains a non-promising notion, for the fact is that, secrecy is not restricted to the domain of capitalism only; to substantiate, one can point to the “use of secrecy in Marxist revolutionary movements and non-capitalist, communist systems”²².

Moreover, when the concept of official secrecy is viewed strictly from a favorable functionalist perspective, then it may turn out to be a problem. For example, a scholar such as Eva Horn’s (2011) treatment to the notion of secrecy as “a paradox, a complement and precondition to transparency”, is such a problematic, which remains

¹⁸ Ibid.

¹⁹ Ibid., p.561.

²⁰ K. G. Robertson, *Public Secrets: A Study in the Development of Government Secrecy*, McMillan Press: London, 1982, pp.15-18.

²¹ Stéphane Lefebvre, “A Brief Genealogy of State Secrecy”, *ibid.*, p. 104.

²² *Ibid.*, p. 105.

inadequate for resolving “the ambivalence of secrecy and its intentional negative effects”²³. When the concept of official secrecy is used by the administration for self-perpetuation then it becomes a problem and thereby a constraint to people’s participation in the process of democratizing state and society.

Keeping the foregoing observation of official secrecy in view, the colonial concept of official secrecy is examined in the present study while focusing on the Official Secrets Acts. Next, the factors which contributed for the continuity of the colonial concept of official secrecy in post-independent administration of India are analyzed while focusing on the various attempts of administrative reforms. Following this, the factors which contributed for the rise of civil society movement in general and for governance reforms in particular with specific reference to the MKSS are analyzed critically.

In this vein, an effort is made to highlight the struggle of the Mazdoor Kisan Shakti Sangathan in terms of its innovative practices of *Jan sunwais* (public hearing) and social audit in bringing about transparency and ensuring accountability in public governance through fighting for the Right to Information (RTI) Act. The study treats the civil society movement as a point of transition in the nature and scope of governance reforms in India. In so doing, an attempt is made to examine critically the policy response of the state to the civil society movement while focusing on the issues of transparency in the Right to Information (RTI) Act 2005, accountability in the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005, and the recommendations of the Second Administrative Reforms Commission (ARC).

²³ Ibid., p. 108.

1.2 Background and Focus of the Study

Here the background context in which the concept of official secrecy was launched and sustained by the colonial rulers in India is introduced. In addition to this, the inadequacy of administrative reforms as one of the dominant factors for the continuity of the colonial legacy of official secrecy in post-Independent administration of India is pointed out. Following this, the consequences of the inadequacy of administrative reforms in terms of the rise of civil society movement is introduced.

1.2.1 *Colonial Legacy and the Inadequacy of Administrative Reforms in Post-Independent India*

Historically, the genesis of administration in India goes back to ancient times. The literature on ancient republics and monarchies in India suggest the existence of administrative structures such as *Sabha and Samiti*²⁴ and a detailed description of administration in Kausalya's *Arthshastra*. In medieval India, there was a gradual evolution of administrative structures and related practices involving the kings and their ministers. In early modern India, before the onset of the colonial administration, Mughal rulers contributed to evolving administrative structures and practices²⁵.

After the fall of the Mughal rule, the British rulers set up their colonial administration in India. However, the colonial administration was a departure from the existing machinery of administration in India in its structure, goals, style of functioning, and techniques of exercising control over the people. The machinery of the colonial state in India was imperial by nature and scope. An imperial state headed by the Crown,

²⁴ Romila Thapar, *The Penguin History of Early India: From the Origins to Ad 1300*, Penguin Books, 2003.

²⁵ Tapan Roy Chaudhuri and Irfan Habib, *The Cambridge Economic History of India*, Vol, 1 C.1200-c.1750, Cambridge University Press, 1982.

located in England, used to administer British colonial India. As an imperial colony, India was an administrative zone for the British rulers.

The structure of colonial administration during the times of the East India Company was based on unjust (divisive) practices. Although, the regulatory measures introduced by the British Parliament, through enacting the Regulating Act of 1773, were intended to regulate the political acts of the East India Company. However, with the increasing political interference of the Company in the affairs of Mughal rulers, the Crown took over the full control of Indian territory. After the Government of India Act 1858, administrative practices of the Government of India remained absolutist, centralized, and unitary at the Centre and in the Provinces. The Provincial Governors were responsible to the Governor-General of India who in turn was responsible to the secretary of State for India. The Secretary of State was responsible to the British Parliament. The institutions of the Executive and Legislature in the Centre and in the Provinces were nothing more than instruments of exercising effective British control over Indian territory and its people. The machinery of Civil Services strengthened this practice of control. Partly because of the then-increasing popularity of the Weberian bureaucratic model of legal-rational authority, the colonial administration increasingly acted in harsh ways toward Indians²⁶.

Bureaucracy in colonial India was the 'steel frame' by nature, which was fully committed to serving the British Empire. At all the levels of organization, a hierarchical machinery of bureaucracy headed by one superior official served as the basis of colonial administration. Institutionalizing the office of the District Collector as the head of the district level administration was one of the most influential strategy to controlling the

²⁶ Bidyut Chakrabarty and Prakash Chand *Public Administration in a Globalizing World: Theories and Practices*, Sage Publications India Pvt. Ltd: New Delhi, 2012, p. 408.

people of India locally. The colonial Civil Service later turned out to be one of the most effective instruments of exercising financial, cultural and political control over India.

The colonial rulers had the limited objectives such as, to maintain law and order in narrow or in negative sense of the term; to collect required revenue for meeting expenditure; to retain strategic powers in the hands of the British civil servants; and, subservience of administration to the prime needs and interests of the ruling country²⁷. Gradually, the strength of British civil servants was increased to achieve these objectives.

The colonial civil service started acquiring the character of the sole repository of power with the gradual launching of an Anglo-Saxon system of legal jurisprudence in India through publishing of the Code of Civil Procedure (Act VIII of 1859), the Indian Penal Code (Act XLV of 1860), the Code of Criminal Procedure (Act XXV of 1861) and the Indian Evidence Act (Act I of 1872). The overriding general responsibility of one official (be that the governor-general, governor of a province, or a district collector) was the cardinal principle of the colonial system of bureaucratic administration. The District Collector and the *Tahsildar* performed their roles both as magistrate and as an administrator at the district and sub district level. The officer at the district level was the collector, the administrator, and the magistrate. Administrative and judicial acts were not separate areas of administration at the district level.

A chain of command model of organization stretching “from the Governor General to Governor of a province through to the District Collector and *Tahsildar*, even to the village headman and *chowkidar*” contributed to consolidating hierarchical administrative style. In addition, the then popular legal-rational premises of objectivity

²⁷ Shriram Maheswari, *The Administrative Reforms Commission*, Laxmi Narain Agarwal: Agra, 1972, pp. 5-6.

contributed to institutionalizing the office. It later became the epicenter of the practices of colonial administration.

Gradually, the office was converted into a place of public records through the procedure of file noting, which was developed as a part of an integrated decision making process at all the levels of administration²⁸. Slowly, the procedure of file noting was established as a preferable mode of decision-making. Over a period, the practices of file noting acquired the central role in the office of an administrator. The information kept together in a file was treated as one of the most expensive assets to be safeguarded. The colonial rulers had to protect the files by training their officials, which was not an easy task.

Information of a file was not a single item limited to the physical size of a paper, document, map, or sketch. The office file was a mobile network of facts and ideas about officials, office staff, and ordinary person's activities involved in or related to that network of ideas or facts. Officials and their staff members were an integral part of the practices needed for moving an office file from the one hierarchical level to another. Therefore, the information contained in the office files was not limited to the four walls of the office.

To safeguard a file means to safeguard the officials operating the information about the office files. It was therefore necessary for officials and their office staff to restrict the information about a file by treating it as a secret of the office. The secrets of the office and its documents, thus resulted in a culture of secrecy to be practiced and

²⁸ O.P. Dwivedi and D.S. Mishra, "The Public Service of India: A Mapping Expedition" in Andrew Massey (Ed), *International Handbook on Civil Service Systems*, Edward Elgar Publishing Limited: UK, 2011, pp. 227-228.

safeguarded by the colonial state²⁹. One of the steps taken by the colonial rulers to the protect and promote the culture of secrecy surrounding the office file system, was the Official Secrets Act (OSA) 1889. The OSA was later strengthened through the various amendments as discussed in chapter three of the thesis.

The provision of official secrets was one of the strongest legal steps to deprive Indians' participation in the practices of administration, and to retain the distance between the rulers and the ruled. The gulf between the rulers and ruled created by the colonial rulers continued till 1947. One cannot deny the fact that the colonial administration in India was sustained for nearly two hundred years from 1757 to 1947 on the basis of unjust practices such as the culture of official secrecy.

In 1947, the colonial rulers left India while leaving behind their legacy in the field of administration. Among others, the Westminster model of government, the bureaucratic form of administration, English as the official language, and codified rule of laws are some long lasting colonial legacies in India. However, the parliamentary political system and the bureaucratic administration are the two most influential legacies the people of India have been practicing since Independence. The bureaucratic form of administration is being practiced at all the levels of administration in India ranging from the administrative machinery of cabinet secretary at the center to the village secretary at the level of village panchayat. This bureaucratic system of administration includes a range of All India Services, Civil Services, State Civil Services, and village level services of panchayat secretary, *Patwari*³⁰ etc.

²⁹ The idea of secrecy was not limited to the colonial rulers only. However, the secrets of the colonial office were an external imposition on the people of India. Even a cursory reading of the colonial history of India suggests that unlike the earlier rulers, the colonial rulers did not prefer to identify themselves with the people of India due to their imperial objectives, which were supported by the assumptions of racial supremacy.

³⁰ *Patwari* is a government official who keeps records of land landownership at village level.

The Constitution of India included provisions about various aspects of the parliamentary form of government and bureaucratic form of administration in India. Gradually, the Parliament of India emerged as an integral part of Indian democracy. As far as bureaucracy was concerned, it was assumed after Independence by the political leadership that bureaucracy was efficient in implementing the development policy plans. However, it was realized during the practices of policy implementation that there were many short-comings. India started facing challenges in the field of administration when contradictions in administrative practices started cropping up in the persisting distance between the rulers and the ruled. The need for civil service reforms was felt and several initiatives towards administrative reforms in the form of reform committees and commissions were taken.

The pace of reforms, however, could not fulfill the expected goals of successfully implementing the development policy plans. Despite repeated attempts to implementing improved versions of plans, the loopholes in the implementation process became prominently visible. There was a growing divide between the rulers and ruled, the rich and poor, and the rural and the urban people. The reforms suggested by the first Administrative Reforms Commission were also not taken seriously at the implementation level.

The people at the grassroots in rural areas were the worst affected in this whole experiment of centralized implementation of development policy plans. Despite this, the strong democratic provisions of the Constitution of India were expected to free the people of India from the negative elements of the colonial legacies. However, for the reasons best known to themselves, the rulers in post-independent India continued to grapple with the challenges of colonial legacies including the culture of official secrecy.

The practices of district and local administration were found to be deeply trapped in the colonial culture of official secrecy. The culture of secrecy has contributed to the practices of resistance for holding the status quo in favour of the colonial practices. There has been resistance against administrative reforms, as Kuldeep Mathur points out, “not only from the political leaders who swear by the name of democracy but also from the bureaucrats whose norms of work had been dictated by secrecy and confidentiality”³¹. The attempt to reduce the impact of the colonial culture of secrecy in the 1970s in the form of the amendment to the OSA 1923 proved non-influential.

Meanwhile, the discontentment of centralized implementation of the development plans at the local level became an important issue of debate in India. There was a growing realization that the local administrative practices of implementation of draught relief works were against the poor people. Most of the development payments was being appropriated by the mediators such as bureaucrats, contractors, and local representatives. The culture of official secrecy prevented the poor people to know and to resist the corrupt practices.

The relation between the officials and the poor people were still grounded in the colonial culture of master and the subject. The colonial practices of preparing and processing the files about draught relief works was being done at the expense of poor peoples’ lives. Any attempt to question the persistent colonial practices of exploitation and suppression was crushed with brute force in the form of denial of working opportunities and threats to life. Amid such a dilemma, it was but obvious for the poor

³¹ Kuldeep Mathur, “Administrative Reforms in India: Policy Prescriptions and Outcomes”, in Surendra Munshi and Biju Paul Abraham (Eds), *Good Governance, Democratic Societies and Globalization*, Sage Publications Pvt. Ltd: New Delhi, 2004, p.226.

people to raise their voices of dissent. However, there was no organized attempt to express the discontents of bureaucracy-driven policy implementation.

1.2.2 Civil Society Movement for Governance Reforms

Most of the dissenting voices which emerged during the early phase of civil society resistance in post-independent India were not against the culture of official secrecy in administrative practices. Resistance movements such as environmental movements were opposing certain non-eco-friendly policy programs. These policies, undertaken in the name of development, were against the interests of indigenous people living in specific areas. It was only in the early 1990s that a civil society movement called the Mazdoor Kisan Shakti Sangathan (MKSS) emerged in central Rajasthan against the persisting colonial culture of official secrecy.

The Mazdoor Kisan Shakti Sangathan was an organized resistance to the colonial legacy of official secrecy. It later turned out to be an important participant in the making of what are now called as the Right to Information Act 2005 and the Mahatma National Rural Employment Guarantee Act 2005 (MGNREGA 2005). The Mazdoor Kisan Shakti Sangathan has been actively participating as a public awareness building organization in the implementation process of the two Acts. These characteristic features of the Mazdoor Kisan Shakti Sangathan enables one to examine it as a movement for governance reforms. After having introduced the topic of research, the existing literature on administration and civil society movement for governance reforms is examined critically in the next few pages.

1.3 Existing Literature on Administration in Post-Independent India and Civil Society Movement for Governance Reforms

The first part of the section on the existing literature is an attempt to critically examine the existing literature on administration and administrative reforms in post-

independent India. In so doing, the various dimensions of administrative reforms are examined while focusing on the issues of official secrecy. The second section examines critically the existing literature on civil society movement for governance reforms in post-Independent India.

1.3.1 Studies on Administration in Post-Independent India

For convenience, the literature is ordered into the themes of organizational structure of administration, challenges of administrative reforms in post-independent India, and emerging trends about the debate on governance. There exist several works on various elements of the administration in post-independent India. Most studies deal with multiple issues and challenges of Indian administration. However, there are a few books which fully concentrate on a single issue such as administrative reforms.

Some studies describe the administrative machinery as laid down under the various provisions of the Constitution of India. These include the works of writers such as Bimla Kant Misra³², D.D. Basu³³, Hoshier Singh and Pankaj Singh³⁴, N. Jayapalan³⁵, Ramesh K. Arora and Rajni Goyal³⁶, SR Maheswari³⁷, and Siuli Sarkar³⁸. The big ideas running through these works include the organizational structure of the government and administration at the Center, States, and the Local levels.

Most of these works also address the issue of administrative reforms and challenges of governance in India. For example, Hoshier Singh and Pankaj Singh's *Indian Administration* deals with the issues ranging from the evolution of Indian

³² Bimla Kant Misra, *Indian Administration: An Evolutionary Perspective*, Indu Prakashan, 1998.

³³ D.D. Basu, *Introduction to the Constitution of India*, LexisNexis Butterworths Wadhwa: Nagpur, 2013.

³⁴ Hoshier Singh and Pankaj Singh, *Indian Administration*, Pearson Education India: Delhi, 2011.

³⁵ N. Jayapalan, *Indian Administration*, 2 Vols. Set, Atlantic Publishers and Distributors: New Delhi, 2001.

³⁶ Ramesh K. Arora and Rajni Goyal, *Indian Public Administration: Institutions and Issues*, Wishwa Prakashan: New Delhi, 1996.

³⁷ SR Maheswari, *The Machinery of Governance in India*, McMillan India Ltd: Delhi, 2004; *Indian Administration*, Orient Longman Private Limited: Hyderabad, 6th edition, 2001.

³⁸ Siuli Sarkar, *Public Administration in India*, PHI Learning Pvt Ltd: New Delhi, 2010.

administration to the emerging trends and challenges of governance. In their book, Singh and Singh deal with the following five legacies of the British administration in India: The federal structure of Indian Constitution, the parliamentary system of governance, the creation of districts, the creation of civil service system, and the rule of law³⁹. The two characteristic features of the British administration in India (centralization and growth of departments) are dealt with in N. Jayapalan's two volume set on Indian administration.

However, there are a number of books which give full space to the practices and challenges of the administrative reforms in India. These studies include the works of writers such as Krishna K. Tummala⁴⁰, Amita Singh⁴¹, Meghna Sabharwal and Evan M. Berman⁴², Nalini Paranjpe⁴³, Nandita⁴⁴, S.R. Maheswari⁴⁵, Shriram Maheswari⁴⁶, and Vinod Mehta⁴⁷. Most of these works are focused on the state led reform initiatives in the form of the analysis of the various reports of the enquiry committees and reforms commissions appointed by the Government of India or the State Governments. For example, Maheswari in *The Administrative Reforms Commission* examines the origin, membership, functioning, and recommendations of the First ARC.

While focusing on the theme of sustainability of administrative reforms, Amita Singh underlines the need to institutionalizing the reforms rather than merely importing

³⁹ Hoshiar Singh and Pankaj Singh, *Indian Administration*, ibid., pp. 19-24.

⁴⁰ Krishna K. Tummala, "Administrative Reforms in India", in Ali Farazmand (Ed), *Administrative Reforms in Developing Nations*, Praeger Publishers, 2002.

⁴¹ Amita Singh (Ed), *Administrative Reforms: Towards Sustainable Practices*, Sage Publications: New Delhi, 2005.

⁴² Meghna Sabharwal and Evan M. Berman (Eds), *Public Administration in South Asia: India, Bangladesh, and Pakistan*, CRC Press: London, 2013.

⁴³ Nalini Paranjpe, *Administrative Reforms in India*, Uppal Publishing House, 1997.

⁴⁴ Nandita, *Administrative Reforms: Initiatives and Impact: A Study in the Context of Rajasthan*, Aalekh Publishers, 2004.

⁴⁵ S.R. Maheswari, *Administrative Reforms in India*, Macmillan India Limited, 2002.

⁴⁶ Shriram Maheswari, *The Administrative Reforms Commission*, Laxmi Narain Agarwal: Agra, 1972; Shriram Maheswari (Ed), *Administrative Reforms*, Indian Institute of Public Administration: New Delhi, 1984.

⁴⁷ Vinod Mehta (Ed), *Reforming Administration in India*, Har-Anand Publications Pvt. Ltd: New Delhi, 2000.

them in India as packages from outside because, she argues, ‘transplantation of models often leads to disturbed ecological understandings of reforms’⁴⁸. The edited volume by Ali Farazmand deals with administrative reforms in developing nations. The question of administrative reforms in South Asia is addressed in Meghna Sabharwal and Evan M. Berman’s edited volume.

Apart from these studies, there is a growing body of literature about the debate on the rise of governance, specifically the idea of good governance. The studies debating the issue of governance include the works of Bidyut Chakrabarty and Mohit Bhattacharya⁴⁹, D. Bandyopadhyay⁵⁰, Kameshwar Choudhary⁵¹, Kuldeep Mathur and James Warner B⁵², Sara Joseph⁵³, Stuart Cobridge and others⁵⁴, Surendra Munshi and Biju Paul Abraham⁵⁵, and T.M Joseph⁵⁶.

The assumption that the idea of governance is irreducible to just another model of public administration is underlined in an edited volume by Chakravarty and Bhattacharya. The volume focuses on the conceptual and empirical aspects of the idea of governance while highlighting the need for innovative approaches to administrative reforms. While dealing with the idea of good governance, D. Bandyopadhyay emphasizes the need to reorienting our social and economic policies in tune with the

⁴⁸ Amita Singh, *ibid.*, p.59.

⁴⁹ Bidyut Chakrabarty and Mohit Bhattacharya (Eds), *The Governance Discourse—A Reader*, Oxford University Press, 2008.

⁵⁰ D. Bandyopadhyay, “Administration, Decentralization and Good Governance”, *Economic and Political Weekly*, Vol 38, No. 48, November, 1996.

⁵¹ Kameshwar Choudhary (Ed), *Globalization, Governance Reforms and Development in India*, Sage Publications Pvt. Ltd: New Delhi, 2007.

⁵² Kuldeep Mathur and James Warner B., *Policy Making in India, Who Speaks? Who Listens?* Har Anand Publications Pvt. Ltd: Delhi, 2009.

⁵³ Sara Joseph, “Democratic Good Governance: New Agenda for Change”, *Economic and Political Weekly*, Vol. 36, No. 12, March, 2001.

⁵⁴ Stuart Cobridge et al (ed), *Seeing the State: Governance and Governmentality in India*, Cambridge University Press, 2005.

⁵⁵ Surendra Munshi and Biju Paul Abraham (Eds), *Good Governance, Democratic Societies and Globalization*, Sage Publications Pvt. Ltd: New Delhi, 2004.

⁵⁶ T.M Joseph (ed), *Governance Reforms: Challenges Ahead*, Kanishka Publishers, 2009.

principles of the Constitution of India to substantiate the idea of governance. Similar line of argument is also underlined by Sara Joseph, who argues that the premise of good governance is useful only when it contributes to empowering democratic institutions rather than sidestepping them through increased individual or governmental interventions.

The argument that the concept of good governance as an imported package needs a careful examination is also pointed out in an edited volume by Kameshwar Choudhary. The work is an attempt to show that the concept of ‘good governance’ is yet another conceptualization of the neoliberal agenda of reforms aimed to reorienting ‘developing’ countries such as India towards global capitalism. The work argues that the capitalist agenda of reforms along the path of global capitalism in the form of good governance have significant impact in the social, cultural, and political areas in India.

The debate on governance in India is centered mainly on development issues and the politics of public sector reforms beginning in the early 1990s, which was begun in the form of practices of public policy making and implementation based on the strategic ideas of liberalization, privatization, and globalization. The debate on governance involves puzzling questions about the role of the state in India about its link with society and market for development, democracy, and autonomy.

The rising idea of governance in India in the three spheres of politics, economy and civil society is described by scholars such as Niraja Gopal Jayal as an expression of alternative formulations, which have transcended the World Banks’ four-dimensional definition of governance.⁵⁷ The new meaning of (good) governance in

⁵⁷ Niraja Gopal Jayal, *Democratic Governance in India: Challenges of Poverty, Development, and Identity*, Sage Publications India Pvt Ltd.: New Delhi, 2001, pp. 15-16.

India is seen as an imported state project of fulfilling the conditions of the failed systemic reforms that were then labeled as Structural Adjustment Programs (SAPs).

However, this suggests that the focus of the governance debate in India in the last decade of the 20th Century was on the issues which were rooted in the Indian context. While many scholars in the western societies were busy in ‘bringing the state back in’, such efforts were not needed in India as the state was already enjoying “a unique preponderance in society”. Unique in the sense that identity centered civil society movements were looking at the state as the only source that could support and recognize their demands. While the market players were trying to reshape the political economy of the country based on rational choice individualization.⁵⁸ We shall discuss the political economy context of the debate on governance in India while examining the ideological underpinnings of MKSS movement in chapter four. After having discussed the literature on administration in post-Independent India, it is useful to examine the literature on civil society resistance for governance.

1.3.2 Studies on Civil Society Movement for Governance

Although there are several studies on civil society resistance to various issues about the administrative practices in post-Independent India the literature on civil society resistance for governance is meagre. The themes of environmental degradation and governance are often debated in the existing literature on civil society resistance to the administrative decisions and policy implementation causing environmental degradation such as the Narmada Bachao Andolan (NBA). The problem of development policies and administrative practices about the NBA has been dealt with

⁵⁸ Ibid., p. 12.

in the works of scholars such as Amita Baviskar⁵⁹, Jean Drèze, Meera Samson, and Satyajit Singh⁶⁰.

While Baviskar's work focuses on the need to revisit the 'development-resistance' dichotomy about the politics in the *Adivasi* areas, Jean Dreze and others' work examines the problem of displacement and resettlement in the Narmada valley. Obviously, the question raised in the literature surrounding Narmada Bachao Andolan deals with the broad agenda of development and displacement while highlighting the side effects of unidirectional administrative policies and decisions. Clearly, the goal of civil society movements surrounding construction of dams and displacement of *Adivasis* is limited to oppose certain policy programmes rather than to question the nature of administrative practices in favor of governance.

As stated earlier, the literature on civil society resistance for governance in post-Independent India is meagre, which is because MKSS was the only civil society organization in India that had resisted the colonial legacy in administration of post-Independent India by promoting and popularizing the shift from administration to governance. However, most studies dealing with the MKSS movement's contribution focus on the characteristic nature of this movement and the RTI campaign. These studies include the works of writers such as A.M. Goetz, and R. Jenkins⁶¹, A.

⁵⁹ Amita Baviskar, *In the Belly of the River: Tribal Conflicts Over Development in the Narmada Valley*, Oxford University Press, 2004.

⁶⁰ Jean Drèze, Meera Samson, Satyajit Singh, *The Dam and the Nation: Displacement and Resettlement in the Narmada Valley*, Oxford University Press, 1997.

⁶¹ A.M. Goetz, and R. Jenkins, *Reinventing Accountability: Making Democracy Work for Human Development*, Basingstoke: Palgrave Macmillan, 2005; "Voice, Accountability and Human Development: The Emergence of a New Agenda", Occasional Paper, Background Paper for the Human Development Report 2002, Human Development Report Office, New York: UNDP, 2002; "Hybrid Forms of Accountability: Citizen Engagement in Institutions of Public Sector Oversight in India", *Public Management Review*, 3(3): 363-383.2001.

Puddephatt⁶², A. Roberts⁶³, Amita Baviskar⁶⁴, Bharat Dogra⁶⁵, Bunker Roy⁶⁶, Deepti Priya⁶⁷, K.M. Srivastava⁶⁸, Mander and Joshi⁶⁹, Neelabh Mishra⁷⁰, Pradeep Sharma⁷¹, Rajni Bakshi⁷², Rob Jenkins and Anne Marie Goetz⁷³, Shekhar Singh⁷⁴, Sowmya Kidambi⁷⁵, and Suchi Pande⁷⁶. The big ideas running through these works include the grassroots struggle of the people for right to information and work, the ideas of transparency and accountability, role of civil society in making the RTI Act, and the Gandhian ideal of nonviolent resistance. These ideas are debated in the context of the changing nature of the state in India.

⁶² A. Puddephatt, "Exploring the Role of Civil Society in the Formulation and Adoption of Access to Information Laws: The Cases of Bulgaria, India, Mexico, South Africa, and the United Kingdom", Access to Information Working Paper Series, Washington DC: World Bank Institute, 2009.

⁶³ A. Roberts, "A Great and Revolutionary Law? The First Four Years of India's Right to Information Act", *Public Administration Review*, 70(6): 925-933, 2010.

⁶⁴ Amita Baviskar, "Is Knowledge Power? the Right to Information Campaign in India", Paper Presented to the Workshop on Social Movements and National Policy, Institute of Development Studies, *University of Sussex*, UK, September 2007.

⁶⁵ Bharat Dogra, "Right to Information: Hope and Despair", *Economic and Political Weekly*, 32(29): 1794, 1997.

⁶⁶ Bunker Roy, "Right to Information: Profile of a Grass Roots Struggle", *Economic and Political Weekly*, 31(19): 1120-1121, 1996; Bunker Roy, "Where Does All the Money Go? People's Struggle for Information", *Economic and Political Weekly*, 32(28): 1688-1689, 1997.

⁶⁷ Deepti Priya, "People's Knowledge, People's Power: Campaign for Citizens' Right to Information", *Economic and Political Weekly*, 31(2-3): 83-85, 1996.

⁶⁸ K.M. Srivastava, *The Right to Information: A Global Perspective* (New Delhi: Lancer Publishers and Distributors).2009; M. Webb, "Success stories: rhetoric, authenticity, and the right to information movement in north India", *Contemporary South Asia*, 18(3): 293-304, 2010.

⁶⁹ Mander and Joshi, "The Movement for Right to Information in India: People's Power for the Control of Corruption", *Commonwealth Human Rights Initiative*, New Delhi, 1999.

⁷⁰ Neelabh Mishra⁷⁰, "People's Right to Information Movement: Lessons from Rajasthan", New Delhi: UNDP, 2003.

⁷¹ Pradeep Sharma, "Civil Society and Right to Information: a Perspective on India's Experience", Oslo Governance Centre, Oslo: UNDP, 2004; R. Jenkins, "Democracy, Development and India's Struggle Against Corruption", *Public Policy Research*, 13(3): 147-155, 2006.

⁷² Rajni Bakshi, "Devdoongri: Life along the black tarred road", *Bapu Kut: Journeys in Rediscovery of Gandhi*, New Delhi: Penguin, 1998.

⁷³ Rob Jenkins and Anne Marie Goetz, "Accounts and Accountability: Theoretical Implications of the Right-to-Information Movement in India", *Third World Quarterly*, 20(3): 603-622,1999.

⁷⁴ Shekhar Singh, "India: Grassroots Initiatives" in Ann Florini (ed.), *The Right to Know* (New York: Columbia University Press), 19-53, 2007; Shekhar Singh, "The Genesis and Evolution of the Right to Information Regime in India", in Shekhar Singh et al (eds.), *Transparent Governance in South Asia*, New Delhi: Indian Institute of Public Administration, 43-124, 2011.

⁷⁵ Sowmya Kidambi, "Right to Know, Right to Live: Building a Campaign for the Right to Information and Accountability", *The Center for Victims of Torture*, USA, 2008

⁷⁶ Suchi Pande, "The Right to Know, The Right to Live: Grassroots Struggle for Information and Work in India", Unpublished D.Phil. Thesis, Submitted to *University of Sussex*, February 2014.

The potential of civil society resistance in bringing about transformation in relations of power is the guiding assumption of these works. For example, Mander and Joshi's paper highlights 'the struggles and concerns for survival and justice of most disadvantaged rural people' as the characteristic feature of the people's movement for RTI in India. Baviskar and Kidambi's paper underline the significance of MKSS as the pioneer of RTI campaign in India. Mishra's paper is about the MKSS experience in operationalizing *jan sunwai* in Rajasthan. Rest of these works are about the role of RTI in reducing corruption and increasing accountability and transparency in administrative practices.

Most of these works are in the form of book chapters, journal articles, memoirs and discussion papers, except a D.Phil. dissertation by Suchi Pande. Suchi Pande's work tries to highlight MKSS movement as a people's struggle. It attempts to link the right to information and work while underlining the fragmented nature of state in India. The entire work is focused on the ways in which the struggle for right to information and work was led by MKSS before and after enacting the RTI and MGNREGA. Pande also tries to highlight the MKSS strategy of *jan sunwai* (public hearing) as an 'alternative public sphere' in contrast to the Habermasian conception of public sphere.

1.4 Gaps in the Existing Literature

The foregoing review of the existing literature shows that although there exist several useful works on Indian administration and administrative reforms, most of them either focus on its historical evolution or deal with its structural and functional features. Similarly, there are several useful studies on civil society resistance, most of which either concentrate on the nature of leadership or describe their importance in a democracy. These works tell us about the intricacies of administration in post-

Independent India and the issues raised by civil society resistance against certain administrative policies and decisions. The issues examined in these studies are a valuable pool of information for anyone trying to understand the emerging trends in administration.

While these works remain useful to us, the contents of these works also highlight that most of these works focus either on the nature and process of enacting the RTI Act 2005 and MGNREGA 2005 or they are solely concerned with the nature of the people's struggle at the grassroots. There is hardly any work which examines the changing landscape of Indian administration and civil society movement for governance reforms. As an effort in the direction to fill the gap, the study examines critically the nature of colonial legacy in administration of post-independent India and civil society movement for governance reforms. In so doing, it treats the civil society movement as a point of transition in the practices of governance reforms.

1.5 Research Question, Objectives, and Methodology

1.5.1 Research Question and Objectives

The present study deals with the struggle of the Mazdoor Kisan Shakti Sangathan for governance reforms against the backdrop of the problem of the persisting colonial legacy of official secrecy as a constraint to people's participation in post-independent India. Clearly, the guiding question of the study is to investigate the role of civil society movement in bringing about governance reforms in post-independent India. It is to examine whether the civil society movement is contributing for substantial governance reforms.

The objectives of the study are as follows: (1) To analyse critically the colonial legacy of institutions and administrative culture of Official Secrets Acts, (2) to appraise the administrative reforms in post-independent India, (3) to understand of the Mazdoor

Kisan Shakti Sangathan in terms of its role in bringing about governance reforms, and (4) to analyse the state response to the civil society movement for governance reforms.

1.5.2 Research Methodology

The present study follows a Historical Analysis approach, which involves interpretation and understanding of several historical events, documents, and processes. Its goal is to advance a narrative about a particular issue on the basis of the evidence at hand⁷⁷. The study uses the different accounts about civil society resistance to the colonial legacy of official secrets and making and implementation of the policies of information and work in post-independent India for a historical analysis. The required data was gained from the following sources: Books, journals, survey reports, dissertations and theses, newspapers, magazines, working papers, pamphlets, seminar and conference presentations/publications, web portals of government ministries and departments, civil society organizations, research institutes, libraries etc.

This study has certain limitations. It does not examine all the elements of the colonial legacy in India. The focus is on the colonial legacy of official secrecy and nature of civil society resistance for the RTI Act 2005 and social audit through the MGNREGA 2005. Any claim of transformation of power relations involves an ethnographic work, which is not undertaken at this stage of research.

1.6 Outline of Chapters

This study consists of seven chapters including conclusion. The first chapter introduces the research problem, research questions, and objectives of the research, and chapter outline of the thesis. The second chapter tries to assess the various theoretical

⁷⁷ James Mahoney and Dietrich Rueschemeyer, *Comparative Historical Analysis in the Social Sciences*, Cambridge University Press: UK, 2003; David E. McNabb, *Research Methods for Political Science: Quantitative and Qualitative Approaches*, M.E. Sharpe, 2010.

assumptions about civil society movement for governance reforms in the existing literature. The chapter initially focuses on the literature on civil society and then goes on to narrate the theoretical perspectives on civil society movement. This is done to understand the various ways of theorizing civil society movement. Next, the chapter tries to examine the issue of defining governance and then proceeds to examine the various theoretical perspectives on governance. Following this the question concerning the making and implementation of public policy is analyzed in the light of the literature on governance.

Building on the understanding of civil society movements and governance as developed in the second chapter, chapter three critically analyzes the institutionalization of official secrecy by colonial rulers. Next, the various aspects of the colonial legacy of official secrecy in the administration of post-Independent India are examined while focusing on the machinery of administration in the light of the provisions of the Constitution of India. Following this, a critical assessment of the various attempts of administrative reforms is undertaken in the chapter. In so doing, the chapter points out inadequacy of administrative reforms and the persisting problem of the colonial legacy of official secrecy. The chapter thus provides a basis for chapter four, which is about the rise of civil society movement in India against the backdrop of the discontentment of the inadequate administrative reforms.

Chapter four systematically points out the factors which led to the discontentment among people and then goes on to narrate the story of the rise of civil society movement in general and the Mazdoor Kisan Shakti Sangathan in particular. In so doing, an attempt is made to examine critically the problems of the state led centralized model of development plans and their implementation. An analysis of the

politician-bureaucrat nexus and the feudal and colonial hangover of master-subject relationship is made in an effort to locate the epicentre of the colonial legacy of official secrecy. Apart from this, the rise of non-party political process is highlighted as one of the contributing factors for the growth of grassroots movements. The analysis of the factors in turn enables us to view the persisting colonial legacy of official secrecy as a major constraint to people's participation.

Keeping this in view, an overview of some civil society organizations in post-independent India, especially of those organized under the banner of the Coordination of Democratic Rights Organisations (CDRO) and the National Alliance of People's Movements (NAPM) is provided. This overview helps us in terms of focusing on the leading civil society organization in the domain of governance reforms. In this way, the Mazdoor Kisan Shakti Sangathan is singled out for further investigation, as the most representative case of civil society movement for governance reforms, against the discontentment of inadequate administrative reforms and the persisting colonial legacy of official secrecy.

While focusing on the Mazdoor Kisan Shakti Sangathan, an attempt is made to deal with its organizational structure, leadership and membership, and ideological underpinnings. In order to point out the guiding principle of the MKSS, the idea of 'common man' as projected by it is examined. The profile of its founding members is provided to find out the linkage between their beliefs and the ideological underpinnings of the MKSS. Keeping the analysis in view, chapter five takes up the struggle of the MKSS for governance reforms.

Chapter five deals in detail with the various phases of struggle and strategies deployed by the MKSS for bringing about governance reforms. In so doing, the

persisting colonial legacy of official secrecy in the domain of land administration and draught relief works in Rajasthan is problematized in terms of the most immediate reasons for the events that led to the formation of the MKSS. Next the struggle for the making of the Right to Information Act 2005 is narrated. In this vein, the idea of *Jan sunwai* (public hearing) and practice of social audit is examined while focusing on the various types of *jan sunwais* held by the MKSS before the enactment of the RTI Act 2005. Chapter five thus enables us to look at the nature of state response to civil society movement for governance reforms, which is attempted in chapter six.

Chapter six is an ambitious endeavour to summarize the various attempts made by the state in response to the civil society movement for governance reforms. In so doing, the various provisions of the RTI Act 2005 and social audit in the MGNREGA 2005 are discussed in an effort to find out whether the struggle of the MKSS for governance reforms in terms of transparency and accountability has found any space in the state led governance reforms. In order to examine the question from a different angle, the various narratives concerning the making and implementation of the above-mentioned Acts are examined.

To further investigate the state response, the various reports and recommendations of the Second Administrative Reforms Commission (ARC) pertaining to the transparency and the accountability aspects of the above-mentioned two Acts have been analysed. Chapter six thus provides us a ground for making some conclusions about the struggle of the MKSS for governance reforms. The concluding chapter tries to put together the concluding reflections which were made in the preceding chapters. The thesis ends with concluding notes about the role of the civil society movement in the process of governance reforms.

Chapter 2

Civil Society Movement and Governance Reforms: A Conceptual Framework

The present chapter reviews the literature on the concepts of civil society movement and governance. In the beginning, after clarifying the idea of civil society, the chapter examines the concept of civil society movement while focusing on the following perspectives: Civil society movement as an expression of discontents of relative deprivation, a “political resource”, a way of constructing action and meaning, a political opportunity, and a contentious activity.

Following this, the idea of governance is analyzed while focusing on the question as to what is governance and what constitutes it. In this vein, the context which gave rise to the idea of ‘new’ governance in western democracies is discussed. In so doing, the following perspectives of governance are examined: Governance as coercion, social action, capitalist mechanism, social construction, and tradition. Finally, the chapter discusses the linkage between governance and the making and implementation of public policy.

2.1 The Concept of Civil Society

The genesis of the idea of civil society goes back to the pre-Hegelian times in Western societies. The term civil society “entered English usage via the Latin translation, *societas civilis*, of Aristotle’s *koinomia politike*”⁷⁸. Notably, the term *societas civilis*, coined by Roman statesman and thinker Cicero, is considered to be the equivalent of

⁷⁸ Sunil Khilnani, “The Development of Civil Society” in Sudipta Kaviraj and Sunil Khilnani (Eds), *Civil Society: History and Possibilities*, Cambridge University Press: Cambridge, 2001, p.17.

the Greek term *koinomia politike* (“political community or partnership”).⁷⁹ The Greek and Roman thinkers viewed civil society as the “Organized Commonwealth”⁸⁰. In medieval times, civil society was viewed as an element of an integrated Christian Commonwealth⁸¹.

In the Enlightenment Era of ‘modern’ times, the idea of civil society received much attention in the political thinking of English scholars such as Hobbes and Locke. Another trend of thinking about civil society was found in the political thinking of German scholars such as Hegel. Later, Marx developed a different perspective about civil society. Drawing on Marx, an Italian thinker Gramsci developed the notion of civil society in terms of hegemony.

An overlapping trend, located in the middle of these two trends, was developed in the thinking of Scottish political economy which included scholars such as Adam Smith. The idea of civil society did not receive attention from the scholars during the 1980s.⁸² After a noticeable gap of uninterest, the idea of civil society started gaining importance with the rise of the solidarity movement in Poland⁸³. Since then, it has been used in many ways in the Western societies and lately in a developing society such as India. Given the long legacy of the term, it is apt to look into the various perspectives on the idea of civil society. We shall focus on the perspectives, which treat civil society

⁷⁹ Helmut K. Anheier, Stefan Toepler, Regina List (Eds), *International Encyclopedia of Civil Society*, Springer: USA, 2010, p.342.

⁸⁰ John Ehrenberg, “The History of Civil Society Ideas” in Michael Edwards (Ed) *The Oxford Handbook of Civil Society*, Oxford University Press: New Delhi, 2011, p.15.

⁸¹ *Ibid.*, p.17.

⁸² Michael Kenny, “Civil Society” in Mark Bevir (Ed), *Encyclopedia of Governance*, Vol. I, Sage Publications: New Delhi, 2007, pp. 92-93.

⁸³ Carolyn M. Elliott (Ed), *Civil Society and Democracy: A Reader*, Oxford University Press: New Delhi, 2003, p. 1.

as a 'sector of associations', 'norms and values', an idea distinguished from political society, and 'an organic flowering from historical roots'.⁸⁴

To begin with, when viewed as a sector of associations, civil society turns out to be "a space between the family and the state where people associate across ties of kinship, aside from the market, and independent state." As such, civil society includes "both relatively formal organizations and the informal array of friendships and networks of social life outside the family".⁸⁵ Being a broad perspective of the association, this view of civil society has limits. It is vulnerable to justifications of undemocratic associations as civil society.

This is why, according to critics, associational view of civil society can be justified only if it is inclusive of rights-based politics. An associational view of civil society, which excludes the rights-based politics, can lead to absolutist tendency in the practices of policy implementation. Any type of absolutist tendency in the civil society domain goes against the ethics of democracy. Therefore, as Caroline argues, the success of civil society as a sector of association depends much on how political institutions respond to the demands coming from associational life and how the policies are being carried out.⁸⁶ The rights based ideas of civil society are emphasized by those who treat civil society as a normative idea.

Those who view civil society as a normative idea, they emphasize values such as individual rights among the core values of civil society. However, there are others who emphasize collective elements such as social equality. The critics of procedural democracy give importance to civil society as a normative idea. For them, although the

⁸⁴ Carolyn M. Elliott (Ed), *Civil Society and Democracy: A Reader*, Oxford University Press: New Delhi, 2003, pp. 7-32.

⁸⁵ Ibid., pp. 7-8.

⁸⁶ Ibid., pp. 16-17.

values such as ‘civility’ itself is not a guarantee of democracy, however, it contributes towards enabling self-governing societies. They favour inclusion of only those associations in the domain of civil society which are inclusive of democratic values such as civility (tolerance), trust, cooperation, liberty and equality.

However, as Carolyn highlights, critics such as Nancy Fraser, Neera Chandhoke, Partha Chatterjee, Susanne Rudolph and Lloyd Rudolph find this normative idea of civil society restricted to some values of democracy riddled with the problem of circularity. An overemphasis on values may increase the difficulties of democratic politics and an overemphasis on rational discussion involves risks of excluding ‘discourses that would seem to be a significant communication of a civil society’. Overemphasizing certain values may lead one to ignore enquiries into the systems and relationships that form the core of civil society.⁸⁷

Because of the limits of the idea of civil society as a normative idea, some scholars have viewed civil society from a different angle, which attends to the practices of democratic deepening in a developing society such as India. In this vein, scholars have found it apt to make distinctions between the civil society and the political society. Seen from this angle, “civil society refers to self-organized associations and social movements that may (or may not) try to influence power-holders, while political society comprises parties and other contestants for power in political institutions”⁸⁸. In that sense, Caroline suggests, a scholar such as Partha Chatterjee “opts for political society over civil society as the site of post-modern creativity. Identifying political society with democracy, and civil society with modernization, he argues that the parties and protest

⁸⁷ Ibid., pp. 18-21.

⁸⁸ Ibid., p.22.

groups making up political society have greater capacity for bringing forward the concerns of marginalized peoples than modernized civil society”⁸⁹.

Those who view civil society as an ‘organic flowering from historical roots’ argue that the notion of civil society emerging from the European history is an unlikely or impossible development in the societies which have witnessed different histories. Such an assumption, Caroline argues, have contributed for the predictions such as a ‘clash of civilizations’ between western civil-societies and Islamic cultures, and Asian elites’ rejection of liberal civil society as culturally alien”.⁹⁰ It becomes clear that one can better understand the idea of civil society in non-essentialist ways in the context of the competing views of civil society.

The discussion on civil society suggests that one can understand civil society from various perspectives. For the purpose of present study, we shall follow those views of civil society from the above-discussed perspectives, which emphasize democracy over certain normative values for the above-discussed reasons. After having highlighted the various perspectives on the idea of civil society, it is apt to turn to the idea of civil society movement.

2.2 Perspectives on Civil Society Movement

There exist a number of perspectives, which deal with different aspects the idea of civil society movement. The following perspectives are discussed in the next few pages: (1) civil society movement as an expression of discontents of relative deprivation, (2) civil society movement as a “political resource”, (3) civil Society movement as a way of constructing action and meaning, (4) civil society movement as political opportunity, and (5) civil society movement as a contentious activity.

⁸⁹ Ibid., p.25.

⁹⁰ Ibid., p.28.

2.2.1 Civil Society Movement as an Expression of Discontents of Relative Deprivation

Conventionally, scholars have tried to explain the emergence of a civil society movement from the theoretical perspective of collective behavior, which include perspectives of mass society, relative deprivation, and collective behavior. In the 1960s, scholars used the relative deprivation perspective which, according to Gurney and Tierney, was an improvement over previous approaches which viewed social movements as the resultant expression of “irrational impulses”.⁹¹ Scholars such as Neil J. Smelser and A.F.C Wallace dealt with the ideas of relative deprivation, strain, and revitalization, extensively.⁹² Scholars such as R.K. Merton, W.C. Runciman, T.R. Gurr, and D.F. Aberle developed and utilized the idea of relative deprivation in studying social mobility and social conflict. While Merton developed it in relation to reference group theory⁹³, Runciman developed this further with reference group and problems of inequality and social Justice⁹⁴.

Drawing on these assumptions, scholars such as MSA Rao argued for treating the criterion of collectively expressed multidimensional relative deprivation as preferable to other criteria as he found it helpful in explaining change orientation of resistance movements. Important from this angle then relative deprivation is a necessary yet insufficient condition for the emergence of a civil society movement. A situational perception of relative deprivation caused by the presence of conflict with an

⁹¹ Joan Neff Gurney and Kathleen J. Tierney, “Relative Deprivation and Resistance movements: A Critical Look at Twenty Years of Theory and Research”, *The Sociological Quarterly*, Vol. 23, No. 1 (Winter, 1982), pp. 33-47.

⁹² The concepts of strain and revitalization have been extensively discussed by Neil. J. Smelser in his *Theory of Collective Behaviour*, New York: The Free Press, 1962; and by A.F.C Wallace in his “Revitalization Movements”, *American Anthropologist, New Series*, Vol. 58, No. 2 (Apr., 1956), pp. 264-28.

⁹³ R.K. Merton and Alice S. Rossi, “Contribution to the Theory of Reference Group Behaviour”, in *Social Theory and Social Structure*, The Free Press: New York, 1968, pp. 287-338.

⁹⁴ W.G. Runciman, *Relative Deprivation and Social Justice*, University of California Press: Berkeley, 1966.

efficient leadership provides the required strain, which is one more condition. However, not all civil society movements are caused by these two criteria only. For example, a reform movement aimed at expected advancement of a section of society is not the necessary consequence of relative deprivation and strain only; in such cases the criteria of revitalization are used.⁹⁵

However, despite being useful in foregrounding the role of grievances in the emergence of civil society movements, scholars have critiqued the idea of relative deprivation due to its theoretical limitations.⁹⁶ Critics argue that all the three strands including mass society theory, relative deprivation, and collective behavior theory have neglected the role of agency by overemphasizing “why” aspects and underemphasizing “how” aspect of the emergence of civil society movement. Further, as J. Crag Jenkins argues, with variation in particular hypotheses, these “theories shared the assumptions that movement participation was relatively rare, discontents were transitory, movement and institutionalized actions were sharply distinct, and movement actors were arational if not outright irrational”⁹⁷. This was a reason for the emergence of resource mobilization perspective, which treat resistance as a “political resource”.

2.2.2 Civil Society Movement as a “Political Resource”

Resource mobilization perspective contributed to the shift of focus from “why” aspects to “how” aspects of the emergence of civil society movement through “the vindication of protest strategies as politics” and by treating protest as a “political resource” to influencing policy⁹⁸. During the 1970s, scholars such as Anthony

⁹⁵ M.S.A. Rao, *Resistance movements in India*, ibid., pp. 4-6.

⁹⁶ See, Joan Neff Gurney and Kathleen J. Tierney, “Relative Deprivation and Resistance movements: A Critical Look at Twenty Years of Theory and Research”, ibid.

⁹⁷ J. Crag Jenkins, “Resource Mobilization Theory and the Study of Resistance movements”, *Annual Review of Sociology*, 1983, (9), p. 528.

⁹⁸ David S. Meyer, “Protest and Political Opportunities”, *Annual Review of Sociology*, 2004, (30), p.127.

Oberschall, William Gamson, and John D. McCarthy and Mayer N. Zald contributed for the development of resource mobilization theory⁹⁹. The perspective, as Bob Edwards and Patrick F. Gillham point out, rejects the earlier views which treated civil society movement actors as “deviant or anomic” and the pluralist assumption of a reasonable chance for all parties keen to participate in the political process in terms of their grievances being heard and addressed. Contrary to earlier views, resource mobilization scholars tried to understand rational and often marginalized social actors’ ways of mobilizing effectively to pursuing their chosen goals of social change.¹⁰⁰

Departing from earlier views about resistance movements, while depending on “political, sociological and economic theories than on the social psychology of collective behavior”, resource mobilization perspective “underlines both societal support and constraint of social movement phenomena” and examines (a) various resources needed to be mobilized; (b) the connections of resistance movements to other groups (c) movements’ dependence upon outside backing for success; and (d) authorities’ tactics to control or incorporate movements.¹⁰¹

The analysts with new perspectives under the umbrella of resource mobilization theory argued, as J. Crag Jenkins points out that “movement actions are rational, adaptive responses to the costs and rewards of different lines of action”. Conflicts of interest constructed into institutionalized power relations define movements elementary goals. Jenkins goes on arguing that “the grievances generated by such conflicts are

⁹⁹ These contributions include Anthony Oberschall’s *Social Conflict and Social Conflict and Resistance movements* (Englewood Cliffs, NJ: Prentice Hall, 1973); William Gamson’s *The Strategy of Social Protest*, (Homewood, IL: Dorsey, 1975) and; John D. McCarthy and Mayer N. Zald’s “Resource Mobilization and Resistance movements: A Partial Theory”, *The American Journal of Sociology*, Vol. 82, No. 6 (May, 1977), p.1212-41.

¹⁰⁰ Bob Edwards and Patrick F. Gillham, “Resource Mobilization Theory”, in David A. Snow, Donatella della Porta, Bert Klandermans, and Doug McAdam (Eds), *The Wiley-Blackwell Encyclopedia of Social and Political Movements*, Blackwell Publishing Ltd. 2013, p.1418.

¹⁰¹ John D. McCarthy and Mayer N. Zald, “Resource Mobilization and Resistance movements: A Partial Theory”, *The American Journal of Sociology*, Vol. 82, No. 6 (May, 1977), p.1213.

sufficiently ubiquitous that the formation and mobilization of movements depend on changes in resources, group organization, and opportunities for collective action”. Jenkins argues that “centralized, formally structured movement organizations are more typical of modern resistance movements and more effective at mobilizing resources and mounting sustained challenges than decentralized, informal movement structures”. Moreover, strategic factors and the political processes largely determine movements’ success.¹⁰² Apart from the resource mobilization perspective, there exists an alternative perspective on civil society movement called new social movement.

2.2.3 *Civil Society Movement as a way of constructing action and meaning*

As an alternative to the resource mobilization perspective, according to Steven M. Buechler, new social movement theory tries to “theorize a historically specific social formation as the structural backdrop for contemporary forms of collective action”¹⁰³. According to Buechler, different strands of new social movement theory can be summarized in the political version and cultural version. The political version, popularized by scholars such as Manuel Castells, “is more macro-oriented and has distinct affinities with some aspects of resource mobilization theory”. The cultural version, popularized by scholars such as Alberto Melucci, “is more micro-oriented and has equally strong affinities with social constructionism”.¹⁰⁴

Melucci emphasizes rethinking of “social action into the process by which meaning is constructed through interaction”. Melucci argues, conflicts “act as signals of both the constructed nature of social action and its tendency to crystallize into

¹⁰² J. Crag Jenkins, “Resource Mobilization Theory and the Study of Resistance movements”, *ibid.*, p.528.

¹⁰³ Steven M. Buechler, “New Social Movement Theories”, *The Sociological Quarterly*, Vol. 36, No. 3 (Summer, 1995), p.441.

¹⁰⁴ Steven M. Buechler, “New Social Movement Theories”, *ibid.*, p. 460.

structures and systems”.¹⁰⁵ How do the actors of civil society movement configure and reconfigure structures and systems in different political contexts? The question remains central to the perspective of civil society movement as political opportunity or process.

2.2.4 Civil Society Movement as political opportunity

As an alternative to the collective behavior model and resource mobilization theory, scholars such as McAdam used the political process or opportunity model to theorize and explain the emergence and development of various political movements¹⁰⁶. For scholars such as Charles Tilly, opportunity with its two sides of opportunity and threat¹⁰⁷ is part of a “set of conditions for mobilization”¹⁰⁸. Following Charles Tilly and Jack Goldstone, Sidney Tarrow defines opportunity ‘as “the [perceived] probability that social protest actions will lead to success in achieving a desired outcome”’¹⁰⁹.

The main argument of the political process approach, according to David S. Mayer, was that selection of goals, strategies, and tactics is made by activists in the broadly conceptualized political context and not in a vacuum. Further, the grievances around which activists mobilize are set by the political context in which some grievances are advantaged and some are disadvantaged. Mayer goes on to argue, “the organization of the polity and the positioning of various actors within it makes some strategies of influence more attractive, and potentially efficacious, than others. The wisdom, creativity, and outcomes of activists’ choices—their agency—can only be

¹⁰⁵ Alberto Melucci, “A Strange Kind of Newness: What's "New" in New Resistance movements?” in Enrique Laraiia, Hank Johnston, and Joseph R. Gusfield (Eds), *New Resistance movements: From Ideology to Identity*, Temple University Press, Philadelphia, 1994, p.109.

¹⁰⁶ McAdam, “Political Process Theory”, in David A. Snow, Donatella della Porta, Bert Klandermans, and Doug McAdam (Eds), *The Wiley-Blackwell Encyclopedia of Social and Political Movements*, Blackwell Publishing Ltd. 2013, p. 486; David S. Meyer, “Protest and Political Opportunities”, *ibid.*, p.129.

¹⁰⁷ See, Charles Tilly, *From Mobilization to Revolution*, Random House: New York, 1978, p.133

¹⁰⁸ Sidney Tarrow, *Power in Movement: Resistance movements and Contentious Politics*, Cambridge University Press: New York, 2011, p. 27.

¹⁰⁹ *Ibid.*, p. 160.

understood and evaluated by looking at the political context and the rules of the games in which those choices are made—that is, structure.”¹¹⁰ According to Kitschelt, political opportunity structures¹¹¹ function ‘as “filters” between the mobilization of the movement and its choice of strategies and its capacity to change the social environment’¹¹². Apart from these perspectives on civil society movement, there exists a perspective called framing perspective, which treats resistance as a contentious activity.

2.2.5 Civil Society Movement as a contentious activity

Grounded in the constructionist principle, the framing perspective, according to David A. Snow, focuses on “the signifying work or meaning construction engaged in by social-movement activists and participants and other parties (e.g., antagonists, elites, media, and countermovements) relevant to the interests of resistance movements and the challenges they mount”¹¹³. Snow points out at least nine core concepts and processes in the framing perspective, such as collective action frames, master frame, core framing tasks (diagnostic, prognostic, and motivational), frame alignment processes (frame bridging, frame amplification, frame extension, and frame transformation), frame resonance, framing hazards and so on¹¹⁴.

Framing, according to Benford and Snow, “denotes an active, processual phenomenon that implies agency and contention at the level of reality construction. It

¹¹⁰ David S. Meyer, “Protest and Political Opportunities”, *ibid.*, p.128.

¹¹¹ For an engaging survey of literature on political process approach see, Hanspeter Kriesi, “Political Context and Opportunity” in David A. Snow, Sarah A. Soule, and Hanspeter Kriesi (Eds), *The Blackwell Companion to Resistance movements*, Blackwell Publishing Ltd, 2004, pp. 67-90.

¹¹² HP Kitschelt, ‘Political Opportunity Structures and Political Protest: Anti-Nuclear Movements in Four Democracies’, *British Journal of Political Science*, 1986, (16), p. 59.

¹¹³ David A. Snow, “Framing Processes, Ideology, and Discursive Fields” in David A. Snow, Sarah A. Soule, and Hanspeter Kriesi (Eds), *The Blackwell Companion to Resistance Movements*, *ibid.* p.384.

¹¹⁴ David A. Snow, “Framing and Resistance movements”, in David A. Snow, Donatella della Porta, Bert Klandermans, and Doug McAdam (Eds), *The Wiley-Blackwell Encyclopedia of Social and Political Movements*, *ibid.*, pp. 1357-1359.

is active in the sense that something is being done, and processual in the sense of a dynamic, evolving process. It entails agency in the sense that what is evolving is the work of social movement organizations or movement activists. And it is contentious in the sense that it involves the generation of interpretive frames that not only differ from existing ones but that may also challenge them. The resultant products of this framing activity are referred to as “collective action frames” ... which are action-oriented sets of beliefs and meanings that inspire and legitimate the activities and campaigns of a social movement organization (SMO)”¹¹⁵. Framing perspective is useful in dealing with the question concerning social constructions of patterns of rule.

The foregoing discussion of the different perspectives makes it clear that the idea of civil society movement has been analysed and interpreted differently by scholars. The diversity of perspectives has helped us in clarifying different aspects of the idea of civil society movement. It is found that the success of a civil society movement depends upon a number of factors including leadership, resources, the political context, articulation of demands and mobilization process, response of the state etc. The analysis is useful for understanding the civil society movement for governance reforms. After having discussed the idea of civil society movement, the chapter deals with the idea of governance in the next few pages.

2.3 Perspectives on Governance

For convenience, the discussion on the idea of governance in the chapter is arranged in the following order: The context in which the debate on governance emerged in the Western democracies, the rise of new public governance, waves of governance in Western democracies, governance debate in India, and the perspectives on nature and constituents of governance.

¹¹⁵ Robert D. Benford and David A. Snow, *ibid.*, p. 614.

2.3.1 *The Context*

At an abstract level, to begin with, governance as a pattern of the rule is not a new phenomenon¹¹⁶. In Western and non-Western societies, the idea of governance as a pattern of the rule can be traced back to the ancient times of the Greek and Vedic civilizations. For example, in Western societies, the etymology of governance is traced back to the Greek verb called *zubernzin* (to pilot or steer). Plato used it to address the issue of designing a system of rule. The Medieval Latin term *gubernare* was also used to connote piloting, rule-making or steering. Until the 1980s, the term governance has been used as synonymous with government.¹¹⁷

However, since the 1980s, the term governance was identified as a signifier of change in the meaning of government, that is, as a new process or method of governing society or changed conditions of ordered rule¹¹⁸, and was referred to changes in the nature of the state that became evident after the public sector reforms of the 1980s and 1990s in western democracies. This usage was a pointer to the apparent “shift from a hierarchic bureaucracy to a greater use of market and networks” and in that sense governance was treated as something that deals with public policy and democracy¹¹⁹. This suggests that governance refers to something broader than the government and that it is not limited to the boundaries of a monolithic state-centric perspective on patterns of rule.

2.3.2 *Governance unpacked and differentiated from Government—the Rise of New Public Governance*

As highlighted above, governance in its conventional usage is inseparable from the idea of government. However, in the 1980s, the thinking was considered to be a

¹¹⁶ Mark Bevir, *Public Governance*, Vol. 1., Sage Publications Pvt. Ltd.: Delhi, 2007.

¹¹⁷ Kjaer, *Governance*, *ibid.*, p. 3.

¹¹⁸ Finer, *Comparative Government: An Introduction to the Study of Politics*, 1970 (Cited by R.A.W. Rhodes, “Three Waves of Governance”, in David Levi Faur (ed) *The Oxford Handbook of Governance*, 2012.

¹¹⁹ Mark Bevir, *ibid.*

thinking about old governance. It was argued that the thinking was being replaced by a new thinking, which pointed to the idea of governance that was new in many ways. A scholar such as Stephen P. Osborne has treated the newly emerging idea of public governance as a type of policy and implementation regime. According to him, public governance can be further broken down into the five categories of socio-political governance, public policy governance, administrative governance, contract governance, and network governance¹²⁰.

Governance is viewed by some, in its broad sense, as a measurable variable in terms of qualitative and quantitative indicators concerning the low and high level of the orderly rule. As such, it is identified by its paradoxical attribute of visibility: visible in absence rather than in the presence.¹²¹ The feature of visibility and non-visibility involves the setting, the application, and enforcing rules about institutional stability and change¹²² which can be noticed in the changing nature of the state, private sectors, and voluntary sectors.

In this sense, governance can be used to explore the ways in which “the informal authority of networks supplements and supplants the formal authority of government, and to explore the limits of the state and seek to develop a more diverse view of state authority and its exercise”¹²³. In this vein, one can choose to compare and contrast various perspectives of governance. In doing so, a scholar such as R.A.W. Rhodes has identified three waves of governance –namely, network governance, metagovernance, and interpretive governance. These waves can be viewed in terms of various approaches

¹²⁰ Stephen P. Osborne (Ed), *The New Public Governance: Emerging Perspectives on the Theory and Practice of Public Governance*, Routledge: New York, 2010, p.1.

¹²¹ Subrata K. Mitra, *The Puzzle of India's Governance: Culture, Context, and Comparative Theory*, Rutledge: USA, 2006.

¹²² Kjaer, *ibid.*

¹²³ R.A.W. Rhodes, *ibid.*, p. 33.

to understanding the changing nature of the state and its institutions since the late 20th century in the context of public sector reforms in western democracies. It is relevant to discuss these waves for highlighting the diverse ways in which the idea of governance has been viewed in different contexts.

2.3.3 *Waves of Governance in Western Democracies*

The first wave of network governance, which focuses on the institutional legacy of neoliberal public sector reforms of the state in the 1980s, Rhodes argues, offers a world view in which “state power is dispersed among a vast array of spatially and functionally distinct networks composed of all kinds of public, voluntary and private organizations with which the center now interacts”. Such a view, Rhodes notes, “appeals to inexorable, impersonal forces, to logics of modernization, such as the functional differentiation of the modern state or public sector marketization, to explain the shift from hierarchy to governance by markets and especially networks.”¹²⁴.

The first wave, however, could not become an enduring set of approaches to understanding the changes; it was criticized for various reasons including its claims about the hollow state. Critics such as Pierre and Peters, Rhodes observes, contended the argument that the state has been hollowed out and went on to argue about the state's capacity to govern by “regulating the mix of governing structures such as markets and networks and deploying indirect instruments of control”¹²⁵.

The second wave of metagovernance, according to Rhodes, refers to "the state in securing coordination in governance and its use of negotiation, diplomacy, and more informal modes of steering." Rhodes cites here Bob Jessop, who believes that meta-governance is nothing else but governance of governance in which the state governs

¹²⁴ Ibid., p. 34.

¹²⁵ Ibid., p. 36.

the organizations that govern civil society. Various varieties of metagovernance, Rhodes points out, share the view that assumes the state's role in steering (self-regulated policy implementing and service providing) organizations, governments and networks rather than as a direct service provider through state bureaucracies.

Having declared the first two waves in the state of “an intellectual crisis”, Rhodes turns to the third wave of governance called interpretive governance as a supporter. He argues, it can meet the “growing need for alternative ways of conceptualizing the institutions, actors, and processes of change in government”¹²⁶. Accordingly, “an interpretive approach focuses on the social construction of patterns of rule through the ability of individuals to create meanings in action” and “highlights the importance of beliefs, practices, traditions, and dilemmas for the study of the changing state”¹²⁷.

For Rhodes, governance is a contingent outcome or product of the diverse actions and political practices or struggles informed and inspired by the varied beliefs of agents rooted in traditions which can be understood by telling stories about “how governance is variously constructed and reconstructed”. According to Rhodes, an interpretive account of governance (a) represents a shift of topos from institutions to meanings in action; (b) explains, shifting patterns of governance by focusing on the actors’ own interpretations of their beliefs and practices; and (c) explores the diverse ways in which situated agents are changing the boundaries of state and civil society by constantly remaking practices as their beliefs change in response to dilemmas¹²⁸.

¹²⁶ Ibid., p. 33.

¹²⁷ Ibid., p. 40.

¹²⁸ Ibid., p. 39.

These three waves, it may be noted, have found a prominent position in the scholarly discussion in the context of western democracies. However, an inclusive understanding of governance demands that it is more useful to discuss the idea of governance from various perspectives that transcend such geographical boundaries rather than exclusively from within either Europeanized or Americanized versions.

2.3.4 Governance Debate in India

In the non-Western societies such as India, the debate on the rise of governance, particularly the idea of good governance, is centered mainly on development issues and the politics of public sector reforms beginning in the early 1990s. This was begun in the form of processes and practices of public policy making and implementation based on the strategic ideas of liberalization, privatization, and globalization.¹²⁹ The debate involves puzzling questions about the role of the state in India on its relationship with society and market for development, democracy, and autonomy.

The rise of governance in India is described by scholars such as Niraja Gopal Jayal, with reference to three spheres of the politics, the economy and civil society, as an expression of alternative conceptualizations that have transcended the World Banks'

129 The literature on governance debate in India has been discussed chapter one. To restate at the expense of repetition, see for example, Bidyut Chakrabarty and Mohit Bhattacharya's *The Governance Discourse—A Reader*, Oxford University Press, 2008; D. Bandyopadhyay, "Administration, Decentralization and Good Governance", *Economic and Political Weekly*, Vol 38, No. 48, November, 1996; Sara Joseph, "Democratic Good Governance: New Agenda for Change", *Economic and Political Weekly*, Vol. 36, No. 12, March, 2001; Partha Chatterjee, *The Politics of the Governed—Reflections on Popular Politics in Most of the World*, Columbia University Press, 2004; Kameshwar Choudhary (Ed), *Globalization, Governance Reforms and Development in India*, Sage Publications Pvt. Ltd: New Delhi, 2007; Surendra Munshi and Biju Paul Abraham (ed), *Good Governance, Democratic Societies and Globalization*, Sage Publications Pvt. Ltd: New Delhi, 2004; Stuart Cobridge et al (ed), *Seeing the State: Governance and Governmentality in India*, Cambridge University Press, 2005; T.M Joseph (ed), *Governance Reforms: Challenges Ahead* (Kanishka Publishers, 2009; Bhabani Shankar Nayak, *Nationalising Crisis—The Political Economy of Public Policy in Contemporary India*, Atlantic, 2007; Social Watch India, *Citizen's Report on Governance and Development*, 2007. See also, Kuldeep Mathur and James Warner B., *Policy Making in India, Who Speaks? Who Listens?* Har Anand Publications Pvt. Ltd: Delhi, 2009; Kuldeep Mathur, *Public Policy and Politics in India*, OUP: Delhi 2013.

four-dimensional definition of governance.¹³⁰ The new meaning of governance in India popularly understood and expressed in terms of good governance, is therefore seen as an imported state project of fulfilling the conditions of the failed systemic reforms that were then labeled as Structural Adjustment Programs (SAPs).

This suggests that governance debates in India in the last decade of the 20th Century were not similar to the governance debates in western democracies. In the case of the western societies, many scholars were busy in ‘bringing the state back in’, whereas in the case of India, such efforts were not needed as the state was already enjoying “a unique preponderance in society”. Unique in the sense that on the one hand, identity centered civil society movements were looking at the state as the only source that could support and recognize their demands, the market players were trying to reshape the political economy of the country based on rational choice individualization on the other.¹³¹

Clearly, the trajectory of governance discourse varies from region to region and depends on the given contexts. The context that was shaped by the interplay of the state, market, and civil society actors in 1990s-2000s was different from the context found in American and European democracies. Our aim here, however, is not to compare these contexts, it is rather to emphasize the fact that any understanding of governance is contextual. Having highlighted the context of governance in the western democracies and India, we now turn to the existing literature on governance in order to deal with the following question: What is governance?

¹³⁰ Niraja Gopal Jayal, *Democratic Governance in India: Challenges of Poverty, Development, and Identity*, Sage Publications India Pvt Ltd.: New Delhi, 2001, pp. 15-16.

¹³¹ Ibid., p. 12.

2.3.5 What is Governance?

There exist many responses to this question. We shall discuss some of them which deal with the idea of governance in terms of human activities pertaining to (a) coercion; (b) social action; (c) capitalist mechanism; (d) social construction; and (e) tradition. Our discussion of scholars' responses revolves around the following questions: What are the ways of getting rid of "the tragedy of the commons"? What is the linkage between governance and stability-and-change in society? Is governance merely a tool of imposing and retaining capitalistic regulation? Is governance one among the many constructed social realities? And, is governance a static or dynamic dimension of human activity? In what follows, we shall briefly discuss the various responses to these and related questions. Scholars' responses to these questions are grounded in the interdisciplinary ideas on human action, such as rational choice, institution, regulation, and social construction.

2.3.5.1 Governance as Coercion

Governance as coercion is a response emanating from a belief which emerges in the individuals who are faced with the tragedy of the commons in the context of scarce resources. The tragedy emerges in a context within which self-interested individuals try to increase their individual gains while sharing common resources. However, by doing so without any higher authority, they finally ruin common resources, thereby causing a tragic existential crisis which calls for some sort of agreement between rational individuals¹³². Some scholars believe that governance is a

¹³² There exist several models of dealing with the tragedy. For example, a new rational choice institutionalist such as Elinor Ostrom traces the genealogy of the tragedy back to Aristotle, notices in Hobbes's state of nature, cites the works of scholars such as H. Scott Gordon, Garrett Hardin etc. as important interventions, discusses the three models of "the tragedy of the commons," "the prisoners' dilemma game", and "the logic of collective action", and then goes on to offer her version of the explanations to institutional change and stability in the context of self-governing institutions' failure and success (See, Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action*, Cambridge University Press, 1990).

situational response to the tragedy of the commons. As such, the response can be actualized by individuals through self-imposed coercion, the continuity of which is coextensive with individuals' ability to curb their freedom to gain more and more at the expense of the available resources for common use¹³³.

Some other scholars argue that the tragedy can be avoided by doing away with the element of coercion in governing practices through "relational contracting"¹³⁴. Yet other scholars believe, "the problem of free-riding" or "the problem of collective action" can be resolved through a rational choice that helps in understanding the ways in which agents overcome "antagonistic cooperation"¹³⁵; such a choice may be, for example, coordination through networks in fragmented systems¹³⁶. As such, networks are seen by scholars such as Torfing (2012) as a mode of governance with an emphasis on paradoxical characteristics of interdependence and autonomy of actors within a fourfold (regulative, normative, cognitive, and imaginary) negotiation framework.¹³⁷

Doubtless, the assumption which treats governance as a collective self-coercion is based upon the belief that human beings are driven primarily by their uncontrolled quest to increase self-interest. Governance then, according to this assumption, remains mainly a disciplinary mechanism of self-imposed coercion to fulfill one's self-interest. However, such an assumption remains debatable, mainly because human beings'

¹³³ Garrett Hardin, "The Tragedy of the Commons" *Science*, New Series, Vol. 162, No. 3859. (Dec. 13, 1968), pp. 1243-1248.

¹³⁴ Oliver E. Williamson, "Transaction-Cost Economics: The Governance of Contractual Relations", *The Journal of Law and Economics*, 22, [1979]: 233-261.

¹³⁵ The problem of principle-agent relationship in terms of policy implementation is one of the central theme in the literature on rational choice action. For an introductory discussion on this issue, see Keith Dowding, "Rational Choice Theory", in Mark Bevir (Ed), *Sage Handbook of Governance*, Sage Publications Pvt. Ltd: New Delhi, 2011.

¹³⁶ Dowding et al, "Understanding Urban Governance: The Contribution of Rational Choice", in Gerry Stoker (ed.), *Power and Participation: The New Politics of Local Governance*, 2000: 91-116.

¹³⁷ Jacob Torfing, "Governance Networks", in David Levi Faur (Ed) *The Oxford Handbook of Governance*, Oxford University Press: New York, 2012, p.101.

choices and, therefore, activities are not limited to fulfillment of self-interest only¹³⁸. Among many, one immediate critique of this assumption comes from those who treat governance as a social action.

2.3.5.2 Governance as Social Action¹³⁹

Unlike the responses that focus on individual actors and their interactions, there exist responses which focus on the linkages between governance and institutions' continuity and their effect. Such a response understands institutions in terms of "norms, cultures, and habits as opposed to the earlier understanding of institutions in terms of more formal and legalistic sense".¹⁴⁰ It assigns a crucial role to institutions in terms of creating opportunities for involving social actors (understood as forms of institutions) in governance. While emphasizing the importance of structure and process, it concedes the need to take agency seriously.¹⁴¹

Clearly, such responses adopt a broader view of institutions. Accordingly, institutions are inclusive of norms, cultural customs, and beliefs in addition to formal rules, procedures, and organizations rather than being limited to specific individual actors' intentions and actions. For example, scholars such as March and Olsen emphasize institutions' autonomous role in making governance, ranging from the state to the individual citizen.¹⁴²

¹³⁸ That is why, a scholar such as Bevir argues, in response to the dilemma, at abstract level, concerning limits of self-interest in terms of its apparent failure in giving a reason for such obedience in the absence of a higher authority, rational choice theorists search for the possible ways to make individuals obey rationally self-imposed norms and rules [Mark Bevir, *Public Governance*, *ibid.*, 2007].

¹³⁹ Our usage of the term "social action" is restricted to describe central idea of new institutional perspective. The term social action is not used here in the way Weber has used it in his book *The Theory of Social and political Organization*.

¹⁴⁰ Mark Bevir, *Public Governance*, *ibid.*

¹⁴¹ B. Guy Peters, "Institutional Theory", in David Levi Faur (Ed) *The Oxford Handbook of Governance*, Oxford University Press: New York, 2012, pp. 79, 88.

¹⁴² Mark Bevir, *Public Governance*, *ibid.*

Drawing mainly on organizational theory, while criticizing the responses which follow reductionist approaches to politics, March and Olsen argue that institutions are not just the products of interactions between rational actors rather they themselves are actors in the sense that they not only contain preferential behavior of actors in the form of norms and rules which in turn remain important in making and developing policy. In addition, they “shape social values and belief systems by means of establishing historical, temporal, endogenous, normative, demographic, and symbolic orders.”¹⁴³

Sharing this view of institutions, a scholar such as Fritz W. Scharpf suggests a paradigm shift where the state actors’ increasing inability to act unilaterally becomes one of the reasons for the rise of new governance. New governance becomes a reality when the state actors, due to their dependency on other actors, have no options but networks as the coordinating mechanisms by giving up hierarchical approaches.¹⁴⁴

These responses, however, do not try to resolve the problem of liberal bias about methodological individualism, which is one of the limitations of rational choice institutionalism in governance theories. Recently, while grappling with this issue, a scholar such as Subrata K. Mitra has offered a model of political transactions that lead to governance. Mitra argues that his approach to governance differs from the good governance approach because he takes both ordinary people and the elites’ preferences as real and important points of departure. This, according to him, reduces the bias evident in good governance because such a point of departure, in contrast to good governance, is receptive to institutional innovation.¹⁴⁵

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Subrata K. Mitra, *The Puzzle of India's Governance: Culture, Context, and Comparative Theory*, Rutledge: USA, 2006.

Mitra claims to have tried a solution to the “potential divergence between the state—society dichotomy by taking both the state-centric and society-inspired indicators into account”. Given, important to his model is what he calls ‘room to manoeuvre’, which “the constitution permits the political elite (a democratic regime, as opposed to military rule, offers more scope for negotiation and bargaining) and the political accountability of the elites, which makes it necessary for them to engage in purposeful social intervention.”¹⁴⁶

Mitra’s attempt towards a better theoretical model of governance in terms of hybridization, however, is deeply grounded in the rational choice premises about individual actors’ preferences. Because for him, “Rational individuals will be governed if, and only if, they consider being governed worth their while. People stick with the rules when they perceive that orderly transactions yield more than they could expect to gain by breaking the rules”. He believes, “rule-abiding behavior does not necessarily follow from altruism, instinct or habit. People abide by the rule out of strategic considerations”.¹⁴⁷ Mitra’s model is an important intervention in the discourse on governance from the rational choice institutional perspective. It tries to minimize the liberal bias by emphasizing the importance of ordinary people in the processes and practices of governance. Such a response makes it clear that governing is not restricted to reified structures only. Governing involves different actors expressing human agency, ranging from ordinary people through intermediaries to elites.

In addition to the above-discussed responses, there exist responses which draw on the ideas of regulation and social construction about the linkage between governance and the state. The responses involving the idea of regulation underline the presence of

¹⁴⁶ Subrata K. Mitra, *ibid.*, 2006.

¹⁴⁷ *Ibid.*

the state as a sort of “big brother”. In contrast, the responses involving the idea of social construction insists on the “stateless state”¹⁴⁸. Yet, both the responses emphasize the idea of governance rather than the government. What follows, in the next few pages, is a brief discussion of these responses.

2.3.5.3 Governance as Capitalist Mechanism

The response which treats governance as a capitalist mechanism relates the idea of (new) governance to a large-scale regulatory change in the form of a movement from Fordism to post-Fordism, which temporarily obscured instabilities of capitalism. The phase of Fordism, according to them, was characterized by large-scale mass production and monopolistic price regulatory mechanisms facilitated by the nation-state. However, with the intensified pace of integration of the world displayed through globalization, the nation-state could no longer play its conventional role thereby allowing uncertainty to take over. This compelled the neoliberals to find out a new form of regulation, which resulted in the rise of new governance.¹⁴⁹ This new form of regulation is viewed by a scholar such as Bob Jessop in terms of metagovernance. It is apt to look at this response.

Jessop believes that the essence of the idea of governance is better represented by the term metagovernance, which he understands in terms of coordination of governance, that is Governance of governance. Accordingly, Jessop views governance as structures and practices of coordinating complex and reciprocal interdependent social relations, and metagovernance with coordinating these structures and practices.¹⁵⁰

¹⁴⁸ Mark Bevir and R.A.W. Rhodes, 2010.

¹⁴⁹ Mark Bevir, *Public Governance*, ibid., 2007.

¹⁵⁰ Bob Jessop, “Metagovernance”, in Mark Bevir (Ed), *Sage Handbook of Governance*, Sage Publications Pvt. Ltd: Ned Delhi, 2011, p.108.

He further clarifies metagovernance by describing its three basic modes and one umbrella mode -namely- ‘meta-exchange’, ‘meta-organization’, ‘meta-heterarchy’, and ‘meta-governance’. Jessop understands metagovernance here as reticulation and collibration of different modes of governance, and as the organization of the conditions of governance in terms of judicious mixing of market, hierarchy and networks, which involves management of the complexity, plurality, and tangled hierarchies found in prevailing modes of coordination.¹⁵¹

Contrary to the response which looks at governance as coordination of coordination, the response involving the idea of social construction treats governance as a contingent and contestable idea that can only be understood properly by focusing on the meanings of people’s beliefs about their actions. Such a response is based on the assumption that in order to understand governing processes and practices, one needs to look beyond reified notions of structures and systems. The argument is that governance is a dynamic aspect of human activity rather than being a static one. From this angle than governance can be viewed as a socially constructed reality.

2.3.5.4 Governance as Social Construction

The response that treat governance as social construction is based on the belief that “social reality is not given to human beings rather it is constructed out of human knowledge, beliefs, and meanings”.¹⁵² The core assumption of such a response then can be grounded in terms of “social construction of reality” which has several elements, including actors as production of culture rather than being born outside or before society and, impact of symbols, rules, concepts, and categories on construction and

¹⁵¹ Mark Bevir, *ibid.*, p. 237.

¹⁵² Mark Bevir, *Key Concepts in Governance*, Sage Publications Ltd.: New Delhi, 2009, p. 189.

interpretation of the reality by individuals.¹⁵³ Accordingly, governance can be explained as something which is made and remade by human beings acting on contingent sets of meanings.¹⁵⁴

In general, this response, as Bevir argues, emphasizes “intentional actions” of human beings when it comes to making the social world. One variant of this response is the argument that “the intentions of actors derive in part from traditions, discourses, or systems of knowledge that are also social constructs” and that in doing so, “we make the very beliefs and meanings upon which we act”, hence “our concepts are contingent products of particular discourses and practices; they are not natural or inevitable ways of conceiving and classifying objects”.¹⁵⁵

Clearly, despite the plurality of approaches, the response in terms of governance as social construction offers an insight into the ways in which human beings construct the social world. As such, as Bevir suggests, this response emphasizes “the role of tradition, discourse, and culture in constructing contemporary patterns of rule” thereby highlighting “the contingency and contestability of governance in contrast to those who see it as inevitable, rational, or explicable by reference to natural or social processes”, and suggest that “contemporary governance is a social construction. It arose out of particular traditions or particular regimes of knowledge”¹⁵⁶. Taking a clue from this response, a scholar such as Mark Bevir and others have gone on to treat governance in terms of contingent and contested traditions.

¹⁵³ Michael Barnett, “Social Constructivism”, in John Baylis & Steve Smith, (ed.), *The Globalization of World Politics – An Introduction to International Relations*, 2005, Oxford University Press: Oxford, p.163.

¹⁵⁴ Mark Bevir, *ibid.*, p.191.

¹⁵⁵ Mark Bevir, *Encyclopedia of Governance*, Vol. II, SAGE Publications India Pvt. Ltd.: New Delhi, p.876.

¹⁵⁶ *Ibid.*

2.3.5.5 Governance as Tradition

In their attempt to complement and add to the above-discussed responses, scholars such as Mark Bevir see governance as a pattern of the rule as well as a practice of the social organization. For Bevir “Governance refers to all processes of governing, whether undertaken by a government, market, or network; whether over a family, tribe, corporation, or territory; and whether by laws, norms, power, or language. Governance is a broader term than government because it focuses not only on the state and its institutions, but also on the creation of rule and order in social practices.”¹⁵⁷ In this vein of redefining the state, scholars such as Mark Bevir and Rhodes focus on ‘3Rs’ of the rule, rationalities, and resistance, while suggesting a shift from rule to rationalities to resistance. They do so by moving away from notions such as ‘bringing the state back in’, ‘path dependency’ and modernist empiricism.¹⁵⁸

Bevir and Rhodes treat the state as a contingent and contested yet ‘meaningful activity’, which emerges from the activities of public policy makers ranging from civil servants to ordinary citizens. By offering a people-centric interpretation and explanation, they declare their distance from the above discussed two waves of governance. Unlike these two waves, an interpretive wave of governance focuses on actors and the traditions of governance constructed by these actors through webs of beliefs over a period.

Differing from other responses relating to the question as to what is governance, the response which treats governance in terms of traditions suggests that reified understanding of governance in terms of institutions as actors, networks, and structures are helpful to a certain extent only. Because institutions, networks, and structures are

¹⁵⁷ Mark Bevir, *A Theory of Governance*, 2013.

¹⁵⁸ Mark Bevir and Rhodes, *The State as Cultural Practice*, Oxford University Press: New York, 2010.

the product of people's activities and, therefore, it is the people who shape and reshape them by their contextual activities. A scholar such as B. Guy Peters also concedes this limitation of the first two waves of governance: "Institutions do provide an excellent place to begin the analysis of decisions made in governing societies, but do not generally provide an answer to those questions. To be able to understand how institutions may steer society, we also need to understand how individuals within them function and how they shape the institutions"¹⁵⁹. The response treating governance as tradition try to do the same by bringing people back in the processes and practices of governing.¹⁶⁰

In this vein, perhaps, a scholar such as Bevir believes that the task of bringing people back in the process of governing can be done by keeping one's focus on the meanings of people's action, for meanings are constitutive of human action: "The centrality of meanings... reflects the fact not only that actions are intentional but also that these meanings are holistic." Therefore, one can properly explain people's beliefs only by placing them in a wider web. One "cannot reduce beliefs to social facts since the content of a belief depends on its place among other beliefs." This, in turn, suggests the need for contextual explanations.¹⁶¹

Bevir goes on to argue, contextual explanations involve examining "the ways individuals act on their beliefs to create, sustain, and modify governance". To do so, one is required to explore both how traditions ("a set of theories, stories, and associated practices people inherit that then forms the background against which they hold beliefs and perform actions") prompt individuals to adopt certain beliefs and how dilemmas

¹⁵⁹ B. Guy Peters, "Institutional Theory", in David Levi Faur (ed) *The Oxford Handbook of Governance*, Oxford University Press: New York, 2010, p.8.

¹⁶⁰ Mark Bevir and Rhodes, *ibid.*; for more on meanings and beliefs see, Mark Bevir, *The Logic of the History of Ideas*, Cambridge University Press: UK, 2004, chapters 2-4, pp.31-77, 127-173.

¹⁶¹ Mark Bevir, *Public Governance*, *ibid.*, p.52.

(arising for people “when a new belief, often itself an interpretation of an experience, stands in opposition to their existing ones, thereby forcing a reconsideration of the latter”) prompt them to change traditions.¹⁶² Traditions and dilemmas are considered helpful in explaining the why aspects of persistence and change of meanings and patterns of governance.¹⁶³

Clearly, governance, according to this response is a contestable and the contingent practice of situated human agency in different contexts wherein traditions and dilemmas play a crucial role. If so, then, there can be no final response to the question of what governance is. Faced with such a situation, what one can do is to offer some context based propositions. Responding to this situation, a scholar such as Gerry Stocker argues that there do exist such propositions of governance, which according to him are as follows: “(1) Governance refers to a set of institutions and actors that are drawn from but also beyond government; (2) Governance identifies the blurring of boundaries and responsibilities for tackling social and economic issues; (3) Governance identifies the power dependence involved in the relationships between institutions involved in collective action; (4) Governance recognizes the capacity to get things done which does not rest on power of government to command or use its authority. It sees government as able to use new tools and techniques to steer and guide.”¹⁶⁴

Stocker adds one specific dilemma to each of these propositions, which are as follows: “There is a divorce between the complex reality of decision-making associated with governance and the normative codes used to explain and justify government. The blurring of responsibilities can lead to blame avoidance or scapegoating. Power

¹⁶² Ibid, p.58.

¹⁶³ Ibid, p. x.

¹⁶⁴ Gerry Stocker, “Governance as theory: five propositions. *International Social Science Journal*, 50, (155), p.18.

dependence exacerbates the problem of unintended consequences for the government. The emergence of self-governing networks raises difficulties over accountability. Even where government operates in a flexible way to steer collective action governance failure may occur.”¹⁶⁵ Stocker’s five propositions, which he considers ‘complementary rather than contradictory or in competition’, along with certain dilemmas point to a different angle of looking at the idea of governance, which we shall attempt in chapter two. Having discussed the various perspectives on governance, it is apt to discuss the existing literature on the idea of public policy.

In the foregoing discussion, while dealing with the various responses to the question as to what is governance, it was found that governance can be viewed as a nonlinear multidimensional dynamic activity performed by people in different historical contexts. Such a view of governance is useful in that it allows one to keep open the possibilities of understanding its contingent and contested dimensions. The present chapter deals with the idea of governance by raising a slightly different question, which is about the constituents of governance: What constitutes governance? By raising this ‘question of composition’¹⁶⁶, one is adopting a broader view of governance and is trying to decenter it. An attempt is made in this direction in the next few pages.¹⁶⁷ In so doing, it first deals with some constituents of decentered governance and then submits a conceptual framework drawn from a decentered notion of governance¹⁶⁸.

¹⁶⁵ Ibid., p. 19.

¹⁶⁶ Mark Bevir, *A Theory of Governance*, 2013, p.36.

¹⁶⁷ However, the philosophical foundations of decentered theory of governance offered by a scholar such as Mark Bevir are not examined in the chapter. Such investigation would require one to conduct a comprehensive analysis of Bevir’s ideas ranging from his *The logic of History of Ideas* (1999) to *A Theory of Governance* (2013), which is beyond the scope of the present study. The notion of governance offered by Bevir is discussed here just to emphasize its usefulness in understanding governance as an aggregation of ideas.

¹⁶⁸ This has been attempted in view of the fact that a detailed inquiry of such ambitious questions is beyond the available recourses and time of an individual researcher and that a study such as this

2.3.1 *What constitutes Governance?*

This question requires one to look at governance as an idea which needs to be understood in terms of an aggregation of various ideas. What are these ideas and how do they fit with the idea of governance as an aggregated concept? There exists a response to the question coming from an interpretive perspective. A scholar such as Mark Bevir, as discussed in chapter one, argues for decentered idea of governance, which is constituted by peoples' beliefs, traditions, and dilemmas. As such, governance is inclusive of "all the diverse networks that operate at the boundary of the state and civil society, where these networks extend far beyond the core executive to cover the actors and practices that produce certain norms and power relations"¹⁶⁹. Such a decentered view allows one to examine "the ways in which governance is created, sustained, and modified by individuals acting on beliefs that are neither given by an objective self-interest nor by an institution but rather arise from a process in which the individuals modify traditions in response to dilemmas"¹⁷⁰. The individuals referred here are neither autonomous nor before their social context¹⁷¹.

These activities are performed in the "stateless state" in the forms of "complex patterns of elite narratives" and "popular resistance" along with "technologies of power" which together contribute to the making and unmaking of various patterns of governance¹⁷². Further, a decentered idea of governance treats networks as "sites of contingent struggles of power and resistance" where people try to remake policies as well as networks; and, considers power and resistance as "ubiquitous features of people

dissertation can in no way claim to have discussed all the aspects of this question. What has been discussed in the present chapter is an effort to fulfill the limited demands of the objectives of the present study.

¹⁶⁹ Mark Bevir, *A Theory of Governance*, 2013, p. 153.

¹⁷⁰ Ibid., p. 50.

¹⁷¹ Ibid., p.36.

¹⁷² Ibid., p.157.

interpreting and reinterpreting one another against inherited backgrounds that contain differences as well as similarities.”¹⁷³

This humanist and historicist¹⁷⁴ decentered idea of governance is based on a decentered notion of power, which is drawn partly on Foucault’s ideas on decentered power and governmentality. According to Foucault, “power is not something that is wielded against people by a central body, such as the state or capital. Rather, power flows throughout all society, producing people as much as controlling them, and power is something that people exercise on themselves as much as something that is imposed on them by external forces.”¹⁷⁵ As such, power can be understood as a decentered notion, an idea which lacks a center.

2.3.1.1 Power

A decentered idea of governance treats power in non-dichotomous ways; as such, power is viewed as available to all people in different forms. Construed in this way, power is found to be simultaneously present and at work in the rulers and the ruled, rather than being an exclusive element of either of these two sections of people in different contexts. Further, a decentered idea of power, as Bevir suggests, encourages one to rethink power in terms of a force lacking any center: “Given that power refers to the ways in which the actions of others define what any individual can and cannot do, then power appears throughout governance. Power appears wherever people interpret and respond to one another.”¹⁷⁶

¹⁷³ Ibid., p.107.

¹⁷⁴ Ibid., p.34.

¹⁷⁵ Ibid. p.154.

¹⁷⁶ Mark Bevir and R.A.W. Rhodes, “The Differentiated Polity as Narrative”, p.5. Retrieved from-
<<http://escholarship.org>>

Such a decentered view of power is also echoed by a scholar such as Bob Jessop, who argues that the state itself has no power at all. The actual carrier of power is the people, whom he defines in terms of categories such as class.¹⁷⁷ Jessop concedes that “the state is no longer the sovereign authority. ... [It is] less hierarchical, less centralized, *less dirigiste*.”¹⁷⁸ Jessop’s view on the power of people and the state has, at least, one similarity with Bevir and Rhodes’s view of the stateless state.¹⁷⁹ The state is stateless because it is the people who make and remake it through their contingent and contestable traditions of governance.

What becomes clear from this discussion is that power is unequally located in rulers and the ruled. This inequality, however, is constantly shifting and changing; hence, power remains a dynamic element of human capability that continuously rises and falls in rulers and the ruled without ever leaving either of them hollow. This, in turn, substantiates the view that the hollowing out of the state actors such as bureaucracy is a misinterpretation of the location of power in various forms of social organization including markets, civil society, and networks. For, these three forms of social organization cannot exist if the people stop believing in their processes and practices. Institutions and structures, as interpretive scholars would argue, are not self-created entities rather people themselves create, modify, and abandon them.

To recall, a decentered idea of governance proposed by Bevir suggests that “social formations emerge from competing and conflicting patterns of activity”¹⁸⁰. These activities, as the history of human beings, suggests, involve resistance in favor

¹⁷⁷ Niraja Gopal Jayal, “The State and Democracy in India: Recent Challenges to Public Policy”, PhD. Diss., Submitted to *Jawaharlal Nehru University*, New Delhi, 1994, p. 31.

¹⁷⁸ R.A.W. Rhodes, “Three Waves of Governance”, in David Levi Faur (ed) *The Oxford Handbook of Governance*, 2012, p. 38.

¹⁷⁹ Mark Bevir and Rhodes, *The State as Cultural Practice*, Oxford University Press: New York, 2010

¹⁸⁰ Mark Bevir, *A Theory of Governance*, 2013, p. 55.

of change as well as against change. The fact that competition and conflict do not occur in a unidirectional way allows one to examine the patterns of such activities from various angles. Certainly, when people are faced with dilemmas, they do express their neutrality and agreement and disagreement on issues involving competing claims concerning change.

Such claims are made either in favor of carrying forward the existing frameworks of rule or in favor of a modification of these frameworks. Such frameworks, which include public policy formulations, can be termed as status quoist frameworks and transformative frameworks respectively. This way of treating peoples' attempt of formulating policy frameworks of the rule will help us in dealing with the role of resistance in governance. Further, resistance which expresses status quoist frameworks and transformative frameworks can be termed as status quoist resistance and transformative resistance respectively.

A decentered idea of governance thus involves both status quoist resistance and transformative resistance. It follows then that, when treated as a decentered idea, governance can be understood in the two-dimensional ways of status quoist governance and transformative governance. Such an idea of governance is then made up by the elements of decentered power and decentered resistance involving status quoist policy formulations and transformative policy formulations which in turn contribute to the situations of status quo and transformation. Further, both the types of policy formulations can be found to exist in a single policy-making and implementation process. It is apt to clarify the usage of the terms such as resistance, status quo, and transformation for the limited purposes of this study.

2.3.1.2 Resistance

Earlier in this chapter we have discussed the various perspective on resistance. To restate at the expanse of repetition, resistance is a multidimensional activity involving various sections of society. People resist not only to introduce change in existing norms and rules which guide the terms and conditions of processes and practices of making and implementing public policies. In addition, they resist also against the particular ways of bringing about changes. As such, resistance can be viewed as a decentered and multidirectional idea which involves activities in favor of a particular way of change as well against it.

It becomes clear from the above discussion that governance cannot be defined in an essentialist terminology. Given the non-essentialist character of governance, it is apt to deal with the related question as to how is it linked to the making and implementation of public policy? Doing so is useful because such an exercise will provide us an understanding of the ways in which governance reforms are attempted in different contexts.

Here, it is pertinent to recall that in Western democracies, scholars have found a close linkage between public policy and the public sector reforms of the 1980s. To recall, the public sector reforms in the western democracies came in the two waves of New Public Management (NPM) and networks and partnerships in the context of debates over the role of the state in the making and the implementation of public policy¹⁸¹. Later, these waves found their voice in a developing society such as India in the 1990s in the form of New Economic Policy and its three modes of liberalization, privatization, and globalization bundled within the structural adjustment programs.

¹⁸¹ Mark Bevir (Ed), *Public Governance*, Vol III, Sage Publications, 2007, p. v.

However, as far as public policy analysis in post-Independent India is concerned, as Navdeep Mathur and Kuldeep Mathur point out, it is still in the process of making. In post-Independent India, public policy has been viewed as development policy due to India's development orientation. The early phase of policy analysis was dominated by "Nehruvian Consensus", a "paradigmatic political development program, framed through a technical rationality of economic development".¹⁸² However, lately, the paradigm has been critiqued for its implementation failure. Keeping this western and Indian context in view, it is apt to discuss the ways in which scholars have tried to deal with the linkage between governance and the making and implementation of public policy while focusing on the various perspectives cutting across the narrow disciplinary boundaries.

2.4 Governance and the Making and Implementation of Public Policy

2.4.1 Making and Implementation of Public Policy

There exist many answers to the question as to how a public policy is made and carried out. Any answer comes to us through the gateway of governance and the state's role in it. In other words, public policy is intrinsically linked to the ways in which governance is practiced by the state, market, and civil society. This linkage in turn has sometimes motivated some scholars to think of public policy as "a mood more than a science, a loosely organized body of precepts and positions rather than a tightly integrated body of systematic knowledge, more art and craft than genuine 'science'".¹⁸³ And, perhaps, puzzled by the complexities of the making and implementation of public policy, a scholar such as Thomas R. Dye has not only defined public policy in its

¹⁸² Navdeep Mathur and Kuldeep Mathur, "Policy Analysis in India: Research Bases and Discursive Practices" in Frank Fischer, Gerald J. Miller, and Mara S. Sidney (Eds), *Handbook of Public Policy Analysis: Theory, Politics, and Methods*, CRC Press: New York, 2007, p. 603.

¹⁸³ Robert E. Goodin, Martin Rein & Michael Moran, *The Oxford Handbook of Public Policy*, Oxford University Press: New Delhi, 2006, p. 5.

simplest possible way but has also remained committed to the following definition: “Public policy is whatever governments choose to do or not to do”¹⁸⁴. However, the two above cited views of public policy suggest that public policy is interdisciplinary by nature and that it is intrinsically linked to the idea of governance. The linkage between public policy and governance demand that we follow the idea of public policy in some more detail with a focus on the role of the state.

We shall discuss the various responses to the question about making and implementation of public policy and its linkage with governance, with the help of the ideas drawn from Mark Bevir, in terms of steering and serving, network management, audit and regulation, policy learning, and dialogue and deliberation¹⁸⁵. Accordingly, one of the assumptions regarding the nature of public policy making can be treated as the practice of incremental change, which can be found in the views of a scholar such as Charles E. Lindblom before the onset of the two waves of public sector reforms of the 1980s. Lindblom suggests that policy makers (administrators here) make decisions incrementally. Accordingly, they take the present policies as the starting point and then go on to adapt them in a manner that should address the problems which they noticed in these policies. This suggests that policy making can be explained in terms of incremental changes in response to the problems posed by the public sector reforms¹⁸⁶.

Having highlighted the contextual nature of policy making implementation process, we now turn to the role of the state (steering and serving) in the making and implementation of public policies, which was expected during the two waves of the public sector reforms. The idea that state is best suitable to steer and serve the people if

¹⁸⁴ Thomas R. Dye, *Understanding Public Policy*, (14th Edition), Pearson Education, Inc.: USA, 2013, p.3.

¹⁸⁵ Mark Bevir, (Ed), *Public Governance*, Vol III, Sage Publications, 2007, pp. viii-xxiv.

¹⁸⁶ *Ibid.*, pp. vii-viii.

outsource its role of public policy implementation to the market was promoted by the neoliberals during the 1970s in the form of New Public Management (NPM).

To recall, NPM was an offshoot of the attempts of neoliberals in their dealing with the overloaded state in the Western democracies. Among others, Osborne and Gaebler supported NPM and marketization of public services¹⁸⁷. Osborne and Gaebler argued for contracting out of public service delivery with the assumption that doing so would enable the state in steering of public governance due to the availability of extra resources at the time of policy making on the one hand, and people will get the best services from a competitive public service delivery system based on market calculation. They argue that limiting the state to the task of steering will open up a holistic approach to policy making. By arguing in favor limited role of the state in service delivery, they presupposed the efficiency of the competitive market.¹⁸⁸

However, the market-driven reforms do not have a promising prospect. Critics argue that success of the public sector reforms is dependent not only on the public service delivery but also on other aspects of policy making and implementation. Arguably, market and state differ in their organizational aspects. Public service delivery requires leadership skills which may not be guaranteed by the market given its profit-oriented policies. Secondary, commitment to the interest of public is not the ultimate moto of the market. In addition, the political leadership and market leadership do not have common goals, therefore, without a strong communication system between both the type of leadership, service delivery may not work as efficiently as its advocates expect it to be. The market is not accountable to people directly, therefore, any

¹⁸⁷ See David Osborne & Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector*, Addison-Wesley Publishing Company, 1992.

¹⁸⁸ Mark Bevir, (Ed), *Public Governance*, Vol III, Sage Publications, 2007, pp. ix-x.

expectation from the market regarding a fair public service delivery system is not a guaranteed outcome.¹⁸⁹

The second wave of public sector reforms was concerned with the attempts to manage networks, which were supposed to be one of the results of the neoliberal attempts towards the reforms. The result was the proliferation of networks rather than a properly functioning market. The proliferation of networks led some to believe that the superiority of networks can replace bureaucracy and market. Therefore, the networks were given priority to bureaucracy and market. The result was the promotion of ‘joined up-governance’ and ‘one-stop shops’. The advocates argue that state can better perform as a part of the networks by managing them.

It is also suggested by the advocates that successful networks have certain characteristics (collaboration, negotiation, flexibility, and trust) which are sufficient to ensure the success of the public sector. This suggestion is based on the assumption that the contemporary state is just one among other actors in the networks. In this vein, some advocates have gone on to support public-private partnerships as a good way of network management by the state. However, critics have argued that networks have made it too difficult for the state to retain control over the processes of policy making and implementation. And, the result is a complex mode of governance in its new avatar of network management.¹⁹⁰

Given the increased difficulties of the state in the management of networks where power is diffused among numerous non-state actors, scholars argue that the state is trying to regain the control over public policy making and implementation through the tools of audit and regulation. Audits and regulatory agencies are supposed to

¹⁸⁹ Ibid., pp. xi-xii.

¹⁹⁰ Ibid., pp. xiii-xv.

facilitate the state in ensuring the non-state actors' accountability. From this angle, the state has assumed a regulatory role in the new governance. Regulation would enable the state to oversee public policy implementation. Audits and regulation would work as a sort of feedback mechanism for the state, which in turn would be able to reinstate some of the democratic safeguards. Accordingly, the rise of a regulatory state brings power back to the people.¹⁹¹

The foregoing discussion on steering and serving, network management, and audit and regulation suggests that the public sector reforms have created more problems of governance. This brings us back to the idea of incremental change in public policy. Apparently, one can argue that public policy making and implementation is a matter of learning from previous attempts and keep adapting to changing contexts. Policy learning may be referred to as a multi-stage process of policy formulation, which involves the task of introducing new information, interpretation of previous policies, inclusion of new ideas, and modification of the policy. Policy learning process relies mainly on 'knowledge, skills, and habits already gained through just that process'. According to its advocates, policy learning is a type of bonded rationality in which previous experiences and routines are used by policy actors to reduce uncertainty while responding to newly emerging situations.¹⁹²

In addition to the above-discussed ideas of public policy making and implementation and their linkage with the role of the state, there exist perspectives which emphasize effectiveness and participatory public policy making through the tool of dialogue and deliberation. These tools require peoples' participation at every state of policy making and implementation in order to bring in effectiveness. Dialogue enables

¹⁹¹ Mark Bevir, (Ed), *Public Governance*, Vol III, Sage Publications, 2007, pp. xvi-xviii.

¹⁹² Ibid., pp. xix-xx.

a policy maker to shape a policy in the light of citizens' suggestions and requirements. Such a process, in turn, enables the citizens to play an active role as "Everyday Makers" in the policy-making process under new governance.¹⁹³

2.5 Conclusion

The foregoing discussion of the ideas of civil society, governance, and public policy provides us a broad understanding of the ways in which scholars have tried to locate civil society and the state in the process of governance and public policy making. It is found that the idea of governance is treated by scholars as a multidimensional process in which civil society, state, and market are dependent on one another. Civil society is treated here as a mechanism of people's participation through the tools of dialogue in the process of governance and public policy making and implementation. The discussion also suggests that civil society participation is essential to ensure accountability and transparency in the process of governance. The diversity of perspectives on civil society movement has helped us in clarifying different aspects of the idea of civil society movement. It is observed that the success of a civil society movement depends upon a number of factors including leadership, resources, the political context, articulation of demands and mobilization process, response of the state etc. Further, it is found that the state has been assigned a central role in this process mainly to ensure accountability and effectiveness. The analysis is useful for understanding the civil society movement for governance reforms.

¹⁹³ Ibid., pp. xx-xxiii.

Chapter 3

Colonial Legacy and the Inadequacy of Administrative Reforms in Post-Independent India

It was highlighted in the preceding chapter that the idea of governance is viewed by scholars as a multidimensional process in which civil society, state, and market are dependent on one another. Civil society is understood as a mechanism of people's participation through dialogue in the process of governance. It was established that civil society participation is essential for ensuring accountability and transparency in governance. It was found that civil society participation is essential to ensure accountability and transparency in the process of governance. The diversity of perspectives on civil society movement has helped us in clarifying different aspects of the idea of civil society movement. It was highlighted that the success of a civil society movement depends upon a number of factors including leadership, resources, the political context, articulation of demands and mobilization process, response of the state etc. Further, it was found that the state has been assigned a central role in this process mainly to ensure accountability and effectiveness. The analysis is useful for understanding the civil society movement for governance reforms.

However, in order to understand the civil society movement for governance reforms, it is essential to deal with the historical context, which provided the background for the rise of the civil society movement for governance reforms. The historical context, as highlighted in the introductory chapter, was the colonial legacy of institutions, administrative culture of official secrets in India, and the inadequacy of administrative reforms in post-independent India. The present chapter is an effort to examine the above-mentioned historical context. In this vein, the different aspects of

parliamentary and bureaucratic system of administration, which have not only been adopted without much change in their nature and scope but are also being practiced in our times, are examined critically in the chapter. An overview of the colonial state in pre-independent India is provided while focusing on the nature of colonial government, i.e., the Westminster model of government and bureaucratic form of administration. The various aspects of the Official Secret Acts of 1889, 1904, and 1923 are analyzed critically. Next, the legacy of the colonial state in post-independent India is critically examined while focusing on the parliamentary system of government and the bureaucratic system of administration. The colonial legacy of official secrecy is underlined while examining the Official Secrets (Amendment) Act 1967.

3.1 Institutionalization of Colonial Administration in India—An Overview

It is a historical fact that the genesis of administration in India goes back to ancient times. The literature on ancient republics and monarchies in India suggest the existence of administrative structures such as *Sabha and Samiti*¹⁹⁴ and a detailed description of administration in Kaushalya's *Arthashastra*. In medieval India, there was a gradual evolution of administrative structures and related practices involving the kings and their ministers. In early modern India, before the onset of the colonial administration, Mughal administration had evolved its own version of administration¹⁹⁵. After the fall of the Mughal rule, the British rulers set up their

¹⁹⁴ Romila Thapar, *The Penguin History of Early India: From the Origins to AD 1300*, Penguin Books, 2003.

¹⁹⁵ One of the most important aspects of Mughal administration was the system of land revenue administration. Land taxation system during Mughals, was mechanism of overlapping institutions such as *khalisa*, *jagir*, *zamindari* and *raiyyati* villages, arrangement. The mechanism of jagirdari and zamindari was the pivot of Mughal land revenue system. Though, in theory, the emperor was the sole claimant to the land revenue and other taxes, members of a small ruling class shared the income from the revenue in specific areas called jagirs through a system of temporary alienations of the claim. They were granted mansabs or ranks by the emperor with an entitlement to particular amount of pay, which was payable either through a salary in cash from the treasury or in the form of assignment of an area yielding equivalent amount of revenue. Usually the method of assignment of area was practiced. The non-jagir land was known as *khalisa* land, which was under the direct control of the emperor. The area under *jagir*

colonial administration in India. Colonialism has left behind some long lasting legacies in India such as the Westminster model of government, the bureaucratic form of administration, and English as the official language. In fact, the people have been practicing the parliamentary political structure and the bureaucratic form of administration since Independence. The bureaucratic system has been in practice at all levels of administration in India ranging from the administrative machinery of the cabinet secretary at the level of central government to the village secretary at the level of village Panchayat. The bureaucratic system of administration includes a range of All India Civil Services (AIS), State Civil Services (SCS), and village level services such as panchayat secretary and *Patwari*¹⁹⁶ etc.

Colonial administration was a departure from the existing machineries of administration in India in terms of its structure, goals, style of functioning, and techniques of exercising control over people. This is not to suggest that colonial administrators had nothing to adopt from the Mughal rule. In fact, the early phase of British rule was influenced by the Mughal practices of administration. For example,

was relatively larger than the *khalisa* area. Theoretically, there was no provision of inheritance of the *mansab*, it was normally transferred to of the *mansab* holder's family members from generation to generation the next generation. The emperor exercised control the areas by not keeping it a non-permanent settlement of the small classes. Thus, a *jagirdar* had no property rights over a tract of jagir area. His claims were limited to the authorized land-revenue and taxes. A *jagirdar* had no judicial or police powers during the Mughal rule. However, there were standing machineries backed by the jagirdars forces in bigger jagir areas for collecting revenue taxes. The other important element of the land revenue system was the mechanism of *zamindari*. The term *zamindar*, a Persian compound, means keeper or holder of land. From Akbar's time onwards, the term *zamindar* was increasingly used for any person with any hereditary claim to a direct share in the peasant's produce. In the context of increasing usage of local terms as replacement of or as alternatives to the term *zamindari* during the seventeenth century, Mughal administration recognized certain aspects of *zamindari* right, e.g. saleability and obligation to pay revenue. The *zamindars* were in close relationship with kinsmen, whose support they needed for protecting and retaining their claims the peasants. They formed a semi-military class by possessing and retaining and forts, and due to this no regime could ignore them politically. However, *zamindari* rights differed from region to region. Even in the same district, some villages were under the *zamindari* of a few persons while in some other villages would be held by the peasants themselves with no recognizable *zamindars*. The *zamindars* levied different taxes on the peasants differently in different regions. The small peasant who were more in number, were levied more than their revenue share. (Tapan Roy Chaudhuri and Irfan Habib, *The Cambridge Economic History of India*, Vol, 1 Orient Longman: Hyderabad, 1982, pp. 54, 61, 65, 74-75, 173, 176, 241-249).

¹⁹⁶ *Patwari* is a government official who keeps records of land landownership at village level.

during its initial times, the Company's servants took pride in adopting the symbolic names of Mughal administrators such as Nawabs etc¹⁹⁷.

However, the machinery of the colonial state in India was imperial by nature and scope. An imperial state headed by the Crown, located in England, used to administer British colonial India. The objectives of colonial rule were limited to maintaining the law and order in the narrow or in the negative sense of the term, collecting required revenue for meeting its expenditure, retaining strategic powers in the hands of the British civil servants, and 'subservience of administration to the paramount needs and interests of the ruling country'¹⁹⁸. As an imperial colony, India was an administrative zone for the British rulers. Colonial rule was sustained for nearly two hundred years (1757-1947) by the process of systematic construction of the "ruled" or the "subject" through the intellectual apparatuses such as Orientalism along with the institutionalization of the official secrecy. In order to understand these aspects, it is useful to discuss the evolution of colonial administration in India.

The genesis of colonial administration can be traced back to the Regulating Act of 1773, which was passed by the British Parliament as a measure to regulate the growing political activities of the East India Company (EIC) in India¹⁹⁹. The trading and political activities of the EIC were brought under the control of the British Parliament, which provided for a Court of Directors to be based in London. The Court of Directors was a superior political authority over the Governor-General-in-Council in

¹⁹⁷ Shriram Maheswari (Ed), *Administrative Reforms*, Indian Institute of Public Administration: New Delhi, 1984, p.2.

¹⁹⁸ Shriram Maheswari, *The Administrative Reforms Commission*, Laxmi Narain Agarwal: Agra, 1972, pp. 5-6.

¹⁹⁹ The Act was passed in the aftermath of the two battles of the Plassey (1757) and Buxar (1764) involving the East India Company. During the time of these battles, Colonel Robert Clive's undemocratic and unjust political activities (see Jawahar Lal Nehru, *The Discovery of India*, 1946, p.275) in the context of the politics of Bengal and Mughal Emperors were the first indication of the forthcoming colonial policy in India.

India. The Governor-General-in-Council was to function in India as a superior political authority over the Governors of the three Presidencies of Bengal, Bombay and Madras. It was the beginning of a centralized colonial administration²⁰⁰. The Act also laid down the foundation of colonial judicial administration by way of providing for a Supreme Court in Calcutta.

The Regulating Act 1773, however, turned out to be a non-effective legislative attempt of the British Parliament to control the activities of the East India Company in India. Subsequently, in the wake of the recommendations of a Parliamentary Enquiry Committee, headed by Edmund Burke, on the functioning of the East India Company, the British Parliament enacted the Pitts India Act 1784. The Act provided for a six-member Board of Control and vested in it the political authority to control the political activities of the EIC. The members (the Chancellor of the Exchequer, a Secretary of State, and four Privy Councilors) were to be appointed by the king. The Board of Directors was allowed to continue with the function of supervising the commercial activities of the EIC.

During the final quarter of the eighteenth century and the beginning of the nineteenth century, many changes took place in colonial policy and administration, which included the transformation of the Governor-General-in-Council to the Government of India. With the coming of Lord Wellesley as the Governor of India, the British empire *in* India was rapidly transformed into the British empire *of* India through the policies of 'subsidiary alliances' with the native rulers. New methods of keeping the British empire of India intact were discovered, which included the founding of a

²⁰⁰ Bidyut Chakrabarty and Prakash Chand *Public Administration in a Globalizing World: Theories and Practices*, Sage Publications India Pvt. Ltd: New Delhi, 2012, p. 387.

college in 1800 at Fort William for the training of the company's civil servants. The founding of the college marked the beginning of the colonial civil service in India.²⁰¹

The process of centralized administration, which was begun in the year of 1773 through the Regulating Act of 1773, reached its culmination in the year of 1833 through the Charter Act of 1833. The Governor General was designated as the Governor General of India and was vested with supreme authority over all the Governors in India. The provincial governments lost their legislative powers as all the legislative powers were vested in the Governor-General-in-Council. The legislations approved by the Governor-General-in-Council were to be designated as Acts. One of the members of the Governor-General-in-Council was, from among English Barristers, to be appointed as legal advisor. The Act also provided for a Law Commission, which came into being in 1834, thereby marking the beginning of the process of codification of the various laws. Macaulay, the first law member of the Governor-General-in-Council was made the President of the Law Commission and was entrusted with the codification of laws in India. The laws enacted by the Governor-General-in-Council were not required to be endorsed by the Supreme Court for their validity. The EIC lost commercial monopoly in India with the acceptance of the Charter Act 1833.

However, the first step towards bringing the administration of India under the British Crown was taken in the year of 1858 through the Government of India Act 1858 in the wake of the first struggle of India for Independence in 1857. The Government of India Act 1858 transferred the government, territories, and revenues from the East India Company to the Crown by abolishing the Court of Directors and the Board of Control. All the powers, which were vested earlier in the Board of Control and Court of Directors

²⁰¹ Bidyut Chakrabarty and Prakash Chand *Public Administration in a Globalizing World: Theories and Practices*, Sage Publications India Pvt. Ltd: New Delhi, 2012, p. 390.

were to be performed by the Secretary of State for India. A permanent under-secretary was provided for assisting him in discharging his administrative responsibilities. The Act also provided for a fifteen-member Council of India to be headed by the Governor General of India. The Government of India Act 1858 made no big change in the administration except vesting the entire revenue of the country in the Governor-General-in-Council. The Act therefore was not qualitatively different from the earlier Acts²⁰².

The Government of India Act 1858 did not provide for popular participation in the administration of the country and was dominated by the absolute imperial control. The Act provided for a rigid and centralized administration where the Provincial government were mere agents of the Government of India. The Governor-General was vested with the power of superintendence, direction and control in all matters relating to the government of the Province. The Act provided for vesting all the civil and military, executive and legislative authority in the Governor-General in Council who was responsible to the Secretary of State. The Indian administration was under the absolute control of the Secretary of State who was vested with the power of the ‘superintendence, direction and control of all acts, operations and concerns which in a way related to the Government or revenues of India’. Secretary of State was responsible only to the British Parliament. There was no concern for public opinion in India in the bureaucratic machinery of administration.²⁰³

The Governor General’s Executive Council was composed exclusively of officials until the Indian Councils Act of 1861. Though the Act of 1861 provided for

²⁰² Bidyut Chakrabarty and Prakash Chand *Public Administration in a Globalizing World: Theories and Practices*, Sage Publications India Pvt. Ltd: New Delhi, 2012, p. 393.

²⁰³ D.D. Basu, *Introduction to the Constitution of India*, LexisNexis Butterworths Wadhwa: Nagpur, 2013, pp.3-4.

inclusion of additional non-official members in the Executive Council during its functioning as the Legislative Council, these members were nominated rather than being representatives and they had no right to criticize the acts of the administration or the conducts of authorities. The Governor General was vested with the power of vetoing a Bill introduced in the Legislative Council and certain Bills required his prior permission before being introduced in the Legislative Council.

The Indian Councils Act of 1892 introduced certain improvements regarding the non-official members of the Legislative Council. The Act provided that the non-official members of the Indian Legislative Councils were to be nominated by the Bengal Chamber of Commerce. In case of the Provincial Legislative Councils, the non-official members were to be nominated by certain bodies such as universities, district boards, municipalities, etc. The Act of 1892 provided for the non-official members' power to discuss the annual statement of revenue and expenditure.

However, non-official members continued to be nominees in the Central and Provincial Legislative Councils until the enactment of the Indian Councils Act of 1909. The Indian Councils Act of 1909 provided for enlargement of the size of provincial Legislative Councils by the inclusion of elected non-official members thereby doing away with the majority of official members. However, though the element of election of non-official members was introduced in the Legislative Council at the Centre, the official majority was retained in this Council. The Act further broadened the scope of non-official members' participation in the business of the Central and Provincial Legislative Councils by providing for their deliberative functions such as moving resolutions on the Budget and on any matter of public interest excluding the issues relating to the Armed Forces, Foreign Affairs, and the Indian States.

In an effort to consolidate all the existing Government of India Acts into an all-in-one enactment of all the existing provisions relating to the executive, legislative and judicial branches of the Government of India, the Government of India Act 1915 was passed. The next important legislation in the history of colonial administration in India was the Government of India Act 1919, which was enacted against the backdrop of the Montagu- Chelmsford Report.

The Act of 1919 provided for diarchy in the provinces, relaxation of central control over the provinces, and for making the Indian Legislature more representative. Under the system of diarchy or dual government, division of the subjects of administration was made into the categories of Central subjects and Provincial subjects. The Provincial subjects were further subdivided into 'transferred' and 'reserved' subjects. The Central subjects were kept under the exclusive control of the Central Government. Moreover, the 'reserved' subjects under the category of Provincial subjects were also kept under the exclusive control of the Governor General who was not responsible to the Legislative Council in this regard. The 'transferred' subjects were the only subjects of administration, which were to be administered by the Governor with the help of Ministers responsible to the Legislative Council.

The Act of 1919 provided for a division of the sources of revenue into the categories of the Central and The Provincial. One can say that by way of division of subjects of administration and relaxation of central control over sources of revenue in the provinces the Act 1919 introduced an element of popular representation in the Legislative Council, where the number of elected members was raised to 70 percent. However, as D.D. Basu points out, the devolution of power to the Provinces was done by way of delegation of powers from the Centre and not by way of federal distribution

of powers between the Centre and the Provinces. The Central Legislature still had the power to legislate for the whole of India. Further, The Provincial Bill could not become law unless it is assented to by the Governor General. The Governor was also empowered to reserve a Provincial Bill for the consideration of the Governor General in some specific matters laid down by the Act of 1919.

The Act of 1919 provided for a bicameral Legislature at the Centre with the two categories of Houses, namely, an Upper House as the Council of State and a Lower House as Legislative Assembly. Both the Houses were to exercise equal powers except the power of voting, which was to be exercised exclusively by the Legislative Assembly. The division of electorates on the basis of religion and other categories, which were originally laid down by the Morley-Minto reforms in the year of 1909 were further strengthened thereby widening the divisions of Indians into smaller categories of identity based on religion etc. Moreover, the element of responsibility was not introduced at the Centre where the Governor General in Council continued to remain under the exclusive control of the British Parliament through the Secretary of State.

The structure was still centralized and unitary with the control of the Governor General as it was the Governor General and not the Court to decide upon the question concerning the Central or Provincial category of a subject matter. In the Provinces, it was the Governor who remained powerful in the matters relating to legislation despite the categorization of the subjects. The subject of finance was a reserved subject and was therefore kept under the control of the Executive Council and not the Minister. Moreover, the Civil Service officials were recruited by the Secretary of State and were responsible to him and not to a Minister. The Ministers were appointed individually by the Governor as advisors to him and there was no collective responsibility of Ministers

to the Provincial Legislative Council. The Governor was vested not only with the overriding powers regarding the 'transferred' subjects, but had the discretionary power of acting against the advice of his Ministers. The Governor had the power to certify a Grant refused by the Legislature or a Bill rejected by it. A Minister therefore could hardly undertake any decision or welfare measure in such a weak position. Not surprisingly, the ministerial system of government over a part of Provincial Legislatures could not become effective and failed to fulfil the hopes of the Indians.

The next major legislative step was the Government of India Act 1935, which further deepened the divisive policy of colonial rulers in terms of electoral representation²⁰⁴. Apart from this, as D.D. Basu points out, the Act of 1935 provided for a number of provisions, including Federal and Provincial autonomy, diarchy at the Centre, and division of legislative powers between the Centre and the Provinces. For the first time in Colonial India, the Act of 1935 suggested a federation, which was to consist of the Provinces and the Indian States. However, it was not made mandatory for the Indian States to join the Federation. The Federation never came into being as none of the Indian States ever joined the Federation. Despite this, the part relating to Provincial autonomy came into effect in 1937.²⁰⁵

The Act of 1935 provided for a division of legislative powers between the Central and Provincial Legislatures. Now, within their defined spheres, Provincial Legislatures were to function as autonomous units of the Federation rather than the delegates of the Central Government. Therefore, in this limited sense, the Government

²⁰⁴ The Government of India Act 1935 further consolidated the divisive tactics initiated by the Morley-Minto Reforms (1909) which was strengthened by Ramsey Macdonald in 1932 on the basis of the argument that different communities of Indians had failed to come together.

²⁰⁵ D.D. Basu, *Introduction to the Constitution of India*, LexisNexis Butterworths Wadhwa: Nagpur, 2013, pp. 9-11.

of India “assumed the role of a federal government vis-a-vis the Provincial Government”. However, the control of the Central government over the Provinces was retained through the discretionary powers of the Provincial Governors in certain matters. At the Centre, the Governor General was vested with the Executive powers on behalf of the Crown and her functions were divided into two groups of discretionary functions and the functions with the help of a ‘Council of Ministers’. But this division was not absolute as the Governor-General could still act against the Ministerial advice to fulfill his ‘specific responsibilities’. While acting against the Ministerial advice, he was under the exclusive control of the Secretary of State. The fact is that the envisaged ‘Council of Ministers’ never came into being and the Governor General continued to perform his functions with the advice of his Executive Council (provided by the Act of 1919) until the Indian Independence Act 1947.

There was not much change in the executive and legislative powers of the Governors, the Governor-General and Secretary of State after the enactment of the Government of India Act 1935. Further the Act of 1935 provided for the division of the legislative powers between the Centre and the Provinces into three Lists of Federal, Provincial, and Concurrent. The Federal List was under the exclusive control of the Federal Legislature. The Provincial Legislatures had exclusive jurisdiction over the Provincial List. However, both the Federal Legislature and the Provincial Legislatures had the power to legislate on the matters falling within the Concurrent List. Further, in case of emergency, the Federal Legislature could legislate on any issue falling under the Provincial List. The residuary legislating powers, which were not included in the Federal List and the Provincial List, pertaining to the Federal Legislatures, and the Provincial Legislatures were vested in the Governor-General. It may be noted that the Constitution of India has followed this scheme of Lists while providing for the division

of legislative powers between the Centre and States. The preceding brief discussion of the various Colonial Acts from 1773 to 1935 is helpful in foregrounding some characteristic features of colonial administration in India.

It becomes clear from the above discussion that after the enactment of the Government of India Act 1858, Government of India was absolutist, highly centralized and unitary. The Provincial Governors were responsible to the Governor General of India who in turn was responsible to the Secretary of State for India. The Secretary of State was responsible to the British Parliament. The institutions of the Executive and Legislature in the Central and in the Provinces were nothing more than instruments of exercising effective British control over Indian territory and its people. This process and practice of control was further strengthened by the machinery of Civil Services, which was further made oppressive to Indians in the context of the increasing popularity of the Weberian bureaucratic model of legal-rational authority²⁰⁶. The colonial Civil Service later turned out to be one of the most effective mechanism of exercising financial and political control over India.

The East India Company's civil service was nothing more than the management of the Company's activities²⁰⁷. However, after the first struggle of India for Independence in 1857, the Government of India Act 1858 provided for the direct control of the Crown over Indian administration. Over a period, the British civil servants grew in number and the civil service became a highly centralized system of

²⁰⁶ Bidyut Chakrabarty and Prakash Chand *Public Administration in a Globalizing World: Theories and Practices*, Sage Publications India Pvt. Ltd: New Delhi, 2012, p. 408.

²⁰⁷ Civil service as a profession in colonial India was started during the East India Company's rule. The East India Company, after realizing the need of a professional staff, began the process of training a number of civil servants since the year of 1800 by establishing a training college at Fort William at Calcutta. It was the first civil service training started in the British Empire. (O.P. Dwivedi and D.S. Mishra, "The Public Service of India: A Mapping Expedition" in Andrew Massey (Ed), *International Handbook on Civil Service Systems*, Edward Elgar Publishing Limited: UK, 2011, p. 226).

bureaucratic administration. With the gradual launching of an Anglo-Saxon system of legal jurisprudence in India with publication of Code of Civil Procedure (Act VIII of 1859), the Indian Penal Code (Act XLV of 1860), Code of Criminal Procedure (Act XXV of 1861) and Indian Evidence Act (Act I of 1872), the colonial civil service started acquiring the character of the sole repository of power.

The office of the District collector as the head of the district level administration was also institutionalized. One official's overriding general responsibility (be that the governor general, governor of a province, or a district collector) became the cardinal principle of the colonial system of bureaucratic administration. Since there was no distinction between the administrative and judicial functions at the district level, the District Collector and *the Tahsildar* performed their functions both as magistrate and as an administrator at the district and sub-district level. The officer at the district level was the collector, the administrator, and the magistrate.

The bureaucratic system of colonial administration was consolidated in a firmly hierarchical administrative style with a chain of command model of organization stretching "from the Governor- General to Governor of a province through to the District Collector and *Tahsildar*, even to the village headman and *chowkidar*". Besides, a system of file noting was developed as a part of an integrated decision making process at all the levels of administration.²⁰⁸ Suffice it to say that the colonial system of bureaucratic administration with one man as the head of an organization over a part of Indian territory, ranging from a small part of an Indian State to the whole of India, was developed and guarded by the British rulers at every stage of administrative change.

²⁰⁸ O.P. Dwivedi and D.S. Mishra, "The Public Service of India: A Mapping Expedition" in Andrew Massey (Ed), *International Handbook on Civil Service Systems*, Edward Elgar Publishing Limited: UK, 2011, pp. 227-228.

3.2 Institutionalization of Official Secrets in India

The provision of official secrets was one of the strongest legal steps to deprive Indians' participation in the processes and practices of administration. It is apt to discuss the various aspects of the Official Secrets Acts of colonial India. The system of file noting, as stated earlier, was evolved by the colonial rulers as part of an integrated decision making process at all levels of administration. However, over a period, this exercise was transformed into a preferable mode of decision-making process. The file system gradually acquired the central role in the office of an administrator and the information kept together in a file became the most expensive things to be safeguarded. To protect the information of a file and surrounding the issues concerning a file, it was but obvious for the colonial rulers to instruct their officials regarding the ways of safeguarding the information pertaining to office files. However, this was not an easy task.

Information of a file was not a single item limited to the physical size of a paper, document, map, or sketch. The office file was a mobile system of facts and ideas related to particular activities of officials, the office staff, and the common man involved in or related to that system of ideas or facts. Officials and their staff members were part of the process which was required for the movement of an office file from the one hierarchical level to another. Therefore, the information contained in the office files was not limited to the four walls of the office.

To safeguard files means to safeguard the officials operating the information relating to the office files. It was therefore necessary for officials and their office staff to restrict the information of a file by treating it as a secret of the office. The secrets of the office and its documents, thus resulted in a culture of secrecy to be practiced and safeguarded by the colonial state. To enforce the protection and promotion of the

culture of secrecy surrounding the office file system, one of the attempts made by the colonial rulers in this direction was the Indian Official Secrets Act (IOSA) 1889 (see Annexure I for the text of the Indian Official Secrets Act 1889). The term ‘official secrets’, according to K.G. Robertson, “indicates that secrecy in government is related to the development of the notion of office and the duties attached to office”²⁰⁹. In the next few pages, we shall discuss the various attempts made by the colonial rulers in terms of the Official Secrets Acts.

Entitled as “An Act to Prevent the Disclosure of Official Documents and Information” and called as the Official Secrets Act 1889, the Act No. XV of 1889 received the assent of the Governor-General on 17th October 1889²¹⁰. The Act provided for the prevention of the disclosure of official documents and information. A provision of punishment was laid down in the form of imprisonment, which was extendible a period of one year, or a fine, or with both. There was a provision of imprisonment for breach of official trust by officials and for possession of information by a person who was not entitled to possess the secrets of the office and its documents. The Act of 1889 was further strengthened in 1904 with the Act No. V of 1904 called as the Indian Official Secrets (Amendment) Act 1904, which received the assent of the Governor General on 4th March 1904 (see Annexure I for the text of the Indian Official Secrets [Amendment] Act 1889). By this amendment, the word “civil affairs” was inserted in Section 2 of the Official Secrets Act 1889. The term “civil affairs” was defined to mean the following affairs: “(a) affecting the relations of His Majesty’s Government or of the Governor General in Council with any foreign State, or (b) affecting the relations of the

²⁰⁹ K. G. Robertson, *Public Secrets: A Study in the Development of Government Secrecy*, McMillan Press: London, 1982, p. 41.

²¹⁰ Government of India, *A Collection of the Acts passed by the Governor-General of India-in-Council in the Year 1889*, Government of India Press: Calcutta, 1890, p.200.

Governor General in Council with any Native State in India, or relating to the public debt or the fiscal arrangements of the Government of India or any other important matters of State, where these affairs are of such a confidential nature that the public interest would. suffer by their disclosure.”²¹¹

Thus, the scope of secret documents and information was extended to the civil affairs of the colonial system of bureaucratic administration. The nature of the offense was also defined in a broad manner to include as many activities of individuals and officials as possible. This was explicitly expressed in Section 3 (b) (ii) which reads as follows: “after the words “obtains “, “obtain” and “takes “, the words “or attempts to’ obtain “, “or any copy of any such document, sketch, plan or model “, and “or attempts to take”, respectively, shall be inserted... (e) for the words “in. the interest of the State” wherever they occur, the words “in the public interest” shall be substituted”²¹².

In 1911, the British Parliament reenacted the Official Secrets Act 1889. Entitled as “An Act to Reenact the Official Secrets Act, 1889 with Amendments” the Official Secrets Act of 1911 (dt. 22nd August 1911) repealed the Official Secrets Act 1889²¹³.

The Official Secrets Act 1911 was much stronger (with a provision of punishment for spying activities) than the earlier Act of 1889 and was applicable to all the colonies of the Crown. However, in 1920, the Official Secrets Act 1911 was further amended, which was not applicable to British India according to Section 11 (1) (a) of the Official Secrets Act 1920. The Section reads as follows: “this Act shall not apply to any of the following Dominions, that is to say, the Dominion of Canada, the

²¹¹ Government of India, *A Collection of the Acts passed by the Governor-General of India-in-Council in the Year 1904*, Government of India Press: Calcutta, 1905, p.36.

²¹² *Ibid.*, p. 37.

²¹³ Parliament of UK, *Official Secrets Act, 1911 (1 & 2 Geo. 5 CH.28)*, Printed in England by J A DOLE Controller and Chief Executive of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament. [First printed in 1911]. Reprinted [1988] in the Standard Parliamentary Page Size, p.8. (Retrieved from- www.legislation.gov.uk).

Commonwealth of Australia (which for this purpose shall be deemed to include Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, Newfoundland, and India; ...”²¹⁴.

In order to further consolidate the Official Secrets Act in British India, in 1923, entitled as “An Act to consolidate and amend the law in British India relating to official secrets” and called as the Indian Official Secrets Act 1923, the Act no. XIX of 1923 received the assent of the Governor General on the 2nd April 1923²¹⁵. Section 3 (2) provides for penalties for spying activities in the form imprisonment which is extendable to fourteen years. Once prosecuted, it was not necessary to show that the accused person was guilty of acting against the interests of the State. The recurring phrase “prejudicial to the safety or interests of the State” was the strongest logic for prosecution and imprisonment of a person who could be accused of wrongful communication of information under Section 5 of the Indian Official Secrets Act 1923 (See Annexure I for the text of the Indian Official Secrets Act 1923).

Another provision of the Indian Official Secrets Act (IOSA) 1923, which was not found in the Official Secrets Acts of 1889 and 1904, was Section 11 (1) on the rights of the State to issue search warrants against any person who in view of the State had committed or was about to commit an offense under this Act. The Section reads as follows: “If a Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate is satisfied by information on oath. that there is reasonable’ ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorizing any police officer named therein, not being below

²¹⁴ Ibid., p.7.

²¹⁵ Government of India, *A Collection of the Acts of the Indian Legislature and of the Governor General for the Year 1923*, Government Central Press: Delhi, 1924, p.1.

the enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such persons and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.”²¹⁶

The existing Official Secrets Acts of 1889 and 1904 were repealed under Section 16 of the IOSA 1923²¹⁷. The repeal of the existing Official Secrets Acts of 1889 and 1904 was confirmed by the was confirmed Act No. XII of 1927 called as the Repealing Act, which received the assent of the Governor General on the 8th September, 1927²¹⁸. Thus, the IOSA 1923 was the last in the series of the Official Secrets Acts enacted by the colonial rulers of British India.

It becomes clear from the above mentioned chronology that the IOSA 1923 was an improved and expanded version of the existing Official Secrets Acts of 1889, 1904, 1911, and 1920. By stating this fact, it is argued here that the idea of official secrets was continuously refined and sharpened to fulfill the colonial interests of retaining the distance between the rulers and the ruled. The inclusion of civil affairs and search warrants were the strongest provisions to accusing, prosecuting and imprisoning a person for an offense under these Acts. Secrets of Civil affairs and provisions for punishment on the basis of search warrants were the two strongest weapons which were

²¹⁶ Government of India, *A Collection of the Acts of the Indian Legislature and of the Governor General for the Year 1923*, Government Central Press: Delhi, 1924, p.13.

²¹⁷ Ibid., p.

²¹⁸ Government of India, *A Collection of the Acts of the Indian Legislature for the Year 1927*, Government of India Publication Branch: Calcutta, 1928, p.9.

used against Indians to prevent their participation in administrative processes and practices.

In the context of persistent culture of secrecy and growing assertion of colonial rulers over natural and human resources in India, the people of India slowly but steadily began to understand the exploitative nature of colonial rule in India. A long war of independence was begun at the various levels of citizen-state relationships. Eventually, the people of India achieved freedom from colonial rulers in 1947. The founding leaders of Independent India were determined to get rid of the colonial elements of rule in post-Independent administration of India. It is apt to examine the nature of administration in post-Independent India in order to understand the citizen-state relationship in administrative practices.

3.3 Administration in Post-Independent India-An Overview

3.3.1 Constitutional Provisions for Structural Organization of Government and Administration in India

The Constitution of India provides for a parliamentary democracy. Without formally using the word federation, the scheme of a Federation of India, which was envisaged in the Government of India Act 1935 has been laid down in the Constitution of India with a division of legislative powers between the Centre and the states. Doubtless, the administrative machinery in post-independent India has been founded, evolved, and consolidated on the basis of the existing forms of colonial administration, which is evident in the various provisions of the Constitution of India. However, unlike the colonial model of a federal India, the head of the state (President of India) is elected by the people for a renewable term of five years²¹⁹. The Executive at central and the

²¹⁹ The President of India is vested with executive powers and the Supreme Command of the Defence Forces of the Union of India. He/she is elected by an electoral college in accordance with the system of proportional representation by means of the single transferable vote. (*The Constitution of India*, Articles 52-62).

state level is drawn from the Legislature and is accountable to it. The head of the Executive (Prime Minister at the Central level and Chief Minister at the state level) is elected by the people²²⁰.

The Union legislature (Parliament) is bi-cameral, which consists of the President, Lok Sabha (the House of the People) and the Rajya Sabha (the Council of States). Members of the Lok Sabha are directly elected by the people, whereas members of the Rajya Sabha are elected by the members of the state assemblies²²¹. Council of Ministers forms an important element of the executive at the central and the state level. The government at the Centre and the state is assisted by administrative staff ranging from the Cabinet Secretary to the village secretary. The administrative staff is recruited through competitive examination for a fixed tenure.

The administrative organization in India is bureaucratic, hierarchical and centralized. The top layer of the hierarchical administration is occupied by the members of All India Civil Services as provided by the Constitution of India²²². Some of these services include the Indian Administrative Service, the Indian Forest Service, and the Indian Police Service. There exist subordinate positions in administrative organization with variability in the nature and scope in different states. The Constitution of India provides for administrative organizations such Union Public Service Commission²²³,

²²⁰ The Prime Minister of India is the head of the Council of Ministers, which is an advisory body to the President of India, "who shall, in the exercise of his functions, act in accordance with such advice". The President of India is informed about the decisions taken by the Council of Ministers by the Prime Minister. (*The Constitution of India*, Articles 74-75, 78).

²²¹ The Rajya Sabha consists of twelve nominated members by the President and not more than two hundred and thirty-eight representatives of the States and of the Union territories. The Lok Sabha consists of not more than five hundred and thirty members from the States and not more than twenty members from the Union territories. (*The Constitution of India*, Articles 79-85).

²²² The members of All India Services, Civil Services of the Union and the States etc hold office during the pleasure of the President. (*The Constitution of India*, Articles 308-313).

²²³ (*The Constitution of India*, Articles 315-323).

and Election Commission for the election and recruitment of the members of government and administration²²⁴.

Apart from these organizations, the Constitution provides for institutions such as the Comptroller and Auditor-General of India²²⁵, Attorney General of India²²⁶, Administration Tribunals²²⁷, Finance Commission²²⁸. Most of the above mentioned elements of structural organization of government and administration of the Centre and the states have been in practice in India for over six decades. A detail analysis of the functioning of these specific institutions is not on the purpose of this study. However, since one of the aims of this study is to deal with the colonial legacy in administration of post-Independent India, it is useful to discuss some characteristic features of administration in post-independent India.

3.3.2 Characteristic Features of Administration in Post-Independent India

As stated in the introductory chapter, India adopted the idea of development planning as a way towards prosperity and progress in the domain of human and natural resources. So far, the task of policy implementation has been performed by a centralized

²²⁴ The Election Commission is vested with the powers of “the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President” (*The Constitution of India*, Articles 324).

²²⁵ The Comptroller and Auditor General of India is appointed by the President “by warrant under his hand and seal” for performing duties and exercising powers in relation to the accounts of the Union and of the States. (*The Constitution of India*, Articles 148-151).

²²⁶ The Attorney General for India is appointed by the President as a legal advisor to the Government of India. (*The Constitution of India*, Article 76).

²²⁷ Administrative tribunals deal with the disputes and complaints concerning recruitment and conditions of service of persons appointed to public services and posts in relation to “the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government” (*The Constitution of India*, Articles 323 A-323B).

²²⁸ Finance Commission is headed by a Chairman and four other members appointed by the President. The qualifications for appointment as a member of Finance Commission are determined by the Parliament. The Commission makes recommendations to the President regarding the distribution of net proceeds of taxes between the Union and the States, the governing principles of the grants-in-aid of the revenues of the States from the Consolidated Fund of India. The Commission’s recommendations are laid before each House of Parliament (*The Constitution of India*, Articles 280-281).

system of administration which remains under the control of the central government. At the Central level, the bureaucratic establishment is called the Central Secretariat. At the state level, Chief Secretary heads the bureaucratic administration called the State Secretariat. Though every state in India has its own bureaucratic system of administration, the officials recruited by a state are generally put under the subordination of the central government appointed officials. At the district level, administration is under the control of the State Governments.

The district administration is headed by the District Collector who is a member of Indian Administrative Service (IAS), which is one of the All India Civil Services. The office of Collector has evolved over a period of the last two hundred years²²⁹. According to Rajni Kothari, “the office of the Collector as the Chief Representative of the Government in the District is, in many ways, unique and its supposed stature and authority have engendered a sort of institutionalized charisma that is in some ways unparalleled in modern administrative development”.²³⁰

The functional area of the Collector in India involves a variety of tasks involving the administrative areas such as revenue administration, executive magistracy and maintenance of law and order, licensing and regulatory authority, disaster management, elections, food and civil supplies, welfare, census, coordination, Economic Development (Agriculture, Irrigation, Industry), human resource development, rural development, local self-government (PRIs/ULBs), preparation of development plan, information technology etc²³¹.

²²⁹ Government of India, *Second Administrative Reforms Commission*, Fifteenth Report: State and District Administration, 2009, p.59 (Hereafter Second Reforms Commission, Fifteenth Report, 2009)

²³⁰ Second Administrative Reforms Commission, *Fifteenth Report*, 2009, p.62.

²³¹ Ibid., pp.65-68.

3.4 Colonial Legacy in Post-Independent Administration of India

The Constitution of India adopted many provisions of the Government of India Act 1935. In their introductory book, Singh and Singh mention the following five legacies of the British administration in India: The federal structure of Indian Constitution, the parliamentary system of governance, the creation of districts, the creation of civil service system, and the rule of law²³². Clearly, the Westminster model and the All India Services have remained an influential colonial legacy in Indian government and administration. The bureaucratic system of administration in post-independent India has been one of the most prominently visible colonial legacy, in its nature and scope, which was an outgrowth of East India Company's commercial service²³³.

Although, there exist Constitutional provisions for regular elections and a highly competitive recruitment process for civil servants, the colonial legacy of highly centralized organizational arrangements in terms of institutions of policy making and policy implementation led to the reconfiguration of power relations in such a way that politicians and civil servants found it difficult to fulfil the rising demands of the people at the grassroots. This is further complicated by the continuation of colonial constructs of secrets surrounding the institution of 'Office' and its documents.

A scholar such as Maheswari argue that the importance of the office is "unquestioned" in the present set up. Accordingly, the office has become an essential part of Indian administration. It is treated as "the foundation sustaining the entire super-structure" and "the organisational 'memory'" of Indian administration. However, citing Sir Richard Tottenham, Maheswari recognizes its disadvantages also, which are found

²³² Hoshier Singh and Pankaj Singh, *Indian Administration*, ibid., pp. 19-24.

²³³ SR Maheswari, *The Machinery of Governance in India*, McMillan India Ltd: Delhi, 2004, p.8.

in the form of “excessive noting” and “file shifting”. These practices in turn contribute for delay and inefficiency.²³⁴

With its disadvantageous practices, the colonial legacy of constructing secrets through file noting continued to exist in post-Independent India. The secrecy of file noting and other information was reinforced with certain modification in the Eighteenth year of the Republic of India. To recall, in 1967, the Act No. 24 of 1967 (dt. 15th August 1967), entitled as “An Act further to amend the Indian Official Secrets Act, 1923” and called as the Indian Official Secrets (Amendment) Act, 1967, was enacted by the Parliament²³⁵. While Section 6 (b) provided for omitting the phrase “with imprisonment for a term which may extend to fourteen years”, the amendments regarding imprisonment under Sections 5, 6, 7 and 8 provided for from the existing 2 years to 3 years, and Section 10 from 1 to 3 years in the Indian Official Secrets (Amendment) Act 1967 (See Annexure I for the text of the Indian Official Secrets (Amendment) Act, 1967).

Interestingly, the term “official secrets” has not been defined or explained anywhere in any of the Official Secrets Acts relating to colonial India or post-Independent India. Further, the Indian Official Secrets (Amendment) Act 1967 is lagging behind the United Kingdom’s (UK) Official Secrets Act 1989 in terms of an individual’s knowledge or ignorance about the nature of information and its relationship with the idea of national security²³⁶. The UK Official Secrets Act

²³⁴ SR Maheswari, *Indian Administration*, 6th edition, Orient Longman Private Limited: Hyderabad. 2001, pp.76-79.

²³⁵ Government of India, Ministry of Law and Justice, *The Indian Official Secrets (Amendment) Act, 1967*, n. d., p.186 (retrieved from - lawmin.nic.in) (hereafter, The Indian Official Secrets (Amendment) Act, 1967).

²³⁶ For engaging discussions on the debate concerning official secrecy in Britain, see, K. G. Robertson, *Public Secrets: A Study in the Development of Government Secrecy*, McMillan Press: London, 1982, pp. 41-91; Colin Bennett, “From the Dark to the Light: The Open Government Debate in Britain”, *Journal of Public Policy*, Vol. 5, No. 2 (May, 1985), pp. 187-213.

(UKOSA)1989, which allows lack of knowledge as a ground in favor of defence, is an improvement over the earlier one which was contemporary to the existing IOSA 1967²³⁷.

Ironically, the Indian Official Secrets Act introduced by the colonial rulers was strengthened in post-independent India. Evidently, political and bureaucratic elites in post-independent India not only decided to adopt the IOSA 1923 but also consolidated the various existing provisions of this Act in the context of challenges best known to them. Besides, some of the representatives of the people do not feel any need to repeal the Indian Official Secrets (Amendment) Act 1967. For instance, in the year of 2005, during a debate in the Rajya Sabha, while replying to a written question as to whether the Official Secrets Act was a colonial legacy and whether the Government was thinking of replacing the Act, the Minister of State in the Ministry of Home Affairs, Shri Shriprakash Jaiswal stated that “The issue of amendment to the Official Secrets Act, 1923 has been examined by the Government from time to time and it has been decided that there is no need to amend or replace the Act”²³⁸. Similar responses to the question concerning replacement of the Official Secrets Act have given by the Government from time to time²³⁹.

The persistent colonial legacy of constructing and consolidating the boundary of the secrets of the office and its documents has faced criticism from the various sections of academia and civil society. One of the criticisms is that by carrying forward the colonial legacy of official secrets, the Parliament of India has contributed for not

²³⁷ Compare the Indian Official Secrets (Amendment) Act 1967 and the UK Official Secrets Act 1989.

²³⁸ Parliament of India, Official Debates of Rajya Sabha, Part 1 (Question and Answer), Session 205, *Official Secrets Act*, Date of Debate, 24 Aug. 2005 (retrieved from - <http://rsdebate.nic.in/>).

²³⁹ See Official Debates of Rajya Sabha, Sessions 162, 179, 180 on *Official Secrets Act* in the years of 1992, 1996, 1997 (available at- <http://rsdebate.nic.in/>).

only its own weakening but also of society and executive as well²⁴⁰. Much of the criticism is directed against Section 5 of the Indian Official Secrets (Amendment) Act, 1967, which is a catch all provision for accusing, prosecuting, and imprisoning a person merely on the basis of suspicion²⁴¹.

Apart from the IOSA, administrative practices in India are guided by the Indian Evidence Act (IEA) 1872, the Central Civil Service Conduct Rules (CCSR) 1964, and the Manual of the Office Procedure (MoOP), which in turn further strengthen the culture of official secrecy and thereby retain the distance between the rulers and ruled. Sections 123 of the Indian Evidence Act 1872 authorized the head of a department to decide upon the question concerning the giving of evidence from unpublished official records²⁴².

In addition, Section 11 of the Central Civil Service Conduct Rules, 1964 prevents officials from direct or indirect disclosure of any official document or information to any Govt. servant or other person without authorization. As stated earlier, the colonial rulers had not only institutionalized the office on the basis of Weberian legal-rational assumptions of authority, they had also created a system of file noting as part of the process of collective decision-making by the officials. This legacy is still in practice a part of the Manual of Office Procedure (MOP), with more

²⁴⁰ Shriram Maheshwari, *The Administrative Year Book 1990*, Concept Publishing Company: New Delhi, 1992, p.349.

²⁴¹ Section 5 (1) of the Indian Official Secrets (Amendment) Act, 1967, has provided for substitution of the words “or which has been made or obtained in contravention of this Act,” by the words “or which is likely to assist, directly or indirectly, an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States or which has been made or obtained in contravention of this Act,” (See Annexure I).

²⁴² Section 123 of the Indian Evidence Act 1872 reads as follows: “No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.” (Government of India, *A Collection of the Acts passed by the Governor-General of India-in-Council in the Year 1872*, Government of India Press: Calcutta, 1873, p.60).

sophisticated provisions for conducting the affairs of the office in post-Independent India.

A cursory reading of the Manual suggests that the culture of official secrecy is deeply rooted in the ways in which the system of file noting and communication of files from the one level of the office to another. For example, the Central Secretariat Manual of Office Procedure (CSMOP) provides for different forms and procedures of communication, with the Departments and Ministries in Union Government, procedures of drafting of communication, file numbering system etc. The Manual not only provides for detail guidelines to preparing notes and files, it also provides for security of information and treats the notes portion of a file referred by a department to another as confidential. The entire decision-making process revolves in and around the file system to be maintained as the records of the office with the varying levels of information confidentiality and secrecy.²⁴³

The preceding discussion underlines the fact that the structure of Indian administration until 1947 was colonial, centralized, absolute, non-participatory, and bureaucratic by nature. After 1947, the imperial state was replaced by a nation state which was independent, sovereign, and welfare oriented by nature. The bureaucratic form of administration was perceived as an instrument of development. Accordingly, attempts were made to modify the nature of Indian administration through the Constitution of India. Further, in order to achieve the goal of nation building, the political leadership of post-Independent India adopted the model of five-year development plans.

²⁴³ Government of India, *The Central Secretariat Manual of Office Procedure 2010*, Ministry of Personnel, Public Grievances and Pensions Department of Administrative Reforms and Public Grievances, September, 2010.

Obviously, given the colonial legacy, the then bureaucratic administration was not fully prepared to undertake the task of development planning. The constitutional provisions regarding the administrative structure were found to be inadequate for achieving the goals of welfare state. In order to overcome this constraint, the foremost priority was given to administrative development. It was realized that administrative reforms were necessary to achieve the objective of administrative development²⁴⁴. What were the attempts of administrative reforms in post-independent India between 1947-1990? What were the limitations of the reforms?

The question is addressed in the remaining pages of the chapter. In so doing, an overview of the context of the administrative reforms is provided while focusing on the creation of the Planning Commission of India and the goals and objectives of the phased development policy plans. Next it examines the reports and recommendations of various committees and the First Administrative Reforms Commission. Finally, it underlines various limitations of the administrative reforms. The chapter concludes with the observation that despite several attempts of administrative reforms during the first five decades (1950-1990s) of experience, the idea of administrative development fell short of people's expectation due to several constraints of administrative structures and processes at the local, state, and national levels.

²⁴⁴ The distinction between the terms “administrative development” and “administrative reform” is made here in the light of the fact that administrative reform is a prerequisite for administrative development. For more on the idea of administrative reform see, for example, Kuldeep Mathur, “Administrative Reform, Liberalization and State in India: Some Issues for Discussion” Vinod Mehta (Ed) *Reforming Administration in India*, Har-Anand Publications Pvt. Ltd: New Delhi, pp.117-122; Amita Singh, “Exploring Dimensions of Sustainability in Administrative Reforms”, in (self-edited) *Administrative Reforms: Towards Sustainable Practices*, Sage Publications: New Delhi, pp. 13-78; Ali Farazmand, “Administrative Reform and Development- An Introduction” in (self-edited) *Administrative Reform in Developing Nations*, Praeger Publishers: USA, 2002, pp. 1-11; Gerald E. Caiden, *Administrative Reform*, Aldine Transaction: London, 1969.

3.5 The Dilemma of Administrative Development and the Challenges of Administrative Reforms (1947-1990)

In 1950, based on the recommendation of the Advisory Planning Board (APB) (1949)²⁴⁵, the Planning Commission of India (PCI)²⁴⁶ was created as an advisory body to the Government of India (GOI). However, the model of five-year development plans, which was adopted in post-Independent India, posed serious challenges of policy-making and implementation due to the lack of orientation of administrators towards the idea of phased development planning.

Further, as R.B. Jain points out, “the strategy of planned economic growth and the consequent formulation and implementation of plan policies... put tremendous strain and responsibilities on the administrative system”²⁴⁷. It was due to heavy emphasis on the goal of the state centric notion of development, which was based on the strategies of the expansion and strengthening of public sector as well as the reorientation of private sector. Such a goal, it was assumed, could be better achieved by initiating administrative development²⁴⁸. That is why, the document of the first five-

²⁴⁵ The idea of planning was in existence even before the Advisory Planning Board 1949, in the form of the National Planning Committee (NPC) appointed by the Indian National Congress in 1938 and a separate Department of Planning and Development (DPD) established by the Government of India in 1944. See, Government of India, *Cabinet Secretariat Resolution (Planning)*, No.1-P(C)/50, 15th March, 1950 (available at- <http://planningcommission.nic.in/>).

²⁴⁶ The Planning Commission was composed of the following: Shri Jawaharlal Nehru (Chairman), Shri Gulzarilal Nanda (Deputy Chairman), Shri V.T. Krishnamachari (Member), Shri Chintaman Deshmukh (Member), Shri G.L. Mehta (Member), Shri R.K. Patil (Member), Shri N.R. Pillai (Secretary): Shri Tarlok Singh (Deputy Secretary). Recently, on January 1st January 2015, the Planning Commission of India has been replaced by the NITI Aayog (National Institution for Transforming India).

²⁴⁷ R.B. Jain, *Public Administration in India: 21 Century Challenges for Good Governance*, Deep and Deep Publications Pvt Ltd.: Delhi, p.13.

²⁴⁸ The term “administrative development” is preferred here over the term “development administration” to highlight the expansion of bureaucratic administration. As far as the relationship between the two ideas is concerned, there exist a claim which find close linkage between administrative development and development administration. Accordingly, as Eric E. Otenyo and Nancy S. Lind suggest, “The concept of administrative development is closely associated with development administration. In its raw form, administrative development encompasses acts of forming new institutions – especially government agencies.” (Eric E. Otenyo and Nancy S. Lind, “Administrative Development and Development Administration” in self-edited *Comparative Public Administration: The Essential Readings—Research in Public Policy Analysis and Management*, Volume 15, Elsevier Ltd.: UK, 2006, p.221). For more on the idea of development administration see, for example, O. P. Dwivedi, *Development Administration: From Underdevelopment to Sustainable Development*, Macmillan Press Ltd: London, 1994; P.B. Rathod, *Elements of Development-Administration: Theory and Practice*, ABD Publishers: Jaipur, 2010; M.

year plan included a separate part (part 2) on the question of administration and public co-operation, which included the issues such as administrative reforms and administration of district development programmes. Doubtless, post-Independent India had the foremost challenge of transforming the nature of administration in such a way that it could fulfill the people's expectation. Therefore, the priorities of administrative reforms in post-Independent India had to be in tune with the requirements of the administrative development in the light of the goals and objectives of deployment plans.

As chapter five of the document of First Five Year Plan had pointed out the changing nature of the task of administration in as follows: "The tasks facing the administration are larger in magnitude and more complex, but also richer in meaning than earlier days. From the maintenance of law and order and collection of revenue, the major emphasis now shifts to the development of material and human resources and the elimination of poverty and want. The pattern of organization and the claim upon both government and administration will now be determined by the needs of development..."²⁴⁹.

While pointing out the influence of policy on the character of administration, chapter five of the document mentioned the declining standards of administration and highlighted the following three groups of problems regarding the improvement and strengthening of the administration: "First, there are the problems bearing on the entire field of public administration, such as, for instance, the achievement of high levels of integrity, efficiency and economy. To these may be added the need for structural

Shamsul Haque, "Rethinking Development Administration and Remembering Fred W. Riggs", *International Review of Administrative Sciences*, 76(4), pp.767–773, DOI: 10.1177/0020852310394320; Ali Farazmand (Ed), *Handbook of Comparative and Development Administration*, Marcel Dekker, Inc.: New York, 2001.

²⁴⁹ Planning Commission, *First Five Year Plan*, Chapter Five. n. d. (available at-<http://planning commission.gov.in/>).

changes to raise the level of administration in the less advanced States and to equip the government with machinery to carry out its economic functions in a manner more adequate to its present responsibilities. In a second group, we may include problems which bear upon the administration of development programmes in the district. It is in the district that the administration comes into the most intimate touch with the citizen and development programmes become vital to the people. It is, therefore, necessary to consider questions such as the improvement of the machinery of general administration, on which so much else depends, the establishment of an appropriate agency of development at the village level, the coordination of development activities undertaken on behalf of government, the State agencies and, finally, questions such as regional coordination and supervision of district development programmes and the place of social service agencies in the reconstruction of rural life”²⁵⁰.

Chapter six of the document highlight the urgent need for administrative reforms. The above discussion of the documents of the First, Second, and Third Five Year Plans suggests that two of the most important priorities at the time of Independence were to restore the credibility of administration in the changed political scenario and to adjust the organizational setup of bureaucratic administration so as to fulfill the requirements of the people of post-independent India²⁵¹. After having discussed the context of the dilemma of administrative reforms, it is apt to deal with the problem of administrative development, which was carried out by the state through administrative reforms.

²⁵⁰ Planning Commission, *First Five Year Plan*, Chapter Five. n. d. (available at-<http://planningcommission.gov.in/>).

²⁵¹ Shriram Maheswari (Ed), *Administrative Reforms*, Indian Institute of Public Administration: New Delhi, 1984, pp. 26-29.

For convenience, one can categorize the time line of administrative reforms during the period between 1947-1992 into the following six phases: The First Phase, 1947-54; The Second Phase, 1954-64; The Third Phase, 1964-66; The Fourth Phase, 1966-70; The Fifth Phase, 1970-1990; The Sixth Phase, 1990-1992²⁵². The three broad sources of political processes, administrative committees and committees and central reform agency can be listed as the main sources administrative reforms in India²⁵³.

The sources within the domain of political processes include the administrative provisions of the Constitution of India regarding the various institutions of administration in India, which have already been discussed earlier in the chapter. As part of the attempts to fulfil the above mentioned and other priorities of administrative reforms, a number of committees and commissions were appointed and many of their recommendations have been implemented.

3.5.1 Administrative Reform Committees

Administrative reform committees have been a significant source of administrative reforms in India during the first four phases. The list of such reform committees is very long. Some of them are as follows: Secretariat Re-Organisation Committee, 1947; The Economic Committee, 1948; Reorganization of the Machinery of Central Government, 1949; Report on Public Administration and Report on the Efficient Conduct State Enterprises, 1950; The Machinery of Government-Improvements of efficiency, 1952; Public Administration in India- Report of a Survey, 1953; Re- examination of India's Administrative System with special reference to Administration of Government's Industrial and Commercial Enterprises, 1956; The Committee on Prevention of Corruption, 1962; Reports of the Estimate Committee of

²⁵² Shriram Maheswari, *Administrative Reforms in India*, Macmillan Private Limited: Delhi, 2002.

²⁵³ Ibid., p.64.

Parliament, namely, Second Report (1950-51), Ninth Report (1953-54), and Ninety Third Report (1965-66); Report on Indian and State Administrative Services and Problems of District Administration, 1962; The Committee on Preventions on Corruptions, 1964; The First Administrative Reforms Commission, 1966 and so on. In the next few pages, we shall discuss the major issues of administrative reforms dealt within the above-mentioned reports of individual experts, committees, and commissions in order to gain a clarification about the nature of the suggested reforms.

One of the problems faced by the Indian administration in the late 1950s was the shortage of civil service personnel and increasing gaps in the governmental system in the context of India becoming an independent country. To address this issue, the Secretariat Re-Organisation Committee was appointed in the year of 1947. The Committee functioned as a sort of demand and supply management of officials in carrying out necessary administrative functions. After Independence, however, there was a growing awareness among politicians and industrialists about the colonial nature of Indian Civil Service and its affluent life style, the problem of corruption, declining efficiency etc. The awareness grew into a demand for addressing these issues. In response to this, the Economic Committee, headed by an industrialist Kasturbhai Lalbhai, was set up by the central government in the year of 1948.²⁵⁴

The next important step taken by the government was an enquiry into the mechanism of administrative structure in the secretariat of the central government. This task was entrusted to N. Gopalaswami Ayyangar. A civil servant by background, Gopaplaswami presented a report known as Report on the Reorganization of the Machinery of Government. The report highlighted the need for organizational change

²⁵⁴ Shriram Maheswari, *Administrative Reforms*, Indian Institute of Public Administration: New Delhi, 1984, p.11.

in the central secretariat. He recommended the grouping of central governmental ministries into the following four bureaux: Bureau of Natural Resources and Agriculture, Bureau of Industry and Commerce, Bureau of Transport and Communications, and Bureau of Labour and Social Services. In 1951, two years after the submission of the Ayyangar report, two reports Public Administration and the Efficient Conduct State Enterprises were submitted by a retired civil servant A.D. Gorwala, who was assigned this task by the Planning Commission. Though failed to achieve significant results, Gorwala recommendations were successful in attracting popular attention on administrative reforms.

Next set of recommendations towards administrative reforms came from the two reports of Paul H. Appleby (an American expert on administration), which were submitted in the years of 1953 and 1956. The first report, which was a broad survey of the administration at all the levels in India, made twelve recommendations -two which were on setting up of O & M (Organization and Methods) organization in the central government and of an institute of public administration. Though nothing significant was actualized from the second report, it gave rise to parliamentary and popular debates on administration.²⁵⁵

The problem of delays in project implementation and a system of financial and budgetary control was one of the issues of administrative reforms. To address this issue, Ashoka Chanda submitted a report in year of 1954 at the instance of Jawaharlal Nehru. However, the report was never discussed in the Cabinet meetings. In the same year, a standing machinery called O& M Division was set up in the Cabinet Secretariat, which was merged with the Department of Administrative Reform in 1964 -the founding year

²⁵⁵ Shriram Maheswari (Ed), *Administrative Reforms*, Indian Institute of Public Administration: New Delhi, 1984, p.12.

of this Department. Located in the Ministry of Home Affairs, the Department of Administrative Reform was set up to carry out the task of administrative reforms.²⁵⁶

During the 1960s, the problem of corruption in practices of administration became a major concern of the Parliament of India. As an immediate step in this direction, the Parliament appointed a Committee on Prevention of corruption under the chairmanship of a Member of Parliament K. Santhanam in the year of 1962. The Committee submitted its report in 1964. The publication of this report immediately attracted popular and parliamentary attention on the worrying situation of corruption in the practices of bureaucratic administration. Apart from this, other important steps taken towards administrative reforms in the 1980s were the establishment of the Commission on the Center-State relations, the Committee to review the Scheme of Civil Service Examination.²⁵⁷

It may be noted that administrative reforms were treated by these committees and commissions as a matter of improvements which were suggested in the form of some alterations and additions. The question concerning central government's role in the state administration in the context of a federal set up was not taken up by any committee. Further, no attention was given by the committees to the question of people's participation in the articulation and implementation of administrative reforms. Most of these committees were headed by bureaucrats who acted in such a manner that reinforced a bureaucratic system of administration with favorable power relations.²⁵⁸ However, one of the most important step towards administrative reforms was the setting

²⁵⁶ Shriram Maheswari, *Administrative Reforms in India*, Macmillan Private Limited: Delhi, 2002, pp. 60-61.

²⁵⁷ Ibid., p.62.

²⁵⁸ Shriram Maheswari, *The Administrative Reforms Commission*, Laxmi Narain Agarwal: Agra, 1972, pp.15-16.

up of the First Administrative Reforms Commission (ARC) in post-independent India in the year 1966.

3.5.2 The First Administrative Reforms Commission (1966-1970)

The First ARC, headed by a Member of Parliament Shri Morarji R. Desai, was set up by the President of India on the 5th of January 1966 as a Commission of Inquiry “to examine the public administration of the country and make recommendations for reform and reorganization where necessary”. The Commission was asked to consider the requirement for (a) “ensuring the highest standards of efficiency and integrity in the public services”, (b) transforming public administration into a suitable mechanism for implementing the social and economic policies of the Government and, (c) attaining social and economic goals of development as well as a mechanism which is responsive to the people. In addition to this, the Commission was asked to consider the following ten issues surrounding the various aspects public administration in India: The machinery of the Government of India and its procedures of work; the machinery for planning at all levels; Centre-State relationships; Financial administration; Personnel administration; Economic administration; Administration at the State level; District administration; Agricultural administration; and Problems of redress of citizens grievances.²⁵⁹

The above mentioned terms of reference of the First ARC makes it clear that it was the first ever attempt by the government of India to carry out a comprehensive analysis of the existing state of public administration in India. The broad nature and scope of the Commission was treated as an example and an opportunity to carry out

²⁵⁹ Government of India, *Ministry of Home Affairs* (Department of Administrative Reforms), Resolution No. 40/3/65-AR (P), 5th January 1966. (Retrieved from- <http://darpn.nic.in/>).

administrative reforms from a ‘phased’ approach²⁶⁰. Notably, the membership of the Commission was entirely made of public representatives except, a member secretary Shri V. Shankar who was from bureaucracy. As Shriram Maheswari point out, it was but obvious for bureaucrats to criticize the nature of membership of the Commission and to raise ‘pointless’ doubts regarding the members’ lack of expertise on issues of public administration.²⁶¹ However, the very criticism of the Commission’s membership by civil servants indicates their lack of interest in transforming the nature of administration from an absolutist colonial legacy into a people centric administration.

The Commission produced twenty reports with five hundred eighty-one recommendations on the various aspects public administration in India. It is apt to briefly highlight the main issues covered in the recommendations of these reports, which can be grouped into the following heads: The Machinery of the Government of India and its Procedures of Work; State Administration; Machinery for Planning; Personnel Administration; Centre-State Relations; and, Redress of Citizens’ Grievances. The reports regarding the machinery of the Government of India and its procedures of work recommended for restructuring of the Cabinet and the various Ministries of the Government of India. In addition, recommendations were made in the domain of minister-civil servant relationships, the functioning of the Secretariat, and Central personnel agency. Acting closely to the recommendation of the Commission regarding Central personnel agency, the Government of India set up a separate Department of Personnel in the year 1970. The reports regarding State administration covered issues surrounding Governors, Council of Ministers, State Secretariat, Executive departments, Board of Revenue, Divisional Commissioner, District

²⁶⁰ Shriram Maheswari, *The Administrative Reforms Commission*, Laxmi Narain Agarwal: Agra, 1972, p.33.

²⁶¹ Ibid., pp.37-38.

Collector, Panchayati Raj etc. The reports regarding Personnel administration were focused on the issues surrounding functional specialization, areas of specialization, modes of selection and recruitment, lateral entry, training, right to strike etc. The reports concerning Centre-State relations covered issues relating to Center's role in state subjects, distribution of financial powers, States' indebtedness, Principles of plan grants, role of Governor, inter-state council etc. The reports on Citizens' grievance redressal mechanism focused on the issues surrounding Lokpal, Lokayukta etc.²⁶²

As far as the implementation of the various recommendations in the above-mentioned areas of administrative reforms by suggested the First ARC is concerned, though some of the recommendations such as those relating to Lokpal and Lokayukta, creation of a separate Department of Personnel etc gained acceptance, the reality has not been very encouraging. One of the strongest resistance to bringing about administrative reforms is identified by scholars as the bureaucratic resistance along with resistance from 'vested interests'.

A scholar such as Shriram Maheswari claims that it is very difficult to secure acceptance of Indian bureaucracy for implementing administrative reforms. The reason he cites is that any administrative reforms is "apt to disturb the *status quo* and those who have developed vested interests in such a state of affairs". He goes on to argue that these vested interests are so profoundly and firmly rooted in the existing system that "they conspire to frustrate most attempts at administrative reforms". Resistance to attempts to administrative reforms may come in many forms, which include arguments against the impracticability or uselessness, delaying of implementation process by undertaking time taking governmental processes of examination of the proposals for

²⁶² For an engaging discussion on the recommendations of First ARC on the various aspects of these issues of administrative reforms see, Shriram Maheswari, *ibid.*, pp.75-142.

reform, and incomplete implementation of proposals etc.²⁶³ Interestingly, the First ARC was aware of the resistance in favour of status quo from bureaucracy and vested interests, and therefore it gave minimum role to bureaucracy in the implementation process. However, the Commission's attempt was foiled by the Government, which gave maximum role to bureaucracy in processing the various reform proposals.²⁶⁴

3.6 Limitations of Administrative Reforms

The above discussion of administrative reforms suggests that there were several limitations to the reforms. First, the reforms led to the proliferation of bureaucratic machinery at all levels of administration. Second, no attempt was made to get rid of the colonial culture of official secrecy. Instead, the relationship between the rulers and the 'ruled' were redefined as the 'giver' and 'receiver', which was a continuation of the colonial relationships of 'master' and 'subject'. Third, the reforms ignored the conflicting claims of bureaucrats and politicians over the issue of representation of people and therefore failed to make them accountable to the people. Fourth, the lack of accountability gave rise to bureaucrat-politician nexus, which was often used against the interest and rights of the people. Fourth, the machinery of administration was still centralized and state centric. Fifth, procedural aspect of administration overshadowed the substantive aspect, which was visible in the unexpected results of development plans and policies.

3.7 Conclusion

The above analysis of the administrative structure in post-Independent India makes it clear that the bureaucratic system of administration is being practiced at all the levels of administration ranging from the administrative machinery of the cabinet

²⁶³ Ibid., p. 144.

²⁶⁴ Ibid., 147.

secretary at the center to the village secretary at the level of village Panchayat. The bureaucratic system of administration includes a range of Central Services (including Indian Income Tax Service and Indian Railway Services), All India Civil Services, State Civil Services, and village level services of panchayat secretary, *patwari* (a government official who keeps records of land landownership at village level) etc.

The attempts toward administrative reforms turned out to be insufficient to move away from certain negative aspects of colonial administration, such as the centralized bureaucratic administration and culture of official secrecy in terms of policy implementation at the different levels of administration. Even during the time when insufficiency of the measures towards democratic decentralization in India was prominently visible, no serious attempt was made by the state to look into the persistent problem of failure in terms of policy implementation at the local level.

Chapter 4

The Rise of Civil Society Movement in Post-Independent India: An overview

It was found in the preceding chapter that the practice of constructing and legalizing official secrets had become one of the characteristics of colonial administration. The practice had contributed to the spread of a culture of official secrecy which persisted in the functioning of bureaucratic administration in post-independent India despite several attempts towards administrative reforms. It is a matter of interest to discuss the ways in which the persisting culture of official secrecy contributed to the continuity of master-subject relationship under the cloak of state-citizen relationship. In addition to this, it is apt to deal with the increase in constraints to people's participation due to the persisting culture of official secrecy. And, it is important to examine the discontents of the persisting culture of official secrecy. The issues raised above are addressed in the chapter while focusing on the factors which contributed for the persistence of the colonial culture of official secrecy.

The chapter examines the following factors: (1) the colonial and feudal legacy of subject-master relationship in bureaucratic administration of policy-making and implementation, (2) the problems and challenges of implementation of highly centralized development plans, and (3) lack of awareness among people about the fundamental rights guaranteed to them by the Constitution of India. After having dealt with the factors, the chapter focuses on the question of how the factors contributed to discontentment among people in the changing political context and thereby led to the rise of civil society movement in post-independent India in general and the Mazdoor Kisan Shakti Sangathan in particular.

A historical account of the rise of civil society movement in post-independent India is provided while focusing on the two alliances of civil society organizations, namely, the Coordination of Democratic Rights Organisations (CDRO) and the National Alliance of People's Movements (NAPM). The alliances are discussed in an effort to illustrate the above-mentioned factors that contributed to the rise of civil society movement. Following this, the genesis, organizational structure, and ideological underpinnings of the MKSS are examined. The chapter ends with conclusive reflections.

4.1 The Changing Political Context in Post-Independent India

4.1.1 Discontents of the State led Centralized Development Plans and the Persisting Culture of Official Secrecy

When India became Independent in 1947, there was a hope that the state would be able to fulfill the welfare goals, for which the various development plans were made and implemented. The Planning Commission (1950) was created as an institutional mechanism to suggest various measures of development programmes and schemes. The state was assigned the primary responsibility of implementing the development plans in a phased manner. State control over natural resources was tightened and the bureaucratic administration was transformed into the sole repository of power as far as the question of implementation of the development plans was concerned.

The centralized model of development plans and implementation undertaken by the state produced several side-effects. The politician-bureaucrat nexus was one of them. The nexus, rooted in the bureaucratic approach, was served by arm-chair-specialization. The centralized approach was considered as the best suitable mode of policy making and implementation. People were seldom consulted in the whole exercise of policy making and implementation. Plans were imposed from the top while the implementation machinery at the bottom of administration remained trapped in the

colonial and feudal mindset. The result was that instead of becoming a people-centric and participatory democracy, India started to feel the constraints of bureaucratic administration. The fact that the state had failed to involve people in decision-making contributed for the increasing awareness about the development goals of the state, which ultimately led to the rise of civil society movements.

Civil society movements began to take up people's demands while resisting the externally imposed programmes and policies. As argued in the foregoing discussion, the culture of official secrecy in post-independent administration of India had become one of the biggest constraints to people's participation as well as a shield for the bureaucrat-politician nexus, which led to the perpetuation of a culture of secrecy where confidentiality was the norm and disclosure the exception²⁶⁵. The politician-bureaucrat nexus, which was consolidated through the practices of official secrets, escalated the gulf between the rich and the poor through corruption, despite large scale implementation practices of welfare policies and programmes.

The nexus continued to extract poor people's money from the various development programmes such as, draught relief works. The practice of extracting wages from the workers share had become such "a lucrative business for government officers and those colluding with them that, in other parts of semi-arid India, it had cynically come to be called *teesri fasal* (third harvest)"²⁶⁶. One of the most powerful tools to sustain the extraction of money from payments of daily wage workers was

²⁶⁵ Government of India, *Second Administrative Reforms Commission-First Report*, Right to Information: Master Key to Good Governance, 2006, p.5.

²⁶⁶ Amita Baviskar, "Is Knowledge Power? the Right to Information Campaign in India", Paper Presented to the Workshop on Social Movements and National Policy, Institute of Development Studies, *University of Sussex*, UK. September 2007. (hereafter, Amita Baviskar, "Is Knowledge Power", 2007).

interpretation of Muster rolls (lists of workers) by the local officials as a secret document on the pretext of the Official Secrets Act 1923.

4.1.2 The Rise of Non-Party Political Process²⁶⁷ and Civil Society Movements

The state led centralized mode of development plans and the persisting culture of official secrecy exposed the limitations of party political process, which was evident in the Indian National Congress (INC) of the 1960-1970s in terms of the intra-party conflict and the imposition of emergency²⁶⁸. Social activists were increasingly becoming aware about appropriation of the state machinery as an instrument of promotion and perpetuation of a single political party and its dictatorial leadership. It was in that context that the non-party political process began to emerge as an alternative voice of articulating public interest against the backdrop of the state led centralized development plans. The rise of the non-party political process has been linked in the literature to two types of analyses. The first analysis argues about the failure of the state in promoting development and the second emphasizes further democratization of state and society²⁶⁹.

Both the analyses highlight the rise of civil society organizations in terms of Non-Governmental Organizations (NGOs) and grassroots movements respectively. While the civil society organizations, which were launched as NGOs on the basis of the neo-liberal belief in the competency of the market in resolving people's problem, were coopted by the externally imposed and the state led programmes and policies of

²⁶⁷ The term non-party political process has been understood by scholars differently. For a survey of various types of organizations, which can be categorized under non-party political process in India, see, Aditya Nigam, "The Non-Party Domain in Contemporary India", Paper prepared for the Project on State of Democracy in South Asia as part of the Qualitative Assessment of Democracy Lokniti (Programme of Comparative Democracy), *Centre for the Study of Developing Societies*. n.d. (Retrieved from-democracy-asia.org).

²⁶⁸ For an engaging analysis of politics of development in India in 1960s, see, Rajni Kothari, *Politics in India*, Orient Longman Limited: Hyderabad, 1970.

²⁶⁹ Sara Joseph, "Society vs State? Civil Society, Political Society and Non-Party Political Process in India", *Economic and Political Weekly*, Vol. 37, No. 4 (Jan. 26 - Feb. 1, 2002), p. 299.

development. Those civil society organizations, which were launched as alternatives to the externally imposed programmes of development were transformed into grassroots movements due to the nature of their ideological underpinnings. For the purpose of the present study, those civil society organizations have been discussed in the next few pages, which were categorized as grassroots movements by scholars such as Rajni Kothari and others²⁷⁰. Accordingly, grassroots movements are concerned with the “with the plight of...rejects of society and of organised politics, as also ironically of revolutionary theory and received doctrines of all schools of thought”. They are part of “the democratic struggle at various levels, in a radically different social context than was posited both by the instrumentalists and by the revolutionaries”.²⁷¹

One of the important civil society movements concerned with governance was anti-corruption movement, namely the *Bhrashtachar Virodhi Jan Aandolan* (People’s Movement Against Corruption). It was launched by Anna Hazare in 1991 in Ralegaon Siddhi in Maharashtra. Anna Hazare sat on a hunger strike in Alandi and demanded action against corrupt officers in the state government. Because of his persistent campaign, “six ministers were forced to resign and more than 400 officers were removed”²⁷². He later on led a mass movement against corruption in 2011 in New Delhi, which attracted attention of media and academia across the world.

Apart from Anna Hazare’s anti-corruption movement, one comes across a number of civil society organizations working for rights and liberties of people almost in every part of post-independent India. However, it is not possible to deal with each of

²⁷⁰ See for example, Rajni Kothari, *State Against Democracy: In Search of Humane Governance*, Ajanta Publications: Delhi, 1988, pp.37-71; *Politics and the People: In Search of a Humane India*, Vol. II, Aspect Publications Ltd.: London, pp.393-436.

²⁷¹ Rajni Kothari, *State Against Democracy: In Search of Humane Governance*, Ajanta Publications: Delhi, 1988, p.45.

²⁷² *India Today*, “The Rise and Rise of Anna Hazare”, Retrieved from -<http://indiatoday.intoday.in/>

them in detail due to limited space. Keeping the limitation in view, the characteristic features of two major alliances are discussed. The alliances have been formed by some civil society organizations to fight for people's rights and to raise voice against violent suppression of people's dissent by the state. The two alliances are the Coordination of Democratic Rights Organisations (CDRO) and the National Alliance of People's Movements (NAPM) (Tables 4.1 and 4.2). Although they differ in their internal structure and organization, they have the common goal of fighting for people's rights.

4.1.2.1 The Coordination of Democratic Rights Organisations (CDRO)

The Coordination of Democratic Rights Organisations, which came into being in the context of violent suppression of people's movements by the state in India, works on the belief that the people have a basic democratic right to organize and struggle. The alliance meets at least twice in a year. It functions in a non-hierarchical democratic way and its membership is open to any non-funded Civil and Democratic Rights Organisations. It believes in unity against "all forms of state repression in people's democratic rights" and extends "support with solidarity actions in the event of attacks by the state on any civil rights organization or its representatives"²⁷³. For example, Peoples Union for Democratic Rights (PUDR), Delhi, which came into existence in 1977, was earlier working for people's rights as Delhi Unit of a national organization called the People's Union for Civil Liberties and Democratic Rights (PUCLDR).

The Peoples Union for Democratic Rights (PUDR) came into being in 1981 as a separate organization in the context of revival of the People's Union for Civil Liberties and Democratic Rights (PUCLDR) under the name of the People's Union for Civil Liberties (PUCL). PUDR works for the rights and liberties of the masses in the context of their socio-economic needs and political aspirations. It tries to keep the

²⁷³ Peoples' Union for Democratic Rights (PUDR), Retrieved from - <http://www.pudr.org/>

working of the organization free from the expediencies of political parties with a commitment to democratic functioning within the organisation.

Table 4.1: List of Some Allied Organisations of Coordination of Democratic Rights Organisations (CDRO)

S. No.	Organization	S. No.	Organization
1	Association for Democratic Rights (AFDR), Punjab	9	Jharkhand Council for Democratic Rights (JCDR), Jharkhand
2	Association for Protection of Democratic Rights (APDR), West Bengal	10	Manab Adhikar Sangram Samiti (MASS), Assam
3	Bandi Mukti Morcha (BMC), West Bengal	11	Naga Peoples Movement for Human Rights (NPMHR)
4	Campaign for Peace & Democracy in Manipur (CPDM), Delhi	12	Organisation for Protection of Democratic Rights (OPDR), Andhra Pradesh
5	Civil Liberties Committee (CLC), Andhra Pradesh	13	Peoples' Committee for Human Rights (PCHR), Jammu and Kashmir
6	Committee for Protection of Democratic Rights (CPDR), Mumbai	14	Peoples Democratic Forum (PDF), Karnataka
7	Coordination for Human Rights (COHR), Manipur	15	Peoples Union for Democratic Rights (PUDR), Delhi
8	Human Rights Forum (HRF), Andhra Pradesh	16	Peoples Union for Civil Rights (PUCR), Haryana

Source: <http://www.pudr.org/>

One of the objectives of PUDR is to “work towards making the Directive Principles of State Policy enforceable and justiciable”. It tries to endeavor “towards the repeal of all extraordinary and draconian legislations that violate the ethos of the Constitution and to defend victims of such legislations irrespective of their political, religious and social faith”²⁷⁴. Since 1979, The Peoples Union for Democratic Rights has been actively preparing reports on violation of people’s democratic rights and spreading awareness among masses for their empowerment. Similar attempts are being made by the various allied organizations of the National Alliance of People’s Movements (NAPM) in various parts of India.

²⁷⁴ PUDR, “Constitution of People's Union for Democratic Right”, n. d. & n. p., Retrieved from - <http://www.pudr.org/>

4.1.2.2 The National Alliance of People's Movements (NAPM)

The National Alliance of People's Movements, which began as a process in 1992 and got a definite shape in 1996, is “an alliance of progressive people's organisations and movements”. While retaining autonomous identities, the organizations and movements under the alliance work together to bring the struggle for primacy of rights of communities over “natural resources, conservation and governance, decentralised democratic development and towards a just, sustainable and egalitarian society in the true spirit of globalism”. The alliance claims to be fundamentally concerned with the following: “the uncontrolled growth of obscene wealth on the one hand, and the widening disparity, debt, hunger and suicides on the other. Paradigm of market oriented development-induced displacement, privatisation and destruction of national and natural resources; development & economic policy being dictated by the unholy nexus of corporates and investors and the consequent loss of sovereignty of nation and people; the unanimity among mainstream political parties of all hues on economic policy, and the absence of a real alternative; the abuse of people's mandate by legislations such as the SEZ Act, Land Acquisition Act, Nuclear Regulatory Bill; and, the vicious cycle of State violence countered by militant violence in various parts of the country and consequent shrinking of democratic space”.²⁷⁵

According to DL Sheth, the National Alliance of People's Movements has been “launching, supporting and coordinating several campaigns on a more or less regular basis, protesting against programmes and projects of the government and the MNCs, representing the policies of hegemonic globalization”.²⁷⁶

²⁷⁵ National Alliance of People's Movements (NAPM), Retrieved from - <http://www.napm-india.org/>

²⁷⁶ D L Sheth, “Globalisation and New Politics of Micro-Movements” *Economic and Political Weekly*, January 2004, p.51.

Table 4.2: List of Some Allied Organisations of National Alliance of People's Movements (NAPM)

S. No.	Organization	S. No.	Organization
1	Adivasi Sangarsh Sangham, Palakkad, Kerala	32	Matu Jan Sangathan, Uttarakhand
2	Beti Bachao Andolan, Haryana	33	Mazdoor Kisan Shakti Sangathan, Rajasthan
3	Bhumi Adhigrahan Virdohi Sangarsh Samiti, Jhunjhunu, Rajasthan	34	Nirman Mazdoor Panchayat Samagam, Tamil Nadu
4	Bhartiya Kisan Majdur Sanyukt Morcha, Uttar Pradesh	35	Narmada Bachao Andolan, Gujarat
5	Bhumi Bachao Aandolan, Kanjhawala, Delhi	36	National Domestic Workers Union, Delhi
6	Forum for Siang Development, Arunachal Pradesh	37	Navalgarh Kisan Sangarsh Samiti, Rajasthan
7	Haryana Kisan Manch, Haryana	38	Nayi Rajdhani Prabhavit Kisan Sangharsh Samiti, Chhattisgarh
8	Jana Vigyan Vedika, Andhra Pradesh	39	Paryavarana Parirakshana Vedika, Andhra Pradesh
9	Jan Sangharsh Vahini, Delhi	40	Paschim Bengal Khet Mazdoor Samiti, West Bengal
10	Jharkhand Alternative Forum, Jharkhand	41	People's Union for Civil Liberties, Jaipur, Rajasthan
12	Jal Jangal Jameen Andolan, Dakhin Rajasthan	42	Praja Rajakiya Vedike, Karnataka
13	Kisan Sangharsh Morcha, Bihar	43	Paryavarana Suraksha Samiti, Gujarat
14	Kisan Sangharsh Samiti, Madhya Pradesh, Madhya Pradesh	44	Rajasthan Samagr Seva Sangh, Rajasthan
15	Kisan Sangharsh Samiti, Uttar Pradesh	45	Rajasthan Jan Adhikar Manch, Jaipur, Rajasthan
16	Kisan Sangharsh Morcha, Bihar	46	Rajya Krushak Sangathan, Orissa
17	Krishak Mukti Sangram Samiti, Assam	47	Rashtriya Rajmarg Prabhavit Kisan - Nagrik Sangharsh Samiti, Chhattisgarh
18	Lokshakti Abhiyan, Orissa	48	Shramik Mukti Sangathana, Maharashtra
19	Mahila Adhikar Morcha, Bihar	49	Sanjeevani Paryavarana Parirakshana Seva Sangham, Srikakulam, Andhra Pradesh
20	Man Gaon Bachao Andolan, Maharashtra	50	Sompeta Paryavarana Parirakshana Samiti, Andhra Pradesh

Source: <http://www.napm-india.org/>

Many of the allied organizations of the alliance have a long history of functioning for peoples' rights in post-Independent India. For example, People's Union for Civil Liberties (PUCL) was originally founded as the People's Union for Civil Liberties and Democratic Rights (PUCLDR) by Jaya Prakash Narayan in 1976. It was revived in 1980 in the form of People's Union for Civil Liberties (PUCL). It has been

served by some renowned persons including a well-known social scientist Rajni Kothari²⁷⁷. The People's Union for Civil Liberties has identified the following areas as its major areas of activities: Mobilising public opinion in favour of a better climate for protection of civil liberties in the country; conducting investigations into incidents of violations of human rights brought to notice by the victims, the press, a member, or any concerned individual; publishing the findings of these investigations in the PUCL Bulletin and releasing them to the press, or making them public by other mean such as public meetings; and, filing petitions, on the basis of these investigation, or even otherwise.²⁷⁸

It is clear from the above discussion that the alliances of the Coordination of Democratic Rights Organisations (CDRO) and the National Alliance of People's Movements (NAPM) are a part of the non-party political process in post-independent India. Apparently, instead of participating and winning elections, their goal is to fight for people's rights while engaging with the state in different organizational forms.

4.2 The Mazdoor Kisan Shakti Sangathan Movement in Rajasthan

As stated earlier, for many decades, the politician-bureaucrat nexus continued to 'thrive under a veil of secrecy'²⁷⁹, which was supported by the Official Secrets Act 1923. The nexus produced an administrative culture where process of administration acquired primacy over substance of administration. All that happened through the consolidation of a highly centralized administration. It was amid such a state of disappointing processes and practices of policy implementation that people at the

²⁷⁷ Some of its Presidents and General secretaries were the following: President: VM Tarkunde (1982 to 1984); Rajni Kothari (1984 to 1986); Rajindar Sachar (1986 to 1995); K G Kannabiran (1995 onwards). General Secretary: ArunShourie (1982 to 1986); Rajni Kothari (1982 to 1984); Y P Chhibbar (1984, continuing); Dalip Swami (1986 to 1990). Retrieved from - <http://pucl.net/>.

²⁷⁸ PUCL, "PUCL Today-Major Areas of Activity", Retrieved from - <http://pucl.net/>.

²⁷⁹ Rob Jenkins & Anne Marie Goetz, "Accounts and Accountability: Theoretical Implications of the Right-to-Information Movement in India", *Third World Quarterly*, Vol 20, No 3, 1999, p. 604.

grassroots level began to confront the constraints of centralized bureaucratic practices of administration in post-independent India. However, the dissenting voices were suppressed and eliminated for many decades.

It was only in 1981 that a women led unprecedented movement in Harmara village of Ajmer district in Rajasthan challenged this culture of secrecy and refused to keep quiet. Though successful in the legal sphere, the Harmara Andolan could not affect the status quo, which was in favor of the prevailing politicians-bureaucrat nexus. Nevertheless, it had influenced many activists who would later go on to form the Mazdoor Kisan Shakti Sangathan. What was the nature of this confrontation and how the people at the grassroots level addressed this issue? What was the nature of organizational resistance to the colonial legacy of the culture of official secrecy and its documents at the grassroots level? What was the ideological basis of civil society movement in this regard? The questions are addressed in the remaining pages of the chapter.

4.2.1 The Formation of MKSS

The Mazdoor Kisan Shakti Sangathan (Organisation for the empowerment of workers and peasants) came into being as a self-supporting structure on the May Day (1st May) in 1990 in the Bhim town of central Rajasthan with the membership of one thousand peasants and workers (Figure 4.1). It was the beginning of a long struggle for governance reforms at local level. Since its formation, the MKSS has been actively working on issues ranging from awareness building to electoral reforms (Figure 4.2). While fighting for people's right to minimum wages, the MKSS began to question the administrative culture of official secrets and eventually emerged successful in getting the Rajasthan Right to Information Act 2000. The MKSS gradually broadened its links with the other civil society organizations and went on to become an important

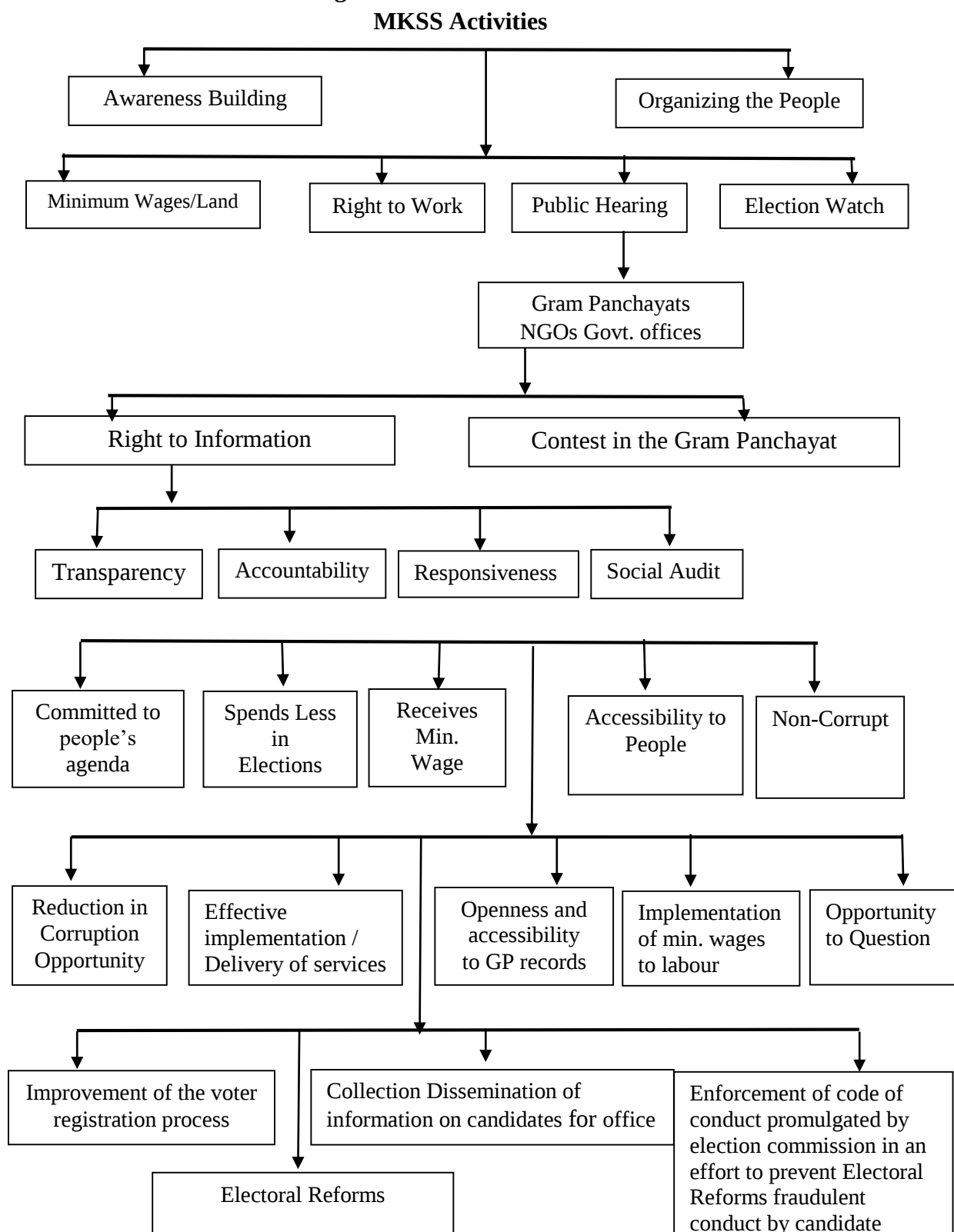
negotiator at the national level for making of the Right to Information Act 2005. The chapter examines its organizational structure, leadership profile, and ideological underpinnings, which is helpful for analyzing its struggle for governance reforms.

Figure 4.1: Images showing MKSS members and supporters speaking, listening, and marching in solidarity in the Bhim town on the day of its birth (1st May 1990)



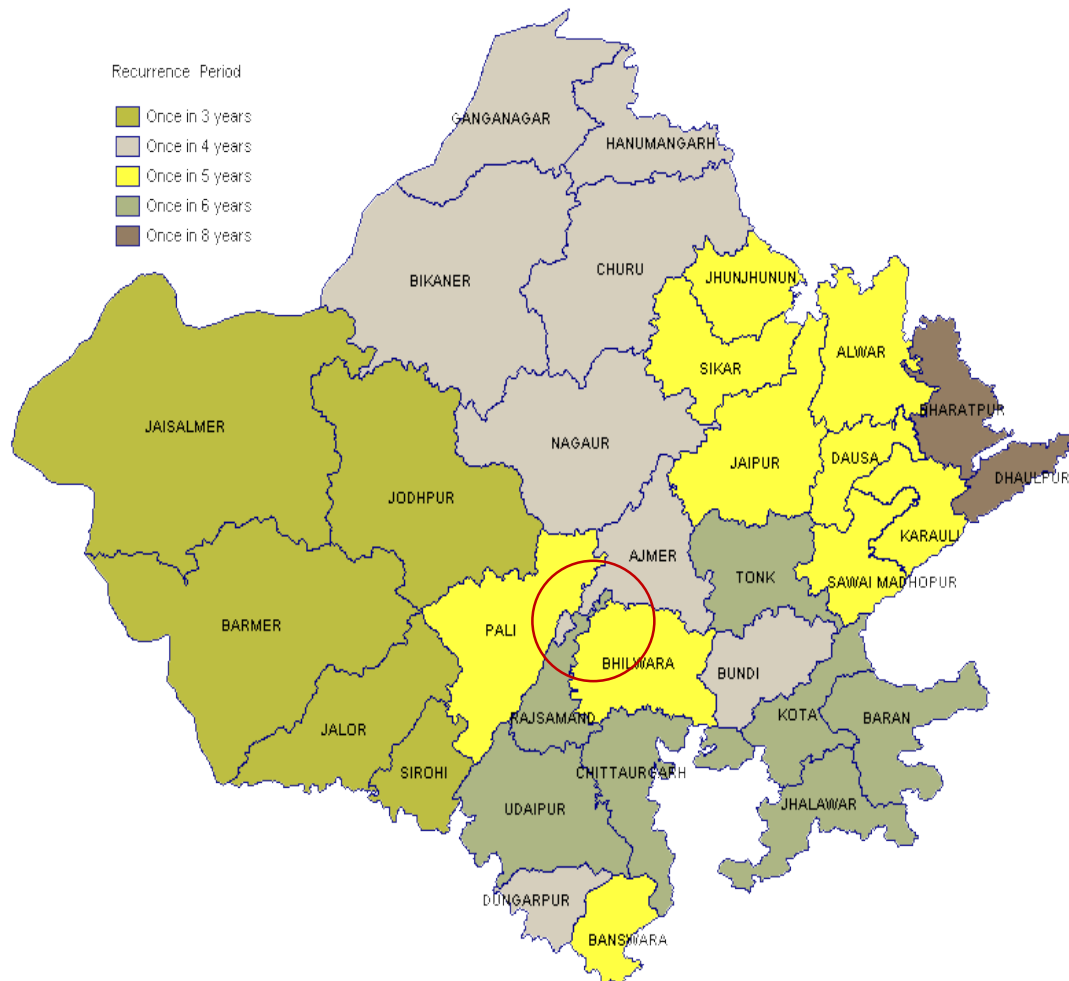
Source: <http://www.mkssindia.org/>

Figure 4.2: MKSS Activities



Source: Adopted from E. Venkatesu, "Right to Information Movement in India", Paper presented in national seminar on 'Human Rights in the era of Globalization' University of Hyderabad, Hyderabad, 2006, p.5. (Retrieved from- projects.cgg.gov.in/.../RTIMovementinIndia-DrEVenkatesuNIRD.pdf).

Map 4.1: Geographical Areas of MKSS Activities in Rajasthan



○ : The four districts of Pali, Rajsamand, Bhilwara, and Ajmer (where MKSS has been active since 1990) are in the draught frequency zones of *once in 4-5 years*.

Original Map Source: Disaster Management & Relief Department, Rajasthan, 2015 (<http://www.dmrelief.rajasthan.gov.in/>)

4.2.2 Organizational Structure of the Mazdoor Kisan Shakti Sangathan

The Mazdoor Kisan Shakti Sangathan is directly involved in addressing “the issues of survival for the poor peasants and workers of an area roughly covering 5 tehsils in 4 districts” (Map 4.1). The population (in 2010) of the area was about 300,000 people.²⁸⁰ According to MKSS, “The MKSS working area covers about 60,000 square kilometers which forms parts of Ajmer, Rajsamand, Bhilwara and Pali Districts. These

²⁸⁰ MKSS, “Story of the MKSS: A Process of Peoples’ Political Mobilisation for Democratic Rights”, pp. 1-4. Retrieved from- <http://www.mkssindia.org/>

are traditionally drought prone areas, and are primarily inhabited by the Rawats, who form 80% of the population”²⁸¹. The MKSS describes itself as a “people’s organization” considers itself as a political organization. It does not accept material support from any institution from within and outside the country. It is sustained by the contribution made by its individual supporters. All members of the MKSS draw minimum wages.

4.2.2.1 Leadership and Membership

The leadership and membership of the MKSS is different from the organizations such as, trade union, Non-Governmental Organizations (NGOs), political party etc. The Mazdoor Kisan Shakti Sangathan claims to be a non-philanthropic organization²⁸². It was “formed...with a stated objective of using modes of struggle and constructive action for changing the lives of ... the rural poor.” During the period leading up to its formulation, it was concerned with issues of land re-distribution and minimum wages²⁸³.

According to the Ramon Magsaysay Award Foundation, the Mazdoor Kisan Shakti Sangathan was “an unconventional organization. The activists did not wish to be registered as a society or even as a trade union, since their group had no hierarchy and no leader”. In fact, “no written formal constitution or document exists on the MKSS... There are no formal membership fees. Membership is determined by people’s active participation in MKSS activities”. However, “If there is a leadership structure at the MKSS, it is embodied by a central committee of twenty-five people who attend

²⁸¹ MKSS, “From Information to Accountability: Reclaiming Democracy”, *ibid*.

²⁸² Aruna Roy, Nikhil Day, and Shankar Singh, “Living with Dignity and Social Justice - Rural Workers’ Rights to Creative Development”, 1992, p.62 (4), <http://www.mkssindia.org/>(accessed on 10 July 2014).

²⁸³ MKSS, “From Information to Accountability: Reclaiming Democracy”, <http://www.mkssindia.org> (accessed on 10 July 2014).

every meeting and make the major decisions. The task of presiding at meetings is rotated among them.”²⁸⁴

According to Aruna Roy, the MKSS is “a group of thirty people”. She asserts, “we are all leaders...we are all equal. There is no president, no vice-president. There is no treasurer. There is no secretary. There is no general secretary”²⁸⁵. She explains at the expense of repetition, “We have an institution, which is democratic, which is equal. We don’t have a director, we don’t have a chairperson, we don’t have a leader. We all sit together and we decide what should be done for the country and in this process of decision making, where there is no hierarchy, Gandhi’s fundamental method of listening to the people has been a very strong on all of us”²⁸⁶.

The membership of the MKSS reveals the composition of the population in the area. More than seventy per cent of the members of the Mazdoor Kisan Shakti Sangathan are *Rawats*²⁸⁷. According to the Mazdoor Kisan Shakti Sangathan, “The internal composition of the MKSS is mixed, with a larger composition of Rawats and Meghwals (scheduled caste) than the other under privileged groups”²⁸⁸. Most

²⁸⁴ Ramon Magsaysay Award Foundation, “Aruna Roy-Biography”, <http://www.rmaf.org.ph/> (accessed on 15 July 2014).

²⁸⁵ Aruna Roy, “Distinguished Lecture on Democratic Governance-A Contemporary Discourse”, University of Hyderabad, Hyderabad, 2014. Retrieved from-<https://www.youtube.com/watch?v=ufO8Ef7J-Ms>.

²⁸⁶ Aruna Roy, Speech (“Empowering Ordinary People in India”) at the closing plenary on *The Anatomy of a People’s Movement* at the Skoll World Forum 2010. Retrieved from-https://www.youtube.com/watch?v=TXP_eO5Th5o.

²⁸⁷ According to MKSS, “The Rawats never fitted into the mores of feudal Rajasthan, as they operated historically as brigands who waylaid the traffic between Mewar (presently Udaipur and adjoining areas) and Marwar (presently Jodhpur, Nagaur, Barmer, Bikaner and adjoining areas). The British settled them by paying money and giving them land to till. The land which falls in the middle of the Aravalis is uneven, and therefore all holdings are small. Not being an integral part of feudal Rajasthan, the Rawats do not have a tradition of obeisance or a sense of inferiority despite their economic poverty. Their society is more egalitarian in terms of class divisions. Interestingly, they are now caught in the predicament of upward mobility –with some calling themselves Rajputs, and others feeling the need to call themselves “Other Backward Communities” (OBC’s) to get the benefits of reservation quotas. They do in fact fit the criteria of an OBC community”. (MKSS, “From Information to Accountability: Reclaiming Democracy”).

²⁸⁸ Aruna Roy, Nikhil Day, and Shankar Singh, “Living with Dignity and Social Justice - Rural Workers’ Rights to Creative Development”, 1992.

importantly, the nature of mobilization under the banner of the MKSS has been shaped by the geographical area where it works, as well as the life experience of its founding leaders. It is apt to discuss the profile of the founding members of the MKSS in order to understand their beliefs and experiences which is helpful for analyzing the nature of their collective decision-making and struggle for governance reforms.

4.2.2.2 Profile of the Founding Leaders

As stated earlier, the MKSS was founded formally in the presence of more than one thousand peasants and workers in the Bhim town of central Rajasthan. However, three individuals namely, Aruna Roy, Shanker Singh, and Nikhil Dey had been central to the entire process of the making of the MKSS. Interestingly, there are various similarities and dissimilarities in the personal and professional life experience of Aruna Roy, Shanker Singh, and Nikhil Dey. In order to understand their role in the formation of the MKSS, it is important to discuss their profile while focusing on the chronology and ideas that united them on the question of governance reforms. In so doing, an attempt is made to draw together their ideas by using excerpts from their writings and speeches.

4.2.2.2.1 Aruna Roy

Aruna Roy née Jayaram was born to Tamil parents in 1946 in Chennai. She was educated in Chennai (then Madras), Pondicherry and Delhi. In 1968, she joined the Indian Civil Services (ICS) after qualifying the Civil Service Examination (CSE) in that year. She was one of ten women in a batch of one hundred in that year. Her first assignment as an IAS (Indian Administrative Service) trainee was in the rural district of Tiruchi followed by North Arcot. Aruna Roy had little knowledge about the harsh realities of the life of people in rural areas. After joining the IAS, she started facing ethical dilemmas, which ultimately led her to quit the profession. The next few

paragraphs deal with some of the dilemmas which she encountered during her field experiences. Initially, during her field visits as a trainee, Aruna Roy was convinced that she was doing justice to her profession:

“In those years as an IAS trainee I had my first exposure to rural India. My Collector in North Arcot, T.V. Venketaraman took his job seriously and spent 15 days every month out of the District Head Quarters. We, the probationers, accompanied him. In village after village we were met by the village Sarpanch and drank innumerable glasses of Horlicks; the drink given to ‘officers’. We attracted a crowd wherever we went. I was convinced that we were meeting the poor and that their voices were being heard.”²⁸⁹

However, soon she realized that her professional experiences within bureaucracy were not in tune with her personal thinking about the relationship between administrators and citizens:

“During the training I discovered how little I actually knew about rural realities... I also saw how the local administration did not really function. It just ambled along.... I saw senior officers currying favour to stay on the ‘right’ side of the Government and the politicians in power. I also saw subordinate service officers neglecting their work to be available to officers who occupied key posts in the GOI.”²⁹⁰

Certainly, this in-service experience was very different from her feelings about the scope of IAS before entering the profession. She had hoped to make use of the institutional framework for bringing about reforms in the functioning of the system:

“One enters the IAS with the feeling that the Government will provide the framework for working effectively for social justice, within a strictly legal framework. The institutional framework though already corrupt, offered at least a structure within which it was possible to try and make the system function better. There was scope to fight the system of patronage that exists within the Government; or at least to make it deliver with some justice. There also seemed to be some measure of manipulation possible within the legal, institutional framework to influence the political roles; both at levels of policy and implementation.”²⁹¹

However, mere institutional and structural support was not sufficient to influence the political roles at district level. It required a good understating of the ways in which local political issues are addressed by local officers and politicians. During

²⁸⁹ Ibid.

²⁹⁰ Ibid.

²⁹¹ Ibid.

her district training, Aruna Roy found that her illusion of being an agent of change was falling apart with the passage of time:

“The District training, quickly and effectively rips the illusion apart. The knots are large and completely baffling. An unfamiliarity with the law makes it impossible to act without local guidance and the local officials, know it. It takes the better part of a posting to sit on the problem. It is not only the officialdom. The local power group has also learnt to influence and manipulate the office. It is seldom that the really poor or oppressed have access to the officer. They are victims of the system and tradition, where contact with officers has always been through brokers. To get the way cleared takes a while.”²⁹²

Meanwhile, she had married her college friend Sanjit Roy (known as Bunker Roy) in 1970²⁹³. Puzzled by the unexpected experiences of professional life she remained indecisive for a year. Amid the dilemma of personal convictions and professional experience, she took six months leave from her profession and joined her husband Bunker Roy’s NGO called Social Work and Research Center (SWRC) at Tilonia village in the Ajmer district of Rajasthan in 1974. Later in that year, she resigned from the IAS because of her belief that there were a number of limitations of the profession. One of them, according to her, is restricted scope of innovation except in certain areas of administration:

“The IAS only allows the odds of innovation in the softer areas of development-literacy, family planning, women's education, health and social welfare. In other areas any attempt even to implement the law is viewed negatively and the consequences are writ large on the wall for every one to see. This has led in most cases to working within the narrow framework of conventionally accepted positions. I did not see the point of continuing to work in a system where I had notional power and trappings. I could not really even begin to talk about fairness in inter-relationships amongst the elite, leave alone genuine change. I bid good-bye to the IAS, with no regrets.”²⁹⁴

After resigning from the IAS, she got involved in income generation programmes in the Craft Section of SWRC. While contributing to the programmes, she

²⁹² Ibid.

²⁹³ Bunker Roy had received his school education at Doon School with former Prime Minister Rajiv Gandhi and college education at St. Stephen’s College in Delhi from 1962 to 1967. Bunker Roy’s grandparents had worked as civil servants in the British empire in India.

²⁹⁴ Ibid.

visited nearby villages with the aim to learn more about people's life in villages. She learned and debated the various issues concerning people's rights and duties at collective work places such as the Craft Section at SWRC.

In 1978, however, Aruna Roy was faced with a different question, which was about the idea of 'income generation as a development activity'. She was sure that "Employment and work cannot be reduced to handicrafts production and sale"²⁹⁵. For her, "Development is politics, and there can be no development without political will ... all acts of social and economic living are determined by the nature of politics. It is essential to see that before one can begin to work to mobilise people for change. The reason for the failure of most development programmes has been the inability to see the correlation"²⁹⁶.

In addition, Aruna Roy realized that "a voluntary agency... cannot provide...the momentum for confrontational politics and sustained protest. One important reason is because it takes money and therefore has to have conventional accountability and ends up often pushing workers into what are essentially managerial roles".²⁹⁷ Aruna Roy's experience at the workers' co-operatives in Harmara and at SWRC Tilonia had convinced her that political transformation can hardly be brought about through such efforts at the time when someone is fighting against capitalist markets:

"I learnt that no income generation activity could be scaled up.... The incentive for production and income would...draw the craftsman away from making any kind of political demand locally, or even looking at local political-development needs.... The Harmara leather workers have prospered, but their social conscience for collective action has, if anything come down. They are now

²⁹⁵ Ibid. p. 17.

²⁹⁶ Ibid.

²⁹⁷ Ibid.

ready to make charitable gestures, but cannot think of using their economic clout for real change in the village”²⁹⁸.

“I got an understanding of collaborative experiences...But I parted ways when I felt that economic development alone could not solve problems at the grassroot level.... A perception of the extraordinary in the ordinary is critical to bring about value based change today. Leadership has to be redefined to include the collectives of ordinary people and the ideas they generate.”²⁹⁹

Aruna Roy’s belief, which was based on the experience of common man’s collectives at Harmara, was the preliminary indication of the end of her stay at SWRC. Her realization of the limitations of a voluntary organization led her to move beyond the income generation programmes at Social Work and Research Center (SWRC). While facing yet another dilemma, she left the income generation programmes at SWRC in 1983. For the next four years, she kept herself busy in searching for people who shared her alternative view of development. She did so while working with women's groups in Rajasthan and Madhya Pradesh.

During this period, Aruna Roy traveled to Nepal, Bangladesh, and Sri Lanka. In 1985, she assisted in organizing the first ever *mahila mela* (rural women’s festival) in Rajasthan, which was made possible by the collective efforts of the Social Work and Research Center Tilonia, the Institute of Developmental Studies (IDS) in Jaipur, the Seva Mandir from Udaipur, and Women's Development Program of the State Government.³⁰⁰ Aruna Roy’s search for ‘people with alternative view of development’ ended when she interacted with Nikhil Dey and Shanker Singh. After finding that they had many things in common, especially the will to do something for poor people, they left for Devdungri village (160 km away from Tilonia) in central Rajasthan in 1987.

²⁹⁸ Aruna Roy, Nikhil Day, and Shankar Singh, “Living with Dignity and Social Justice - Rural Workers’ Rights to Creative Development”, 1992, pp. 16-17 (75), <http://www.mkssindia.org/>(accessed on 10 July 2014).

²⁹⁹ Aruna Roy, “We can't all be Gandhi or Mao”, *The Rediff Interview/Aruna Roy*. Retrieved from-www.rediff.com.

³⁰⁰ Kanchan Mathur, *Countering Gender Violence: Initiatives Towards Collective Action in Rajasthan*, Delhi: Sage Publications, 2004, p. 265.

The aim was to realize their dream of building an organization for poor people. For Aruna Roy, the shift from Social Work and Research Center (SWRC) Tilonia to Devdungri was different from her shift from the IAS to Tilonia:

“The change from Tilonia to Devdungri, was in some ways a more major shift in perception than the earlier one from the IAS to Tilonia. In shifting to Tilonia the paradigm did not change. The basic shift was only in the perception of what could be accomplished better within the same given understanding of development. In coming to Devdungri, I intended using all that I had learnt in Tilonia to re-define the paradigm of development. To see the whole process of development from a different perspective.”³⁰¹

Before shifting to Devdungri village, Aruna Roy used to think of herself as a leader who was playing the role of an initiator, a ‘catalyst’, the ‘agent for change’, the one who ‘intervened for change’. After coming to Devdungri, she gradually understood that these ideas were present in people’s mind already and that the need was to put them into action which needed time and space. Accordingly, she engaged with the local people for the next few years as an outsider who was useful to them in terms of a link between representatives of administration and the local people. With the foundation of MKSS, Aruna Roy, as a part of the collective, began to play significant role in the public life of poor peasants and workers in central Rajasthan. And, she was joined by Nikhil Dey and Shanker Singh in dealing with the problems faced by the poor peasants and workers in the areas surrounding Devdungri.

4.2.2.2 Nikhil Dey

Nikhil Dey, son of an officer in the Indian Air Force, was born in Bangalore in 1963. He received his school education from the Lawrence School in Lovedale, which was situated near Udhagamandalam (Ooty) in Tamil Nadu. Nikhil Dey moved to the USA when his father was transferred to Indian Embassy in the USA. He received

³⁰¹ Aruna Roy, Nikhil Day, and Shankar Singh, “Living with Dignity and Social Justice - Rural Workers’ Rights to Creative Development”, 1992, pp. 8-9.

education for his 12th standard from Thomas Jefferson High School, Fairfax County Virginia³⁰². He completed his BA from Osmania University, and got his degree in law from the University of Delhi through distance learning. Nikhil Dey had worked briefly with the Khedut Mazdoor Chetna Sangathan (KMCS) in Madhya Pradesh³⁰³. He met Aruna and Shanker Singh at the Social Work and Research Center (SWRC) at Tilonia.

4.2.2.2.3 Shanker Singh

Shanker Singh, the only son of a *patwari*, was born in Lotiyana village in Ajmer district of Rajasthan in 1955. At the age of 10, he lost his father. He was left with his mother and inadequate land (1.5 bighas which could hardly yield two months of grain). Her mother brought him up while working as a daily wage labourer on public works³⁰⁴. She supported Shanker Singh's education up to the completion of his high school. However, given the nature of education Shanker Singh had received, difficulties cropped up at every stage of his search for employment opportunities. In his search for a job, he migrated to nearby town Ajmer, which was known in the adjoining areas for poultry farms. According to Shanker Singh, the kind of education he had received in his village school was not suitable for finding a job even in a poultry farm. Why? He tells, most often, poultry farm owners preferred workers who did not have any formal education. While narrating his experience during his search for employment, Shanker

³⁰² World Bank Live, "Nikhil Dey-Activist and Founder, Mazdoor Kisan Shakti Sangathan (MKSS)". <http://live.worldbank.org/> (accessed on 20 August 2015).

³⁰³ Aruna Roy Along with Nikhil Dey, had earlier worked with *Khedut Mazdoor Chetna Sangath*. The organization worked on the land and forest right issues of *adivasis* (Indigenous people) in western Madhya Pradesh. The organization also worked with the *Narmada Bachao Andolan* (Save Narmada Movement) in the context of the organization activities area villages' threat perceptions of displacement due to the Narmada dam. (Amita Baviskar, "Is Knowledge Power? the Right to Information Campaign in India", Paper Presented to the Workshop on Social Movements and National Policy, Institute of Development Studies, *University of Sussex*, UK. September 2007).

³⁰⁴ Civil Society Magazine, "Shanker Singh—Rockstar at the Grassroots", <http://www.civilsocietyonline.com/> (accessed 20 November 2014).

Singh talks about his qualification of senior secondary school, a qualification which proved useless for a job at a poultry farm:

I went to that businessman and demanded work.... He asked me about my education...I proudly said that I was eleventh pass! He said there was no vacancy! However, after an hour, he gave the job to someone else. And he [newly hired person] met me. I asked him about his education. He said he did not go to school! I said, he hired you! I am eleventh pass but he did not hire me! Later I came to know that there was no need of education to work in a poultry farm! Then, I kept my degree aside and went to another poultry farm.... Businessman asked me about my education.... I said, second-third standard.... [He said] Come!... Join! ... [and I] Joined! (Translated from Hindi)³⁰⁵

Doubtless, there were less employment opportunities offered by the kind of education he and the students of his generation had received. This was his experience during his seventeen odd jobs, which he had done before joining as a volunteer with the National Service Scheme (NSS). His communication skill was noticed by persons from the Social Work and Research Center, when he was working as a literacy teacher in the NSS. Aruna Roy and her friends succeeded in persuading Shanker Singh to leave the *Ajmer Prodh Shikshan Samiti* (APSS) and join the SWRC.

Shanker Singh met Aruna Roy at Social Work and Research Centre in Tilonia in 1981. Aruna Roy recalls: “We met in 1981, but when he wanted to stop being a stage person only and to go into social struggle and to live his life differently, our attitudes converged”³⁰⁶. The impact of conversion was visible in the sense that at the Social Work and Research Center (SWRC), Shanker Singh introduced and developed puppetry and

³⁰⁵ Following is the transliteration of Shanker Singh’s transcribed lecture in Hindi, “Senior pass karne ke baad mei us seth ke paas kaam mangane gaya to usne kaha ki phde likhe ho! To meine bade garv se kaha... haan me senior pass hun, to usne kaha abhee jagah nahi hei. Lekin ek ghante baad kisee aur ko lagaya... aur vo mila...meine bola lag gaya tu kaam pei...to ke haan kaam pe lag gaya... meine bola tum kitne padhe ho!... to mei to school hi nahi gaya...tere ko laga diya! mei gyarvee paas hun mere ko nahi lagaya! Phir baad me muje dhyani aya ki yaar poultry farm me...padhai ki kyajarurat hei! ...Phir meine apnee degree ko peeche rakha aur doosare poultry mei gaya... sethji ko kaha ki kaam milega... to haan milega...padhe likhe kitne ho! ... meine kaha ki doosari teesri hun...aa jao... lag jao...lag gaya!”, Shanker Singh, “Fostering Inclusiveness, Plurality and Equal Opportunity”, Azim Premji University Public Lecture Series, Bengaluru, 2011 (Retrieved from <http://www.azimpremjifoundation.org/>). [Author’s transcription, transliteration and translation].

³⁰⁶ Aruna Roy, “Redefining Gurus”, MKSS, <http://www.mkssindia.org> (accessed on 29 January 2014).

worked with Tripurari Sharma and Lakshmi Krishnamurthy of National School of Drama (NSD). He continued to work in the communication unit at SWRC until he along with Aruna Roy and Nikhil Dey decided to leave for Devdungri village.

It becomes clear from the above discussion that the founding members of the Mazdoor Kisan Shakti Sangathan had lived different lives in different socio-economic and political contexts before meeting at the Social Work and Research Center, Tilonia. However, the dissimilarities in terms of their socio-economic and political background did not stop them from coming together and identifying similarities in their socio-political and economic ideas. These similarities were present in Aruna Roy, Shanker Singh, and Nikhil Dey's concern and desire to work for the poor, which eventually emerged in the founding principles of the Mazdoor Kisan Shakti Sangathan and shaped many of its ideological underpinnings.

4.2.3 Ideological Underpinnings of the Mazdoor Kisan Shakti Sangathan

4.2.3.1 Non-Party Political Process

As stated above, the journey of MKSS from its formative days till date is also the journey of some ideas intended to transform the lives of people at the grassroots, which can be located in its founding members' public statements and activities. One of the founding ideas of MKSS is its preference for non-party political process. MKSS considers itself as a peoples' organization and a part of non-party political process in India:

The MKSS has resisted the definition of its work being externally classified by various government and academic categories. It engages with development issues but is not a registered society – so superficially classified as an “NGO”. It engages with issues of labour, and has been in the process of fostering formation of labour unions for the National Rural Employment Guarantee Act (NREGA) workers. However, the MKSS itself does not fall within the parameters of a labour union. It has had people stand for election at the panchayat level. It sees many of its activities as being political in nature, but it

does not see itself as a political party. That is why it has said that it is a non-party people's organization.³⁰⁷

Clearly, although MKSS treats party political process as an essential element of democracy, it does not follow that path. One reason is shown in politicians' treatment to the process of electoral politics. To break the continuity of such a state of affairs, the interest of MKSS is in reforming electoral process while working in the mainstream and not in a tribal area. However, MKSS does not believe in caste based politics. As Aruna Roy argues, "Collective organising for social change has to have a larger common base for interaction than mere skill, and caste homogeneity. This led me to focus on the issues which were common to all; land, wage structures, employment, agriculture based, and environment based problems"³⁰⁸.

4.2.3.2 People's Organization without Pre-Defined Ideology

Unlike a trade Union, it believes in working in all areas of peasants and workers' life ranging from land issues to governance. It believes in collective leadership and decision making. It works towards a peoples understanding and a support structure. It uses legal spaces to redefining democratic modes and functioning. It does not accept any type of institutional funding from domestic and foreign institutions. It follows Gandhian lifestyles and work ethics with a firm belief in non-violence and participatory democracy.

As an organization MKSS does not follow any pre-defined set of ideology, because it believes that the people who are seeking to bring about change should define an ideology through their own words. In Nikhil Dey's words, "...what is the politics of

³⁰⁷ MKSS, "Story of the MKSS: A Process of Peoples' Political Mobilisation for Democratic Rights", p. 5. Retrieved from- <http://www.mkssindia.org/>

³⁰⁸ Aruna Roy, Nikhil Day, and Shankar Singh, "Living with Dignity and Social Justice - Rural Workers' Rights to Creative Development", 1992, p. 78 (20), <http://www.mkssindia.org/> (accessed on 10 July 2014).

MKSS? It is defined by the people of that area... it is not our language, we might have had in our heart, may be it was Marx, or it was Gandhi, or someone else or Ambedkar (*hamare man mei ho sakta tha Marx thei, ya Ganghi ya koi aur ya Ambedkar thei*), but there we talked about neither Gandhi nor Ambedkar (*hamne vahan na to Gandhi ki baat ki na hi Ambedkar ki baat ki*)... that wasn't our ideology that we took, we wanted to draw an ideology from people who we were with... we knew we were going to work with the poor and whatever the poor decided to work on we would form an organization of the poor,... It was dependent on the poor themselves not any external force.”³⁰⁹ The reason is that ideas borrowed from outside “demoralizes localized action” and “translates a theory which is remote and incomprehensible into an activity which is understandable” and that is why MKSS believes, “Specific ideas must be born locally. The identification of activities must also be locally determined.”³¹⁰

The Mazdoor Kisan Shakti Sangathan believes that “It has been both a strength and a weakness, not to define a pre-set ideology. For the people it has been easier to understand and adjust to a theory that has evolved through their immediate needs, never seen in isolation and always related to larger political, social and other values in society”.³¹¹ For example, MKSS preferred to adhere with Chunni Singh's³¹² interpretation of politics of economic issues at local level and its relationship with the New Economic Policy than to the ideas born outside the area of MKSS activities. In the May Day rally at Bhim, Chunni Singh was able to communicate the importance of the

³⁰⁹ Nikhil Dey's talk with the students of Azim Premji University, *ibid*.

³¹⁰ Aruna Roy, Nikhil Day, and Shankar Singh, “Living with Dignity and Social Justice - Rural Workers' Rights to Creative Development”, 1992, p. 111 (106), <http://www.mkssindia.org/> (accessed on 10 July 2014)

³¹¹ Story of MKSS: <http://www.mkssindia.org/>.

³¹² Member of MKSS.

MKSS's shop in the local market to the local traders as not a threat to them but as a symbol of their survival against the policies of big businessmen.³¹³

Chunni Singh's perception of workers' shop is treated by the Mazdoor Kisan Shakti Sangathan as an important element of its functioning in terms of an "economic collective" apart from an ethical and political collective³¹⁴. The need for MKSS's function of an economic collective was justified as a measure of poor's collective strength, for it was perceived that "For the poor collective action alone can guarantee success even though apparently some of the members may do better if they pursue their personal ambitions. Even if short term successes are linked to individual action being a member of an underprivileged group would mean that any lasting benefit could only come through continued membership of the collective."³¹⁵

The Mazdoor Kisan Shakti Sangathan (MKSS) believe that, "any organisation for social change...has to derive its strength from the people it intends to benefit. It must work with them, carrying them along in a process which is politically determined, but which uses all experience as education. To learn about the reasons for poverty, for the denial of democratic rights in an independent country, and to understand too the ethics needed for such change. The organisation collectively, and individuals within the collective have to understand the need for leading a non-dichotomous ethical existence. There can be no public integrity and private opportunism. The organisation's priorities must be decided by the people who form it. Decision making must be democratic, with integrity at all levels. This is extremely important because an amoral

³¹³ Aruna Roy, Nikhil Day, and Shankar Singh, "Living with Dignity and Social Justice - Rural Workers' Rights to Creative Development", 1992, p. 111-113 (1-2), <http://www.mkssindia.org/> (accessed on 10 July 2014)

³¹⁴ Aruna Roy, Nikhil Day, and Shankar Singh, "Living with Dignity and Social Justice - Rural Workers' Rights to Creative Development", 1992, p. 62 (4), <http://www.mkssindia.org/> (accessed on 10 July 2014)

³¹⁵ Ibid., p. 61 (3).

perception, or an opportunistic perception of the universe cannot lead to the creation of a world in which equality and social justice, are stated values.”³¹⁶

4.2.3.3 Participatory Governance

The ideological underpinnings of the Mazdoor Kisan Shakti Sangathan can be grounded in their belief in participatory governance, collective leadership, and collective decision-making. MKSS does not recognize the state which stands external to citizens, hence does not draw a line between political and civil society. Songs and slogans used by MKSS activists indicate this position. For example, “SARKAR HAMARE AAP KI... NAHIN KISI KE BAAP KI! (the government is ours... not the inheritance of a feudal few), “HAMARA PAISA- HAMARA HISAB!’ (our money- our accounts’)”³¹⁷.

According to MKSS collective, “we as citizens have played our democratic roles with eyes blindfolded, our hands tied behind our backs. Democracy itself has become the captive domain of representatives and officials. But much of this has been allowed to happen with protests being confined to the decisions taken, and their fallout, rarely questioning the process of decision making itself.”³¹⁸ MKSS leaders such as Aruna Roy and Nikhil Dey treat the contemporary state as a mechanism used by “vested interests” in minimizing the impact of people’s mobilisation by ignoring, promising but not delivering, delaying, and finally wearing out and deflating people’s demands for change by using all means. Roy labels it as a “peaceful” yet diabolical method of maintaining the *status quo*. Roy believes it essential for the citizens to “ask questions, demand answers, suggest changes, oppose where necessary, build where possible, and at the very least become informed participants in the decisions that are going to affect

³¹⁶ Ibid., p. 118 (8).

³¹⁷ Story of MKSS: <http://www.mkssindia.org>.

³¹⁸ MKSS Collective, “The Problem” in “Speaking Truth to Power: A Symposium on People’s Right to Information”, *Seminar*, Issue 551, July 2005.

their lives”³¹⁹ According to Roy, the state owes much to its citizens in making it an informed and independent entity: “The demand for debate and discussion of policies in the public domain, the right to make informed choices, the demand for transparency and accountability are the poor persons’ and the ordinary citizens’ gift to making India really independent. The astute common sense of the ordinary citizen has raised the most scientific, intelligent arguments without jargon or rationalization”³²⁰. Such an argument of MKSS movement regarding public policy making in India has found space in the RTI Act 2005.³²¹

4.2.3.4 Gandhian Ethics of Simplicity and Non-Violence

In addition to the above discussed ideological standpoints, the Mazdoor Kisan Shakti Sangathan is ideologically committed to match its lifestyle and work ethics with “the community to which it belongs”. Given the commitment, “The lifestyle in the MKSS is subjected therefore to the same restrictions and facilities that exist in the community around it. This is not to say that there are no additional facilities available for its use. However, thought is given to using only those facilities that it is felt are practical, and do not contradict with the basic working norms of the organisation.”³²²

4.3 Conclusion

The chapter has discussed the factors which led to discontentment among people against the backdrop of the persisting colonial legacy of official secrets. After Independence, the hope of people that the state would be able to fulfill the welfare goals, for which the various development plans were made and implemented, remained a hope only. The centralized model of development plans and implementation undertaken by

³¹⁹ Aruna Roy, “Information, Democracy and Ethics”, Twelfth Shri. B.V. Narayan Reddy Memorial Lecture, at *Indian institute of World Culture*, Bangalore, 2000. Retrieved from <http://www.mkssindia.org>

³²⁰ Aruna Roy, “The idea of India”, *Livemint & The Wallstreet Journal*, 2007, May 11. Retrieved from <http://www.livemint.com>

³²¹ The RTI Act 2005 has been dealt with in detail from various angles in chapter 6.

³²² MKSS, “Story of the MKSS: A Process of Peoples’ Political Mobilisation for Democratic Rights”, p. 6. Retrieved from- <http://www.mkssindia.org/>

the state produced several side-effects. The politician-bureaucrat nexus was one of them. The nexus, rooted in the bureaucratic approach, was served by arm-chair-specialization, which failed to deliver success. People were seldom consulted in the whole exercise of policy making and implementation. Plans were imposed from the top while the implementation machinery at the bottom of administration remained trapped in the colonial and feudal mindset. The result was that instead of becoming a people-centric and participatory administration, the machinery of the state remained centralized and non-participatory. The state led centralized mode of development plans and the persisting colonial legacy of institutions and administrative culture of official secrecy exposed the limitations of party political process, which was evident in the affairs of the Indian National Congress (INC) of the 1960-1970s in terms of intra-party conflict and the imposition of emergency. Social activists began to feel the constraints of bureaucratic administration, especially administrative culture of official secrecy. It was against that background that the civil society movement began to emerge in the form of grassroots movements. An overview of some civil society organizations in post-independent India, especially of those organized under the banner of the Coordination of Democratic Rights Organisations (CDRO) and the National Alliance of People's Movements (NAPM) is provided. This overview has helped us in terms of focusing on the leading civil society organization in the domain of governance reforms. The rise of the MKSS movement was an important initiative of people against the backdrop of the inadequate administrative reforms in the context of the persisting colonial legacy of institutions and administrative culture of official secrets. The discussion of the organizational structure and ideological underpinnings of MKSS has provided an outline of its guiding principles to the struggle for governance reforms, which is examined in the next chapter.

Chapter 5

Mazdoor Kisan Shakti Sangathan and the Process of Mobilization for Governance Reforms

The previous chapter analysed how the discontentment of the persisting colonial legacy of centralized institutions, administrative culture of official secrecy, and inadequate administrative reforms led to the rise of civil society movement in post-independent India. After highlighting the various civil society organizations for people's rights and liberties, it focused on the Mazdoor Kisan Shakti Sangathan (MKSS). The reason for doing so was that it was found to be the most representative case of civil society movement for governance reforms in the context of the debate on good governance and administrative reforms in post-independent India. The chapter then went on to examine the organizational structure and ideological underpinnings of the MKSS. It was found that the MKSS was one of the civil society organizations that emerged as an alternative to the party political process in the 1990s. It was a time, when the civil society movement was largely focused on the question concerning the challenges of globalization and its impact on the idea of good governance. Keeping the analysis of the last chapter in view, an attempt is made in the present chapter to examine the process of mobilization for governance reforms in terms of bringing about transparency through right to information and ensuring accountability through social audit.

In this vein, the chapter examines initial struggles of the founding members of the MKSS, their struggle against a feudal land lord involving the issue of land reallocation, and the process of mobilization for governance reforms under the banner of the Mazdoor Kisan Shakti Sangathan involving the issues of right to information. The chapter does so by highlighting the innovative ways (such as *Jan Sunwais*, *dharnas*,

ghotala rath yatras, street theatre, songs and slogans, *truck yatras*, *jawabdehi yatras* etc) adopted by the MKSS to bring about transparency and to ensure accountability. In order to highlight the significance of *jan sunwai* as a mechanism of social audit, the chapter discusses ten *jan sunwais* including the first *jan sunwai* held by the MKSS at Kot Kirana in 1994. While discussing the tactic of *dharnas* (sit-ins), the chapter points out the importance of the two non-violent *dharnas* held at Beawar (1996) and Jaipur (1997), which led to the transformation of the demand for the right to information from local to state and state to national level. The chapter ends with concluding reflections.

5.1 Initial Struggles of the Founding Members of the Mazdoor Kisan Shakti Sangathan

Almost a decade before the formal announcement of the formation of the Mazdoor Kisan Shakti Sangathan, one of its founding members Aruna Roy had gained firsthand experience of the landless workers' struggle against lower wage payments in nearby Harmara village in 1981, which was led by a former trade unionist Naurati Bai³²³. The Andolan had declined with mixed results. However, after two years, the Supreme Court gave a verdict in favour of minimum wages in *Sanjit Roy vs. State of Rajasthan 1983, SCC (1)525*³²⁴. The verdict was celebrated as the ultimate success of the Harmara Andolan.

The Harmara Andolan, especially the nature of women participation, woman leadership and related events had left long-lasting impressions upon Aruna Roy³²⁵. However, the impression created by the leadership was not enough to start yet another

³²³ Kanchan Mathur, *Countering Gender Violence: Initiatives Towards Collective Action in Rajasthan*, Delhi: Sage Publications, 2004, p. 263.

³²⁴ The verdict came after a hearing on a Public Interest Litigation, which was filed in the Supreme Court by Justice P.N. Bhagwati.

³²⁵ Aruna Roy recalls Naurati's inspiring activities: "... she became first my initiator, and later a comrade struggling against injustice. I learnt the rudiments of mobilisation from her. I also understood what courage meant when she first struck work with 500 fellow workers and then faced the wrath of the village.", "Redefining Gurus", <http://www.mkssindia.org> (accessed on 12th September 2014).

similar movement. Meanwhile, as stated in the preceding chapter, there was a growing realization during her involvement in handicrafts work at SWRC and nearby village Harmara about the inadequacy of such measures in bringing about transformation.

However, there was no immediate plan to launch any sort of organization. Amid such a dilemma, she along with Shankar Singh and Nikhil Dey moved to Devdungri village in 1987 to work on a research project relating to poverty alleviation programmes. Their arrival and stay at Devdungri was discussed in the area by the local residents with curiosity. For example, Rajni Bakshi's narrative in the following words shows the type of day-to-day 'tea shop gossip' about the founding members of the Mazdoor Kisan Shakti Sangathan at the time of their very arrival in the area:

“[O]ne day Mot Singh noticed some strangers, two men and a woman, carrying out repairs on his neighbour Jait Singh's empty house.... The tea-shop gossip was soon rife with conjectures about the strangers. It turned out that one of the men was Shanker Singh, a cousin of Jait Singh's wife who came from a village about twenty-five kilometres eastwards down the road.... [T]he other young man... Nikhil was, like Shanker.... [B]henji was the greatest mystery in this small group.... Once upon a time, murmured the tea-shop gossips, she was a collector somewhere. This made no sense at all. Collectors, both present and former, roamed about in jeeps and cars not in the local bonerattling buses and certainly never went about on foot. And what did she plan to do in Devdoongri...?”³²⁶

But, other than completing the project work, there was no radical plan at that moment which could add up to the 'tea-shop gossip'. However, things started taking a different turn when Aruna Roy, Shanker Singh, and Nikhil Dey interacted with Lal Singh³²⁷, who came to help them in fixing the rooftop of their mud-house. The Mud house (Figure 5.1), a symbolic representation of ideological inclination towards Gandhian ethics of simplicity and their linkage with the grassroots, continues to serve

³²⁶ Rajni Bakshi, "Devdoongri: Life along the black tarred road", *Bapu Kuti: Journeys in Rediscovery of Gandhi*, New Delhi: Penguin, 1998, pp.13-14.

³²⁷ Lal Singh, a resident of Sohargarh, had worked as a Constable of Police in Rajasthan Police Department. He was one of the Constables who took part in a hunger strike against the unlawful practice of forcing Constables by their senior officers to do domestic work for them and eventually got himself dismissed from the job.

as home and office of the Mazdoor Kisan Shakti Sangathan. Aruna Roy, Nikhil Dey, and Shanker Singh came to know, through Lal Singh, about Sohargarh and the misuse of common land by a local “feudal landowner” Hari Singh³²⁸. Eventually, they got engaged with the people of Sohargarh in dealing with the issue of land reallocation.

Figure 5.1: Mud House—MKSS Home and Office at Devdungri



Source: <http://www.mkssindia.org/>

³²⁸ Neelabh Mishra, “People’s Right to Information Movement: Lessons from Rajasthan”, New Delhi: UNDP, 2003, p.4.

5.1.1 The Struggle for Land Reallocation and Minimum Wages

The struggle for reallocation of land at Sohargarh village involved direct confrontation with Hari Singh and his loyalists³²⁹. The people of Sohargarh were being oppressed and exploited by Hari Singh who had been illegally possessing a piece of common land for a long time and had been violating human rights. Hari Singh's activities, his loyalists' support, and the 'feudal hangover'³³⁰ made things difficult for the people who wanted transformation. However, with the support of MKSS, people in Sohargarh kept waiting for an opportunity, which they got during the local Sub Divisional Magistrate's (SDM) visit to nearby town Bhim as part of the campaign called *Prashasan Gaon ki Aur* (Administration to the village). But nothing concrete could be achieved as the Collector gave a split decision on reallocation of the common land.

In order to cope with the situation created by the administrative decision, women were assigned central role in the struggle and to actualize it, a women co-operative was created (Figure 5.2). Then, a claim was made on behalf of this cooperative. Eventually the land was assigned to the women co-operative. However, despite legal success, actual possession of land took some time due to the fear among villagers from Hari Singh's loyalists. Although Hari Singh did not stop old practices of

³²⁹ Rajni Bakshi narrates such an incident of Hari Singh's 'goons' attempt to threaten the people of Sohargarh in as follows: "But the actual attack came unexpectedly. The thakur's men had burst into Sohargarh brandishing swords and lathis, which was enough to frighten most people. Then they had come in search of Lal Singh, and his friend Bhanwar, as the perceived leaders of the new spirit in Sohargarh. To their utter surprise Bhanwar did not turn and flee into the house but stood his ground and even tried to reason with them. Hari Singh's men gaped at Bhanwar for just a moment. They were about to split his head open with a sword when a shout went up and virtually the whole village came rushing towards Lal Singh's house. Most people grabbed the nearest object that could be handy as a make-shift weapon. The thakur's men beat a hasty retreat." (*Bapu Kuti: Journeys in Rediscovery of Gandhi*, New Delhi: Penguin, 1998, p. 19).

³³⁰ The problem of feudal hangover continues to haunt the relationship between citizens and governments in a 'modern' democracy like India. Instead of claiming the benefits of development as their right, people look at the Government as their patron. They "see the Government in much the same way as they saw the feudal lord. Mai baap, datha, anna datha etc are common words used to by the people to address the civil servant, bureaucrat or politician who visits the village." (Aruna Roy, Nikhil Day, and Shankar Singh, "Living with Dignity and Social Justice - Rural Workers' Rights to Creative Development", 1992, p. 156 (5), <http://www.mkssindia.org/>(accessed on 10 July 2014).

threatening his village people, the success in land-reallocation infused confidence in the Devdungri group and in the people of Sohargarh and nearby villages.

Figure 5.2: Images showing struggle of the Sohargarh *Mahila Sangarsh Samiti* (1990)



Source: <http://www.mkssindia.org/>

Preeti Sampat and Nikhil Dey mention such an incidence: “One day Nikhil and Shankar accompanied Surendra (a consultant appointed by the society), who was going to Sohargarh to make payments for construction works around the bida. The thakur’s men waylaid them on the way back, and beat them up. Subsequently, people from three villages (Sohargarh, Kushalpura and Dhapda) took out a protest rally, marching to the sub-divisional headquarters of Bhim and raising slogans against the thakur. A decisive ‘moment of transformation’ in social and political consciousness took place when those returning from the rally stopped their bus in the thakur’s village and shouted slogans, loudly denouncing him in his own domain.”³³¹

In addition to the land struggle, the question of minimum wages was one the first issues taken up by MKSS at Devdungri³³². It was taken up when a couple working at *Dadi Rapat* approached MKSS and discussed the issue of low wages. This case was similar to the case of Harmara wageworkers issue. Therefore, this time the leadership was clear on the course of action to be taken. Soon after this, the Mazdoor Kisan Shakti Sangathan was created on the May Day of 1990. As an organization MKSS began to address issues which had broad implications. To prove their claim for minimum wages the agenda was set forth to fight for access to information.

5.1.2 The Struggle for Right to Information

The Mazdoor Kisan Shakti Sangathan had to struggle for accessing government records pertaining to development works as administration was unwilling to accept the demand for access to information as citizens’ right. The struggle for the right to

³³¹ Preeti Sampat and Nikhil Dey “Bare Acts and Collective Explorations: The MKSS Experience with the Right to Information”, *Sarai Reader*, 2005: *Bare Acts*, p.387.

³³² Aruna Roy, Nikhil Day, and Shankar Singh, “Living with Dignity and Social Justice - Rural Workers’ Rights to Creative Development”, 1992, p. 150 (104), <http://www.mkssindia.org/> (accessed on 10 July 2014).

information began at local level and snowballed into a state and national level. An attempt is made in the few pages to examine the factors that led to the transformation of a local demand to access government records into a question of citizens' right while dealing with the chronology of the demand for legalization of the right to information.

5.1.2.1 The Rise of the Demand for Right to Information at Local Level

Although, greater accountability was being demanded by the social movements of the 1980s and the 1990s, they were not focused directly on the right to information.³³³ Mazdoor Kisan Shakti Sangathan was, perhaps, the first movement to exclusively focus on the linkage between the right to know and the right to work. The struggle for the right to information led by the Mazdoor Kisan Shakti Sangathan was an outgrowth of their struggle for minimum wages. Nikhil Dey clarifies that the shift in the demand from minimum wages to documented information is as follows:

“The demand all along was give us our minimum wage. But then slowly the demand changed to saying show us where we have not worked. You claim you are not giving us wage because we have not worked. Show us that! Show us that, show us those documents. And that was the seed of actually the right to information in that area, saying we want copies of our muster rolls. We want copies of those measurement books, which show us, you claim, that we have not worked. And so by about 1992, the primary demand became, we want copies of bill vouchers, and muster rolls”³³⁴.

Further, the emphasis on right to information began in the context of arbitrary interpretations of the IOSA 1923 by officials regarding the local people's accessibility to muster rolls. Sowmya Kidambi presents this narrative in the following way:

“Why did people initially battling for full payment of minimum wages now start battling for the right to inspect records? It turned out that each time the labourers protested at rural employment work sites about the non-payment of wages, they were told that they did not work hard enough ... When asked for proof, they were told that the measurement book indicated that they had not completed their assigned tasks. It was at this point that MKSS members working on the sites decided to ask for the right to inspect records maintained

³³³ Amita Baviskar, “Is Knowledge Power? the Right to Information Campaign in India”, Paper Presented to the Workshop on Social Movements and National Policy, Institute of Development Studies, *University of Sussex*, UK. September 2007. (hereafter, Amita Baviskar, “Is Knowledge Power”, 2007).

³³⁴ Nikhil Dey, Speech at 2010 AID-US Conference, Seattle, 2010, *Association for India's Development*, Retrieved from- <http://www.aidindia.org/>

by the administration, including copies of bills, vouchers, labour lists (muster rolls), measurement books, and other records. Our initial demand was followed by an official denial from the administration, which said that, “according to the Official Secrets Act, 1923, all this information was a state secret and could therefore, not be divulged to the public.”³³⁵

This was enough for MKSS activists to realize that until they get access to important documents like muster rolls and measurement books relating to draught relief work their battle for minimum wages would not turn into success. The following is one such discussion of MKSS members at their Devdungri office:

“It was one cool evening when we sat on the chabuthra (platform) outside our mud hut – Mohanji, Narayan, Lal Singh, Kheemu, Chunni Bai, Anshi, Shankar, Kalu, Chunni Singh, Hanswarup, Susheela, Nikhil and I, amongst others – and discussed the futility of expecting any semblance of ethical action by a corrupt and alienated administration. It is an evening I will never forget. They articulated the growing recognition over years of struggle and what became the Right to Information (RTI) campaign’s basic assumption. With amazing clarity and simplicity they said, “So long as these records do not come out, we will always be liars. They have to come out, if we are to survive.”³³⁶

Clearly, the struggle for right of citizen to access information began when MKSS realized the inadequacy of existing legal space in substantiating their claims about misuse of public funds during a series of self-organized *jan sunwais* (public hearings) (Table 4.1). During the first phase (1994-95) of *jan sunwais* MKSS realized the need to look towards the tactic of *dharnas* for demanding access to information as a legal right³³⁷. Nikhil Dey points out the limitation in as follows:

“People started modes of public hearing where records were placed in the public domain... As soon as they were placed, it became dramatically obvious that those records of people were supposed to have worked had dead people’s names, buildings that did not exist were existing on paper, roads that did not exist existed on paper and they were revealed in meetings.... And that changed the whole dynamics of everything. We moved then and immediately the whole system and structure, from the lower bureaucracy right upwards, clamped down to say no information! And so such public audits the way that they are taking place. So...we realized that we couldn’t be caught in our own area of few districts or a particular state and we started travelling around in caravans,

³³⁵ Sowmya Kidambi, “Right to Know, Right to Live: Building a Campaign for the Right to Information and Accountability”, *The Center for Victims of Torture*, USA, 2008, p.7.

³³⁶ Cited by Sowmya Kidambi, *ibid.*, p. 8.

³³⁷ Various dimensions of *Jan Sunwai* as a tactic of resistance for transformation has been discussed in section 4.2 of this chapter.

we realized that we would have to demand legislations, so we had a first sit-in of forty days.”³³⁸

The Beawar Dharna (April-May 1996) (Figure 5.2), which lasted for 40 days, proved to be a turning point. During the dharna, the activists tabled their demand before the state government for access to information as a legal right. Nikhil Dey claims, “Hundreds of poor people who did not have money if they did not earn that day that family couldn’t eat. But they sat forty days and forty nights in those sit-ins. They contributed wheat, they contributed food...to demand the people’s right to information, which...shocked people right across the country because they had said that this something that...is an academic issue or freedom of expression issue, the affluent people would want this, newspaper people would want this. But what a poor illiterate people asking for this.”³³⁹.

The state government responded positively to the demands of the Mazdoor Kisan Shakti Sangathan and issued an order, which allowed the citizens to inspect the record (without the right to claim a personal copy of the records) relating to development work at local level. Motivated by the partial success, MKSS activists launched a parallel dharna in May 1996 in Jaipur outside the secretariat building. The dharna was lifted only with the announcement of Arun Kumar Committee by the state government.

5.1.2.2 The Consolidation of the Demand from Local to State and from State to National Level

When the Arun Kumar Committee recommendations turned out to be merely a paperwork and when no signs of a legal right to obtaining a photo copy of the records

³³⁸ Nikhil Dey, Speech (“Empowering Ordinary People in India”) at the closing plenary on *The Anatomy of a People's Movement* at the Skoll World Forum 2010. Retrieved from- https://www.youtube.com/watch?v=TXP_eO5Th5o.

³³⁹ Nikhil Dey, *ibid*.

concerning development work relating to draught relief, MKSS activists launched a dharna in Jaipur in May 1997 (Figure 5.3) with the support of leading media persons, journalists, and organizations such as the National Campaign for People's Right to Information (NCPRI)³⁴⁰, which lasted for more than 50 days.

Figure 5.3: Images of People Participating and Speaking in the Beawar Dharna (April-May 1996)



Source: <http://www.mkssindia.org/>

³⁴⁰ The NCPRI was formed in 1996 by some eminent social activists, journalists, lawyers, professionals, retired civil servants and academics including Aruna Roy, Nikhil Dey, Prabhash Joshi, Bharat Dogra, Ajit Bhattacharjea, Prashant Bhushan, Shekhar Singh, K.G. Kannabiran, M.P. Parameswaran, S.R. Sankaran and Renuka Mishra. Its primary objective was to campaign for legalization of citizens' right to information at the national level. In the year 1996 itself, the NCPRI and Press Council of India took initiative in drafting a Right to Information (RTI) law and submitted it to the Government of India (GOI) in the same year. It was in response to this initiative that the GOI constituted a working group under the chairmanship of H.D. Shouri in 1997.

The dharna was lifted after a gazette notification in 1997 by the state government. The notification was a declaration of citizens' right to access, inspect, and take a copy of government records relating to development works implemented by the Panchayati Raj Institutions (PRIs) at village level.

Figure 5.4: Images of People Participating, Speaking, and Debating during the Jaipur Dharna (May 1997)



Source: <http://www.mkssindia.org/>

Empowered with these rights MKSS activists launched the second phase (1998-2001) of *jan sunwais* beginning with the Kukarkheda *jan sunwai* (Table 4.1). The second phase of *jan sunwais* witnessed increase in participatory mobilization of people. There was a noticeable change in people's perception about *jan sunwais*. So much so that the local state administration including elected representatives could no longer ignore *jan sunwais*. Meanwhile, the MKSS demand for the right to information at the state level continued, which also found support from the opposition Congress party.

5.1.2.3 Response of Rajasthan Government and Enactment of the Rajasthan Right to Information Act 2000

During the first phase of *jan sunwais*, when the ruling BJP party was reluctantly issuing orders and notifications as part of the compulsions of electoral politics, the opposition Congress party adopted the MKSS agenda concerning the legalization of citizens right to information. Soon after coming into power in 1998, the year of the beginning of the second phase of *jan sunwai*, Congress government under the Chief Ministership of Ashok Gehlot, appointed the P.N. Bhandari Committee to draft a Right to Information bill to be presented in the state Assembly. The appointing of the Bhandari Committee was Congress party's first step in carrying out its election manifesto. However, MKSS and NCPRI found it a one dimensional policy process and opposed the absence of people's participation in drafting a legislation which was ultimately going to affect their lives. They went on to draft a similar bill and submitted it to the P.N. Bhandari Committee. The Committee included many of the provisions of the draft bill prepared by MKSS and NCPRI.

The bill was finally transformed into Rajasthan Right to Information Act, which came into force on 26 January 2001. Having achieved success at the state level, the

MKSS activists started mobilizing like-minded activists group such NCPRI³⁴¹. In association with NCPRI, MKSS activists were actively engaged in the campaign for legalization of right to information at the national level. Meanwhile, the H.D Shouri Committee report had been made public in 1997.

5.1.2.4 Response of Union Government and Enactment of the Right to Information Act 2005

Based on the H.D Shouri Committee recommendations a Freedom of Information Bill was drafted and tabled in the Parliament. The Bill was referred to the Parliamentary Standing committee on Home Affairs. The Committee submitted its report in 2001. Finally, the revised draft of the Freedom of Information Bill, 2002 was passed in December 2002. However, The Act was a completely modified version of the draft, therefore, the NCPRI did not accept the Act. Shekhar Singh, the convener of the NCPRI, and other members adopted various strategic methods including the tasks of organizing workshops, reaching out to different sections of elite society and trying to convince them that the legalization of the right to information would also benefit them in terms of being informed citizens.³⁴²

The very organizational structure and leadership of the NCPRI was modelled on the ways in which MKSS had been functioning since its inception. Thus MKSS had carved out a space for its political agenda at the national level campaign. One of its ideological position was to favor a strong state, which reduces the boundary between

³⁴¹ One of the key linkages between the NCPRI and MKSS was the presence of Harsh Mander, who has known Aruna Roy for many years through Tilonia before the formation of MKSS. Harsh Mander had played a key role in taking steps towards transparency and accountability when he was a Commissioner in Madhya Pradesh. During the year of 1993, he had spent some time with MKSS activists who were then engaged the process of social auditing. He realized the potential of MKSS work as of national and international importance. Later when he moved to the Lal Bahadur Shastri National Academy of Administration in Mussoorie, he (encouraged by the then Director Dr N. C. Saxena) organized a national workshop on the right to information at the Academy. This workshop was attended by Aruna Roy. This workshop paved the way the drafting of national right to information law and to form the NCPRI. (Amita Baviskar, "Is Knowledge Power?", *ibid.*, 2007).

³⁴² Amita Baviskar, "Is Knowledge Power?", *ibid.* 2007.

the state and the citizen. However, this was a part of strategic approach to convince those who represent the state with the message that well-informed citizens are essential for a strong state. Therefore, to make it sure, the state representatives should empower the citizens by legalizing the right to information.

The message was strong enough to attract the attention of political parties such as the Indian National Congress at the national level³⁴³. This was facilitated by the close political relationship between Aruna Roy and Sonia Gandhi, which involved numerous dialogues between the two within the National Advisory Council (NAC) as well outside of it. These talks resulted into one of the important issues for the Congress Party manifesto during the 2004 election. Arguably, MKSS had succeeded in transforming its grassroots struggle for right to know into an important electoral issue for a national level party. It was a major achievement for the activists of the Right to Information campaign.

The result was that when in 2004, the United Progressive Alliance (UPA) got the mandate and formed the government at the center under the Prime Ministership of Dr Man Mohan Singh, it was obligatory on their part to co-operate with the RTI campaign. Interestingly, the UPA had also included the agenda of legalizing citizens' right to information in their Common Minimum Programme, therefore³⁴⁴. In such a politically important context, the UPA government, in a significant political

³⁴³ It may be noted that V.P. Singh, the former Prime Minister, was also interested in a strong right to information Act.

³⁴⁴ One of the assurances given in the Common Minimum Programme of the UPA-I was to make The Right to Information Act more progressive, participatory and meaningful. ("UPA Government to adhere to six basic principles of governance", *The Hindu*, May 28, 2004).

development, formed the National Advisory Council. The NAC included MKSS activists Aruna Roy and others³⁴⁵.

On the recommendation of first NAC meeting, the NCPRI submitted a draft for re-amending the Freedom of Information Act 2002 in 2004. Soon after the NAC submitted a final version of the draft to the Prime Minister's office, the Right to Information Bill 2004 was tabled in the month of December during the Winter session of Lok Sabha. Eventually, the Parliament referred the RTI Bill 2004 to the Standing Committee on Personnel, Public Grievances, Law and Justice. The Committee's report was tabled in the Parliament in March 2005.

In May 2005, the Right to Information Amendment Bill 2005 was tabled in the Parliament. The Bill was passed by the Lok Sabha in the same year. On 15 June 2005, President APJ Abdul Kalam gave his assent to the Bill. On 12 October 2005, the Right to Information Act came into force. Thus the fight of MKSS for citizens' right to information ended with this legislative milestone. The MKSS celebrated it as a big achievement towards empowerment of the marginalized people. Empowered by the Act, MKSS now started focusing on issues related to minimum wage which was raised before the demand for right to know.

5.1.3 Struggle for Governance Reforms- The First Phase (1990-2005)

The struggle of the Mazdoor Kisan Shakti Sangathan' for the right to information and right to work as discussed above included some innovations in conventional ways of expressing resistance for transformation, which involved 'tactics'

³⁴⁵ Some other members included the following: C.H. Hanumantha Rao, D. Swaminathan, Jayaprakash Narayan, Jean Dreze, A.K. Shiv Kumar, N.C. Saxena V. Krishnamurthy, Mirai Chatterjee, and Madhav Chavan. ("National Advisory Council to meet in July", *The Hindu*, Jun 26, 2004.

of *jan sunwai* (public hearing), *dharnas* (sit-ins), *ghotala rath yatra* (chariot of scams), street theatre, songs and slogans, and *truck yatra* (truck journey)³⁴⁶.

5.1.3.1 Jan Sunwai and Social Audit

The Mazdoor Kisan Shakti Sangathan discovered the tactic of *jan sunwai*, according to Sowmya Kidambi, in the wake of their realization about the insufficiency of the tactics of repeated complaints and protests to shake the government and the bureaucracy. According to them, “Protest also generates the emotion and energy which sustain the doggedness necessary for pursuing the issue further. However, modes of protest have their limitations. They fail to draw in those who are not directly affected by the sets of demands. They also fail to give people the space to come to their own conclusions. 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”³⁴⁷.

Jan sunwai, according to Mazdoor Kisan Shakti Sangathan, can be used as (a) a public court which will not pronounce judgements, and (b) a forum for verification and establishment of truth about the role of the bureaucracy and local public representatives in developmental projects carried out by the government.³⁴⁸ A *jan sunwai* is conducted in at least five stages, which include collection of facts, converting them into information, sharing of the information, auditing the information, and publicly validating the information. In order to clarify the idea of *jan sunwai* popularized by the Mazdoor Kisan Shakti Sangathan, the next few paragraphs deal with the main issues, which were raised during the various *jan sunwais* between 1994-2001 (Table 5.3).

³⁴⁶ Sowmya Kidambi, “Right to Know, Right to Live: Building a Campaign for the Right to Information and Accountability”, *The Center for Victims of Torture*, USA, 2008, p. 9

³⁴⁷ MKSS, “From Information to Accountability: Reclaiming Democracy”,

³⁴⁸ Ibid.

Table 5.1 Chronology of Jan Sunwais and Dharnas organized by MKSS, 1995-2001

Place and Time		Issues
Jan Sunwais	The First Phase 1994-95	Kotkirana Jan Sunwai (December 2, 1994)
		First Jan Sunwai in Kot Kirana, Raipur tehsil, Pali district. by MKSS.
		Bhim Jan Sunwai (December 7, 1994)
		Second Jan sunwai in Bhim, Bhim tehsil, Rajsamand district. by MKSS.
		Vijaypura Jan Sunwai (December 17, 1994)
	The Second Phase, 1998-2001	Third Jan sunwai in Vijaypura, Devgarh tehsil, district Rajsamand by MKSS.
		Jawaja Jan Sunwai (January 7, 1995)
		Fourth Jan sunwai in Jawaja, Ajmer District by MKSS 30 Presentation of Public Hearing Findings to ML Mehta. by MKSS.
		Thana Jan Sunwai (April 25, 1995)
		Fourth Jan sunwai in Thana, Mandal block, Bhilwara. organised by a Sarpanch who is also an MKSS activist. Block level officers attend the hearing for the first time.
Dharnas	Beawar (April-May 1996)	Kukarkheda Jan Sunwai (Jan. 9, 1998)
		First Jan sunwai at Kukarkheda Gram Panchayat. It exposed the corrupt practices of the Barar the Barar Sarpanch, the Gram Sewak, and the junior Engineer.
		Surajpura Jan Sunwai (Jan. 19, 1998)
		Second Jan sunwai in Jawaja, Ajmer District. Panelists included V.P. Singh, Ajit Bhattacharjee, Harsh Mander, Pushpa Bhawe, Ved Vyas, Prem Krishan Sharma and others.
		Bori Jan Sunwai (December 18, 1999)
		Third Jan sunwai in Umarwas Panchayat, Rajsamand District. It turned out to be a support structure for marginalized leaders at the Gram Panchayat level.
		Bhim Jan Sunwai (April 3, 2000)
Dharnas	Jaipur (May-July 1997)	Fourth Jan sunwai at Bhim. Held in the wake of the state government ordinance empowering Ward Sabhas to do social audits and development planning. More than 2000 people gathered to witness it.
		Janawad Jan Sunwai (April 3, 2001)
		At Janawad in Rajsamand District. Corruption of ex-Sarpanch of Janawad was exposed. The state government constituted an enquiry committee to look into the issue of Janawad related corruption cases.
	Beawar (April-May 1996)	An indefinite dharna at Chang gate in Beawar was started by MKSS which included around 250 people, more than half of them were women. The dharna lasted for 40 days. The activists got big support from citizens of Beawar and from others nearby places. Eminent media persons, social activists, and journalists extended their support ³⁴⁹ . The dharna was turned into a linkage between the local activists and those in other parts of India. Thus, a local issue was turned into a national level issue.
		It was launched in Jaipur to protest against the state government's failure to implement the Arun Kumar Committee recommendations. The dharna lasted for 53 days. A Ghotala Rath Yatra (chariot of scams trip) was taken out by MKSS in Jaipur and Delhi. The dharna was lifted when the state government issues a gazette notification enabling people to get photo copies of government records relating to development work done by PRIs.

Sources: Neelabh Mishra (2003); MKSS, <http://www.mkssindia.org>

³⁴⁹ These eminent people included Medha Patkar, Swami Agnivesh, Prabhask Joshi, Nikhil Chakravarty, Kuldeep Nayyar, Ajit Bhattacharjee, Vijay Pratap, Anil Prakash, Bhanwari Devi, and GR Khairnar.

5.1.3.1.1 Kotkirana Jan Sunwai—The First Public Hearing organized by the Mazdoor Kisan Shakti Sangathan

Kotkirana *jan sunwai*, held on December 2, 1994 in Pali district of Rajasthan, was the first ever attempt of the Mazdoor Kisan Shakti Sangathan to examine their innovative mode of *jan sunwai* in the presence of eminent activists, politicians, journalists, victims of corruption etc. The *jan sunwai* was an outcome of a long process of collecting and verifying of information, establishing the correctness of accounts of the public records, providing opportunities to the victims of corruption in development works. The task was undertaken by the MKSS after hearing the complaint of large scale corruption in development works in Kot Kirana Panchayat of Raipur Block in Pali District, from a villager who had not been given his full wage.

Eventually, after receiving the complaint from the MKSS, the Block Development Officer (BDO) Nirmal Wadhwani, who was a young probationer of the Indian Administrative Service (IAS), conducted an enquiry. The BDO's enquiry exposed rampant corruption in development works in Raipur Block. For example, it was found that accounts related to the construction of Patwar Bhavan (revenue building) in Kot Kirana Panchayat was not matching the ground reality. Bills showing the purchase of stones worth Rs 7,100 were found to be false. The MKSS decided to hold a *jan sunwai* when it was found that the administration had not taken serious action against the engineer, who was involved in the corrupt practices relating to the development works in Raipur Block. as the stones used in the building were old, new stones were never purchased.³⁵⁰ The *jan sunwai* was presided over by Social Worker Renuka Pamecha in the presence of Bunker Roy of Social Work and Research Centre (SWRC), Tilonia and Sawai Singh of Samagra Sewa Sangh (SSS), Jaipur.

³⁵⁰ Neelabh Mishra, *ibid.*, p.8.

Figure 5.5: Images of Kotkirana *Jan Sunwai* (1994)



Source: <http://www.mkssindia.org>

However, no state representative was present at the venue of the *jan sunwai*. During the *Jansunwai*, poor people from nearby villages, who had gathered under a tent (Figure 5.6), which was made out of a parachute, were left in disbelief when they heard the type and scale of corruption in implementation of development work programmes and schemes:

“...outraged people came and testified that they had never gone to those work sites, that false signatures had been used and that there were names on the muster rolls of people dead and gone, and others unheard of. The finger was pointed at the retired teacher Moti Singh who had entered the names, the Gram Sewak who made the payment and the Junior Engineer who had certified that the work was done and payments made in his presence. The people fearlessly spoke against the former Deputy Speaker of the Rajasthan Vidhan Sabha, who had camped in the village prior to the hearings, intimidating the villagers to change their statements against the accused. When bills and vouchers of the unfinished Patwar Ghar were read out, the people learnt that they had a ‘complete’ Patwar Ghar— at least on paper. The bills of roofing material, doors and windows, when read out elicited a great deal of laughter for there was no roof and there were only holes for doors and windows. When the laughter died down, there was consternation, anger and eventually an official First Information Report (FIR)”³⁵¹.

The Kotkirana *jan sunwai*, according to the MKSS “established the importance of information for the people, and exposed the official opposition to disclosure of records. This flagged off the struggle for the people’s Right to Information”³⁵². The next *jan sunwai* in the series was the Bhim *jan sunwai*.

5.1.3.1.2 *Bhim Jan Sunwai*

Bhim *jan sunwai* (Figure 5.6) was held on December 7, 1994, within a week after Kotkirana *jan sunwai*. The *jan sunwai* was presided over by Harish Bhadani, a well-known progressive poet from Rajasthan. Except the Tahsildar, none was present in the *jan sunwai* from the local or state administration. The process of the *jan sunwai* was similar to Kotkirana *jan sunwai*: Activists from the Mazdoor Kisan Shakti Sangathan read out government records which included audited statements of

³⁵¹ Quoted by Neelabh Mishra, *ibid.*, pp. 9-10.

³⁵² Aruna Roy, Nikhil Day, and Shankar Singh, “Living with Dignity and Social Justice - Rural Workers’ Rights to Creative Development”, 1992, <http://www.mkssindia.org/> (accessed on 10 July 2014).

development work related bills, vouchers and muster rolls. Followed by this, people were called on to the stage to testify the records relating to rural development work.³⁵³

Figure 5.6: An Image of Bhim Jan Sunwai



Source: <http://www.mkssindia.org>

During the *Bhim jan sunwai*, the activists with the help of people's feedback detected a fraud of Rs 37 lakh by Bhairon Nath and Company. It was found that the government auditors had checked and cleared the company despite the fact that it existed only on papers³⁵⁴. Based on the detection, a First Information Report (FIR) was lodged with the anti-corruption department against the company, which was owned by relatives of the block level officials³⁵⁵.

³⁵³ Neelabh Mishra, *ibid.*, 2003, p. 11.

³⁵⁴ Aruna Roy, Nikhil Dey and Shanker Singh, "Demanding Accountability", *Seminar*, p.2.

³⁵⁵ Deepti Priya, 1996 p.83.

5.1.3.1.3 Vijayapura Jan Sunwai

Vijayapura *jan sunwai* (Figure 5.7) was held on December 17, 1994 in Deogarh block of Rajsamand district, which was attended by the villagers of seven neighboring Panchayats as well by the people from Raipur, Bhim, and Kukra in Rajsamand District and Silora and Jawaja from Ajmer District. A Rajasthan cadre IAS officer Aditi Mehta also attended the *jan sunwai* in her personal capacity. The *jan sunwai*, which was presided over by Lokayan Editor and socialist activist Vijay Pratap, attracted nearly 500 people from the Gram Panchayats of Vijayapura, Swadari, Miyala Tal, Aldas Ka Guda, Lasani, and Diwer³⁵⁶. One of the major issues taken up by the Mazdoor Kisan Shakti Sangathan during the *jan sunwai* was the scam surrounding the Integrated Child Development Scheme (ICDS) related Anganwadi works.

During the *jan sunwai*, Anganwadi workers spoke about a scam involving their two supervisors. It was testified that over a period of four years, about Rs 14 lakh had been misused from the Scheme by the two supervisors for their personal gains. The money was accounted in the name of community spending on items which included chairs, tables and other material, including medicines³⁵⁷. Another issue, which was exposed during the *jan sunwai*, was fraudulent public auction of Panchayat pasture worth over Rs. 70 lakhs on the basis of false attendance of the 8000 villagers by forging their signatures, who were totally unaware of the public auction. Eventually, the two supervisors were subjected to an administrative enquiry apart from an FIR against the fraudulent public auction.

³⁵⁶ Neelabh Mishra, *ibid.*, 2003, pp. 12-13.

³⁵⁷ Deepti Priya, 1996, p.83.

Figure 5.7: Images of Vijayapura Jan Sunwai



Source: <http://www.mkssindia.org>

5.1.3.1.4 Jawaja Jan Sunwai and the Chief Minister's Announcement regarding access to Government Records

Jawaja *jan sunwai* was held on January 7, 1995 despite lack of access to official records. Interestingly, rather allowing people to access the records of development works, the gram sewaks of the entire district of Ajmer decided to go on strike. Eventually, the Gram Sewak Sangh (GSS) registered a protest with the State Development Commissioner (SDC) against people's demand for access to the records. Unwittingly, however, the GSS brought the issue of access to information to the state capital and thereby contributed for making the issue of right to information as a state level issue.³⁵⁸ The *jan sunwai* was attended by Tripurari Sharma of National School of Drama, and three senior including Ramesh Nandwana from Udaipur and Marudhar Mridul and Mahesh Bora from Jodhpur. During the *jan sunwai*, corrupt activities of local Gram Sewaks were narrated by five Dalit families of Jalia Peethawas. The families testified that from their Indira Awas housing grant of Rs.9800 each, their gram sewak had taken Rs.1500 from each of them³⁵⁹.

After the Jawaja *jan sunwai*, the Mazdoor Kisan Shakti Sangathan wrote a letter to the government demanding that information should be available to everyone and threatened to launch a state wide agitation in case the government fails to fulfill the demand and if the gram sewaks demand for exemption from information is fulfilled. Although the Mazdoor Kisan Shakti Sangathan did not get any reply to the letter, the then Chief Minister Bhairon Singh Shekhawat announced in the State Assembly the government's promise to give the right to information to the people of Rajasthan in the

³⁵⁸ Deepti Priya, *Economic and Political Weekly*, 1996, *ibid.*, p.83.

³⁵⁹ Neelabh Mishra, 2003, *ibid.*, p.14.

area of works related to Panchayati Raj Institutions (PRIs). The announcement was covered by a Hindi Newspaper Dainik Navjyoti on April 6 1996.

5.1.3.1.5 Thana Jan Sunwai —The First Public Hearing in the presence of Government Officials

Thana *jan sunwai* (Figure 5.8) was held on April 25, 1995 in Mandel Block of Bhilwara District. The *jan sunwai*, according to Neelabh Mishra, “became the first public hearing to be conducted with the active support of the elected Panchayat functionaries – in this case the newly elected Sarpanch and the other elected Panchayat representatives”³⁶⁰.

Figure 5.8: An Image of Thana Jan Sunwai



Source: <http://www.mkssindia.org>

³⁶⁰ Neelabh Mishra, *ibid.*, p.15.

The Thana *jan sunwai* was conducted by Ladu Singh, who was recently elected as the Sarpanch of Thana. The *jan sunwai* was an important event in the sense that the state argument of the administration regarding the norms of material-labour ratio (60:40), which was set by the state government, was exposed by people as a fallacy. It was pointed out by a speaker during the hearing that the adjustment was supposed to in the material and that there was no need to adjust labour. The Gram sewak accepted his role in the case and agreed to return the money, which came to him through manipulation of the norms of material-ratio.³⁶¹

5.1.3.1.6 Kukarkheda Jan Sunwai—The First Public Hearing of Second Phase

Kukarkheda *jan sunwai*, attended by more than thousand people, was held on January 9, 1998. The panel for *jan sunwai* was constituted by Economist Prof. VS Vyas from Jaipur, Prof. Shekhar Singh from Indian Institute of Public Administration, Delhi and Neuro Psychiatrist Prof. Srinivas Murthy from Bangalore. Interesting things happened during the *jan sunwai*. The Sarpanch of Kukarkheda agreed to return Rs. 1 lakh, in two installments of Rs 50000/ each to the panchayat. The announcement of the Sarpanch, however, was not a surprising thing to the MKSS. In fact, the MKSS had persuaded her to accept the fraud, when it was verified by the MKSS activists the Sarpanch had benefitted from a fraud of over Rs 1 lakh. The administration, latter on targeted the Kukarkheda Sarpanch and pressurized her to change her decision to return the money to the panchayat. In another case during the *jan sunwai*, the Barar Sarpanch decided not to cooperate and refused to make the records of bills, vouchers, and muster rolls for public verification. The *jan sunwai* also exposed the fallacy of maintain the norms of labor-material ratio (60:40).³⁶²

³⁶¹ Neelabh Mishra, *ibid.*, p.16.

³⁶² *Ibid.*, p.31.

Figure 5.9: Images of People Participating in Kukarkheda Jan Sunwai (Jan. 9, 1998)



Source: <http://www.mkssindia.org>

5.1.3.1.7 Surajpura Jan Sunwai—The Second Public Hearing of Second Phase

Surajpura *jan sunwai* (Figure 5.10) was held on January 19, 1998 in Jawaja Tehsil of Ajmer District. The *jan sunwai* took place in the presence of former prime Minister Vishwanath Pratap Singh, Ajit Bhattacharjee, Harsh Mander, Pushpa Bhave, Ved Vyas, Prem Krishan Sharma and others. The *jan sunwai* was attended by five Sarpanches including Chhagan Singh (Rawatmal), Kanku Devi (Lotiyana), Omprakash Solanki (Surajpura), Kanku Devi (Badkochra), and Bhanwar Singh of (Jawaja). Around 2000 villagers gathered to witness the *jan sunwai*, which was a sign of increased participation.

During the *jan sunwai* two Sarpanches not only owned responsibility for corruption but also agreed to return the money which was defrauded. Chhagan Singh (Rawatmal Panchayat) agreed to return Rs.1.47 lakh and Om Prakash Solanki (Surajpura) and consented to return Rs.1.15 lakh. The Rawatmal Panchayat corruption was related to showing of a water channel in the records as completed, which actually was never constructed. Instances of fraud bills for 260 bags of cement 99 and trollies

of stone in Surajpura, and false muster roll lists in Lotiyana village were testified during the *jan sunwai*.

Figure 5.10: Images of People Participating in Surajpura *Jan Sunwai* (Jan. 19, 1998)



Source: <http://www.mkssindia.org>

5.1.3.1.8 Bori (Umarwas Panchayat) Jan Sunwai

Bori *jan sunwai* (Figure 5.11) was held on December 18, 1999 in the presence of Rajsamand District Collector Nirmal Wadhwani and Superintendent of Police (S.P.) M.N. Atre, activist Arundhati Roy, and writer Madhu Kishwar. It was the first *jan sunwai* held by the Mazdoor Kisan Shakti Sangathan after change of government in the state from Bhartiya Janata Party (BJP) government to Indian National Congress (INS) government. Further, it was held after the completion of the first year of the government under the Chief Ministership of Ashok Gehlot in the context of the Mazdoor Kisan Shakti Sangathan's interaction with the Ashok Gehlot led government on the question of legalization of the right to information. One of the major cases of misuse of public funds for personal gains taken up during the *jan sunwai* was of Nain Singh's (ward panch) malpractice of converting public facilities into personal facilities. He had been using a public water channel as personal property, which was actually sanctioned for public usage and was constructed at a cost of Rs 2.5 lakhs.

The villagers were not even aware of the fact that the water channel was meant for public usage. Nain Singh had got listed many of his relatives as beneficiaries under the India Awas Yojana (IAY) which was actually meant for poor people. Nain Singh was, in fact, a part of group of people who were benefitted from public funds due to their influence on the Sarpanch Pyarchand. It all started before election of the Sarpanch when Pyarchand was supported by these groups. After winning the election, Pyarchand's lack of awareness about his sponsors intentions caused him the dismissal from the post of Sarpanch. However, citing his innocence, Pyarchand narrated the story to the Mazdoor Kisan Shakti Sangathan. Eventually, he was freed from corruption charges in the absence of any evidence of him as a beneficiary of the corrupt practices

of Nain Singh and his coterie³⁶³. The *jan sunwai* marked a new phase of the right to information movement in Rajasthan³⁶⁴.

Figure 5.11: Images of Bori (Umarwas Panchayat) Jan Sunwai, 1999



Source: <http://www.mkssindia.org>

³⁶³ Neelabh Mishra, "Rural Realities in Rajasthan", *Frontline*, Volume 17 - Issue 05, Mar. 04 - 17, 2000.

³⁶⁴ Ibid.

Further, the *jan sunwai* exposed the link between India's "traditional feudal inequities" and "the pathologies of its modern development and democratic machinery" where agents of feudal practices had benefitted from the democratic institutions of governance as seen in the case of ward panch Nain Singh and Sarpanch Pyarchand³⁶⁵.

5.1.3.1.9 Bhim Jan Sunwai

Bhim *jan sunwai*, fourth in the second phase, was held on 3rd April 2000. More than 2000 people attended the *jan sunwai*. Notable among them were Rajiv Thakur (the Project Director of the District Rural Development Authority), Justice Vinod Shankar Dave (a former judge of the Rajasthan High Court), Ram-sharan Joshi, (the Director of Makhanlal Chaturvedi University of Journalism in Bhopal) and a team from Kerala Shashtra Sahitya Parishad.³⁶⁶ A case of non-payment of minimum wages to women workers was taken up during the *jan sunwai*. It was found that women workers at work sites were paid very less wages (Rs 8 per day). The reason for this was the misuse of minimum wage payment by the Sarpanch for his personal gains.

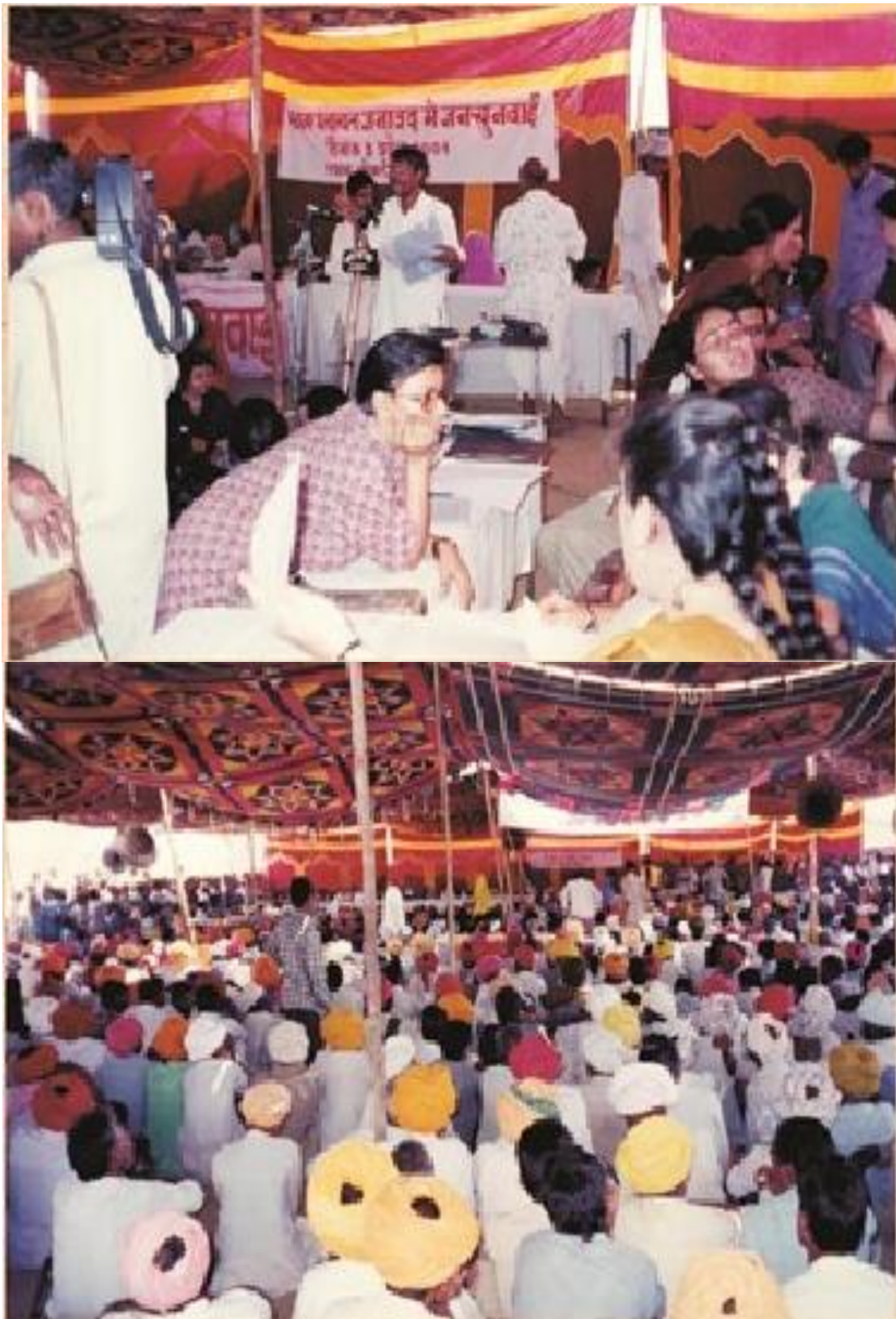
5.1.3.1.10 Janawad Jan Sunwai

The location of Janawad Gram Panchayat, like the Umarwas Panchayat, was beyond the day-to-day activities of the Mazdoor Kisan Shakti Sangathan. Ramlal, the ex-Sarpanch of Janawad Gram Panchayat had influenced local administration and politicians. However, given the increasing awareness of people about *jan sunwai* in the area, the Mazdoor Kisan Shakti Sangathan was optimistic of success, which was not as easy in the case as it was in the earlier cases. The Mazdoor Kisan Shakti Sangathan (MKSS) took up the issue of corruption in Janawad Gram Panchayat when the people of Janawad approached it to help them get access to the panchayat records.

³⁶⁵ Neelabh Mishra, *ibid.*, 2003, p.33.

³⁶⁶ *Ibid.*, pp.35-36.

Figure 5.11: Images of People Participating in Janawad Jan Sunwai (April 3, 2001)



Source: <http://www.mkssindia.org>

The Janawad *jan sunwai* (Figure 5.11), presided over by the Press Council Chairperson, Justice PB Sawant, was held on April 3, 2001. The panel of *jan sunwai* included Justice Rajinder Sachhar (the retired Chief Justice of Delhi High Court), Justice VS Dave (retired Judge of Rajasthan High Court), Ajit Bhattacharjee (Director of Press Institute of India), Sudha Parameswaran (Joint Secretary in the Rural Development Ministry), Surendra Mohan, and Nelson Fernandez. The main issue taken up during the *jan sunwai* was of ex-Sarpanch Ramlal's involvement in misappropriation of Rs 70 lakhs during his tenure as Sarpanch (1994-1999) of Janawad Gram Panchayat. It is important to understand the background struggle of the Mazdoor Kisan Shakti Sangathan in obtaining the records of the Janawad panchayat in order to process the serious case of corruption in the development works at Gram Panchayat level.

The struggle of the MKSS for obtaining the records of the panchayat began when first approached district officials on May 17, 2000 and sought their help in implementing the Rajasthan Right to Information Act 2000. The administration speedily ordered the panchayat to give the copies. However, for the next three-months, Balu Lal Saini (Gram Sewak of the panchayat) played a game of hide and seek with the Mazdoor Kisan Shakti Sangathan. The Gram Sewak along with Ramlal made the then Sarpanch Bhuri Bai to sign 'a letter that made false claims that the gram panchayat and the gram sabha had passed resolutions to withhold information, as providing such information would "disturb the peace" and lead to a law and order problem'³⁶⁷.

The MKSS, after exhausting all available tactics to get the information, sat on a one-day dharna with a thousand people on November 22, 2000, which produced no

³⁶⁷ Aruna Roy and Nikhil Dey, 'Chasing a Right', *Frontline*, Volume 18 Issue 07, Mar. 31 Apr. 13, 2001.

result except the Collectors' assurance. On November 28, the Mazdoor Kisan Shakti Sangathan organized a Press Conference on the non-implementation of the Rajasthan Right to Information Act 2000. Alerted by the negative feedback, the state government swung into action by asking the administration to bring the records to Jaipur. The efforts of the officials and the Mazdoor Kisan Shakti Sangathan proved futile as the Gram Sewak disappeared with the records and reappeared only to inform them of the stay order from the Rajasthan High Court on the government order to give the copies of the records. The stay order continued from November 29 to February 20, 2001. The struggle got over only after year long legal struggle when the Mazdoor Kisan Shakti Sangathan was handed over the copiers of the panchayat record on February 21, 2001 following a High Court decision on February 20, 2001. Empowered with copies of the panchayat records, the Mazdoor Kisan Sangathan announce a *jan sunwai* Janawad on April 3, 2001³⁶⁸.

The above discussion on ten *jan sunwais*, which were organized during the period between 1995-2001 makes it clear that the struggle of the Mazdoor Kisan Shakti Sangathan for governance reforms through *jan sunwais* had been an important innovation. The *jan sunwais* were "the cutting edge of a process of empowerment"³⁶⁹. The discussion suggests that access to information and implementation of the right to information are the issues which require people's sustained struggle against those who do not want to provide the information. It also points to the existence of bureaucrat-politician nexus as an obstacle in implementation of the Rajasthan Right to Information Act 2000.

³⁶⁸ Ibid.

³⁶⁹ Ajit Bhattacharjea, "From freedom to Right", *Seminar*, 551-July 2005.

However, the struggle of the MKSS, which was started with social auditing of development related works, substantially expanded the scope of *jan sunwai* activities of elected representatives, local bureaucrats, and local corporates. Given the scope, one can differentiate *jan sunwai* (public hearing) from a *sunwai* (hearing) in a court³⁷⁰. Construed as such, the practice of *jan sunwai*, which is not free from power play, can also be viewed as a ‘subaltern or alternative public spheres’ constituted by the five steps of ‘obtaining, converting, sharing, auditing and publicly validating information related to rural development’³⁷¹. *Jan sunwai* is potent with the possibility of exposing corrupt practices taking place in the name of development work.

5.1.3.2 *Dharnas* (sit-ins)

After realizing the weakening impact of hunger strikes of 1990 and 1991 for minimum wages (Figure 5.8 & Figure 5.9), the activists of the Mazdoor Kisan Shakti Sangathan preferred *dharnas* without hunger strikes (Figure 5.12). For them, hunger strikes weaken the intended impact. A group on hunger strike become easy target of bureaucrats who often use the way of forceful feeding.

According to Sowmya Kidambi, “In the case of long sit-ins without the hunger strike, however, the administration became weaker, while those participating in the sit-in found ways to make their protest more colourful, vibrant, and strong, using theatre, music, and other modes of getting people involved. This form of dharna could also be sustained for a long battle”³⁷². This was perhaps one of the reasons behind the two long successful *dharnas* in Beawar and Jaipur.

³⁷⁰See, Gopal Guru, “Jan Sunwai: A New Instrument of Democracy in India”, *State of Democracy in South Asia Study*, Case Studies-India. Retrieved from -<http://www.democracy-asia.org/>

³⁷¹Suchi Pande, “The Right to Know, The Right to Live: Grassroots Struggle for Information and Work in India”, Unpublished D.Phil. Thesis, Submitted to *University of Sussex*, February 2014, pp. 33-35.

³⁷²Sowmya Kidambi, *ibid.*, p.13.

Figure 5.12: Images of Hunger Strike for Minimum Wages (1990)



Source: <http://www.mkssindia.org>

Figure 5.13: An Image of Hunger Strike for Minimum Wages (1991)



Source: <http://www.mkssindia.org>

Figure 5.14: A View of *Dharna* in Beawar (1996) for the Right to Information



Source: <http://www.mkssindia.org>

5.1.3.3 *Ghotala Rath Yatra* (Chariot of Scams Trip)

Ghotala Rath Yatra (Figure 4.2) was a brain child of Shanker Singh who initiated it in the wake of his disappointment on unrealizable electoral manifestos of political parties³⁷³. This tactic was used by MKSS as a “political lampoon on hollow promises and campaigns. It also highlighted the scams that had taken place since India had gained its independence.”³⁷⁴

³⁷³ Aruna Roy, A Talk on “The Anatomy of a People's Movement” by Aruna Roy, Nikhil Dey and Shankar Singh at the Skoll World Forum 2010. (retrieved from https://www.youtube.com/watch?v=TXP_eO5Th5o).

³⁷⁴ Sowmya Kidambi, *ibid.*, p.15.

Figure 5.15: Images of Ghotala Rath Yatra



Source: <http://www.mkssindia.org>

The chariot used in *ghotala yatras* was modified version of a handcart with a plastic chair, to be used by “the politician” characterized as *Shri Rajwaniji* (“the voice of the state”). The role of *Shri Rajwaniji* was played by Shanker Singh himself. While acting as *Shri Rajwaniji*, he would mock politicians by exposing their non-commitment to parties and the people: “The chair is the most important thing for me in the world and I can move to any party that promises me power.”³⁷⁵ Shanker Singh would deliver political satires while the trip passes through streets, parks, roads etc. The *ghotala rath yatra* was carried out as “spoof on *rath yatras* taken out by politicians to come to power”³⁷⁶.

5.1.3.4 Street theatre

The tactic of street theatre was used by MKSS as a supplementary tactic “that could establish immediate rapport and begin a dialogue with people” during the show of *ghotala rath yatra*. In this vein, the play “*Khazana*” (treasury) was created with the help of an RTI supporter, play wright and theatre person Tripurari Sharma. The play revolves around a new found treasure by the people, who appoint three of them to safeguard the treasure. The three (politician, bureaucrat, and police) however, form a nexus to steal the treasure. One being asked by the people, the three deny any sort of treasure. Eventually, a fight starts between those in power and those without power. The closing act is played by the anchor who asks the audience to decide their side. And the audience favour the people demanding the treasure.³⁷⁷ The underlying message is to expose the nexus of corrupt politicians, bureaucrats, and police officials. Apart from the tactic of street theatre, MKSS has been making use of folk tunes for spreading

³⁷⁵ *The Hindu*, “A yatra for people's power in Rajasthan”, May 01, 2004.

³⁷⁶ *The Telegraph*, “Chariot of scams to roll today”, March 10, 2011.

³⁷⁷ Sowmya Kidambi, *ibid.*, p.17.

awareness among the poor rural people, which are available in plenty in the folk songs of Rajasthan.

5.1.3.5 Songs and slogans

Songs and slogans are treated by Mazdoor Kisan Shakti Sangathan as the soul of their awareness campaigns against corruption, dharnas, and jan sunwais. As one of its founding members Nikhil Dey asserts, “actually, in a very succinct way, there is no more powerful people’s articulation than their songs and their slogans”³⁷⁸. Following are the samples representing awareness songs, employment guarantee campaign, the nature of politics of MKSS. Awareness song: “*Pan beet gayo so gayo beet...ab unri jhoothi aas tyag re, dhoran wala desh jag re..., re dekh minakh murjai rayo, marne se mushkil hei jeeno....*” (The past is gone..., give up its false hope, wake up land of dunes, see human beings are dying, it is getting tougher to live than dying...); “*Choriwado ghano ho gyo re koi to munde bolo, ... parshasan bhelo pad giyo re koi to munde bolo*” (Thieving has spread a lot, someone speak up, administration is not from it; someone speak up). Defining slogan of employment guarantee campaign “*Har Haath ko Kaam do, Har Haath ko daam do*” (every hand wants work and all work want just reward). Defining slogan of the politics of MKSS: “*Trishul nahi talwar nahi, har haath ko kaam chahiya*” (Neither trident nor sword, every hand needs work.) Defining slogan of right to information campaign, “*Ham Janenge, Ham Jiyenge*” (The Right to know, The Right to live). Songs to expose corruption during ghotala rath yatra: “*Ghotala raj ki jai jai bolo...daamar peeker sadak banaayaa, keval bajri mei pulia banaayaa...*” (Long live the reigns of scams... filched tar meant for roads, only gravel for building bridges). Songs to be used in jan sunwais, dharnas etc: “*Mazdoora ro aayo re*

³⁷⁸ Nikhil Dey, Speech at 2010 AID-US Conference, Seattle, 2010, *Association for India's Development*, Retrieved from- <http://www.aidindia.org/>

dhadingo... parshasan ri chhatee dhadke darpo mati, wawa darpo mati, mei to maakaa hak maango darpo mati” (Workers’ demonstration is here to stay... administration is getting cold feet, don’t be afraid, we are demanding our right).³⁷⁹

5.1.3.6 *Truck yatra* (truck trip)

The tactic of *truck yatra* (Figure 4.4) was used as in the process of communicating the demands and spreading the message of MKSS in nearby areas. According to Sowmya Kidambi, MKSS use the *truck yatra* “canvass for the RTI Act and to create a space for larger public opinion and debate on the issue of transparency, accountability and ethics in governance”³⁸⁰. The practices of resistance by MKSS in the form of *jan sunwais*, *dharnas*, *yatras*, songs and slogans etc have been helpful in serving their “strategic goal of building an effective, participatory democracy in India”³⁸¹.

Figure 5.16 Images of *Truck Yatra*



Source: <http://www.mkssindia.org>

³⁷⁹ Mazdoor Kisan Shakti Sangathan - Part 1 & Part II, by Skoch Consultancy; The Right to Know, The Right Live by Anurag Singh.

³⁸⁰ Sowmya Kidambi, *ibid.*, p.18.

³⁸¹ *Ibid.*, p. 9.

The above discussion of the practices of resistance by MKSS is enough to provide us a clue about the ideas that have been guiding their movement. An intense engagement with the state and people at multilevel of political platforms points to MKSS belief in participatory democracy. The involvement of rural poor in articulating songs and slogans, organizing dharnas etc suggests a strong linkage between the ideology of MKSS and the people at the grassroots.

5.1.4 Struggle for Governance Reforms- The Second Phase (2005 onwards)

The struggle of the Mazdoor Kisan Shakti Sangathan, which continued after the enactment of the RTI Act 2005, is termed here as the second phase (2005 onwards) of the struggle for governance reforms. In the second phase, the Mazdoor Kisan Shakti Sangathan shifted its emphasis to the implementation of the RTI Act 2005 and the MGNREGA 2005 while focusing on the question of transparency and accountability. While the strategies of bringing about transparency and ensuring accountability remained almost unchanged, there was a continuous campaign to reach out to the poor.

In the second phase of the struggle the practices of jan sunwais continued and their scope was widened to include issues such as electricity, old age pension etc. In an effort to put pressure on the administration and widen its scope and area of activities, the Mazdoor Kisan Shakti Sangathan organized a series of events including the campaign for legalizing the citizens' Right to Hearing and, very recently, the state wide *Jawabdehi Yatra* (Accountability Trip) etc. The idea of *Jawabdehi Yatra*, which was launched on December 1, 2015 and lasted till March 31 2016, covered the entire state of Rajasthan (Figure 5.17).

Figure 5.17: Images of Jawabdehi Yatra (2015-2016)



Source: <http://www.mkssindia.org>

The strategy of *jawabdehi yatra* is deployed by the Mazdoor Kisan Shakti Sangathan, in coordination with other civil society organizations of Rajasthan to encourage people to keep a watch on the practices of expenditure on public works by the officials and thereby ensure accountability in the administration. The continuity of the struggle of the MKSS even after the enactment of the RTI Act 2005 and the MGNREGA 2005 shows that the state response, which is dealt with in the next chapter, has not been promising. In addition to this, it highlights the fact that governance involves continuous participation of people and that is why governance reforms are a continuous struggle, which cannot be achieved by merely legal guarantee of rights.

5.2 Conclusion

The leadership of the MKSS, as a collective, has not only been able to communicate the policy of right to information at the grassroots by involving the local people, it has also been able to influence the policy makers in the domains of political parties and bureaucracy. The analysis suggests that MKSS can be viewed as a counterframing by those who differ from the elites' claim to exclusive rule and to rationalize processes and practices of governance. On the other hand, it also shows that the leadership of MKSS movement has been able to find political space in the arena of bureaucratic state at the local, regional and national levels. The innovative practices of resistance in terms of *jan sunwais* aimed at exposing the corrupt practices in the name of official secrets has been a very significant contribution of MKSS movement. In addition, it is important to highlight that MKSS has been successful in laying down the political and electoral agenda for political parties at the state and national level. It is a significant contribution of MKSS that it has succeeded in convincing the UPA-I government to make the agenda of legalizing the right to information and right to work as the policy agenda of the government.

Chapter 6

State Response to the Civil Society Movement

The mass movement launched by MKSS, as highlighted in the preceding chapter, was a prominent symbol of civil society participation in the process of mobilization for governance reforms. The civil society movement was successful in generating the agenda for governance reforms to be taken up by the political parties and the ruling party at the national level. However, it remains to be examined whether the civil society led mobilization for governance reforms in terms of transparency and accountability has found any space in the state led governance reforms. The present chapter is an ambitious endeavour in this direction.

In so doing, the chapter summarizes the state response to the civil society movement and the process of mobilization for governance reforms while focusing on the Right Information (RTI) Act 2005 and social audit in the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005. In order to examine the question concerning the contribution of the civil society movement for substantial governance reforms, the different narratives of the above-mentioned two Acts as well as the recommendations of the Second Administrative Reforms Commission (ARC) pertaining to the transparency and the accountability aspects have been analysed.

6.1 The Changed Political Context—Towards Participatory Governance through Decentralization

As stated in chapter three, adequate steps were not taken in terms of bringing about reforms in the domain of people's interaction with the bureaucratic administration and to resolve the problem of the colonial legacy in administration of post-independent India. The nature of bureaucratic administration was far from being people centric. It

was only in the beginning of the 1990s that people's participation in administration was given priority at the grassroots level, which was evident in the 73rd and 74th Constitutional Amendments.

The 73rd and 74th Constitutional Amendments have been some of the most important steps taken by India to move away from the colonial legacy of the institution of centralized bureaucratic administration at the district level. Until these amendments, there were only two tiers of political structure (the Union Government and the State Governments) in India³⁸². Although there were Panchayati Raj Institutions (PRIs) before the two amendments, however, their nature, scope, and existence were not guaranteed by the Constitution of India. The 73rd and 74th Amendments provided for a three tier system of government at district, block, and village level in every state of India, known as the system of Panchayati Raj Institutions (PRIs)³⁸³. The 73rd Amendment Act provided for government at the district level, which is represented by the institution of district council and headed by a President and a Vice-president. Likewise, governments at the block and the village level are represented by the institution of block council and Gram Panchayat respectively.

Doubtless, the 73rd Amendment Act, a major landmark in the history of local government in India, provided for political and administrative decentralization and thereby frees the local population from bureaucratic and political control which was

³⁸² Second Administrative Reforms Commission, Fifteenth Report, 2009, p.60.

³⁸³ Part IX of the Constitution of India provides for Panchayats in every State at the village, intermediate and district levels. The powers of making provisions for the composition of Panchayats and representation of members in them are vested with the States. The members of these Panchayats are elected for a term of five years. The States are vested with the powers to authorize these Panchayats to levy, collect and appropriate taxes, duties, tolls and fees. The State Election Commissions are vested with the powers of the "superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats". The Financial Commission constituted by the Governor is vested with the powers to review the financial positions of the panchayats and to make recommendations to the Governor regarding "the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State". (*The Constitution of India*, Article 243 A-243 O).

exercised from State capitals³⁸⁴. Provisions for mandatory elections after every five years are very important for safeguarding the right of local self-government institutions to be free from the political whims of the State Government.

However, the efforts to ensure participatory governance through decentralization turned out to be inadequate. During the process of decentralization, malpractices involving corruption in governance too acquired the characteristics of decentralization. As a result, rather than disappearing, corruption was transformed into ‘decentralized corruption’, and remained alive in governance as a support to the bureaucrat-politician nexus, which continued to thrive at the local level. It was against the backdrop of such a changed political context that the state responded to the process of mobilization for governance reforms.

6.2 State Response to the Process of Mobilization for Governance Reforms

To reiterate, the process of mobilization for governance reforms, which began under the banner of MKSS was successful in generating political and legislative agenda of transparency and accountability at the national level. The mobilization process eventually led to making of the Right to Information (RTI) Act 2005 and provided for social audit in the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005. In order to analyse the nature of the state response, the issues of transparency and accountability are discussed in the next few pages while focusing on the provisions of citizen’s right to information under the RTI Act 2005 and social audit in the MGNREGA 2005.

³⁸⁴ S. R. Maheshwari, *Indian Administration*, Orient Longman Private Limited: Hyderabad, 6th edition, 2001, p.637.

6.2.1 Transparency and the RTI Act 2005

6.2.1.1 Narratives about the RTI Act 2005

The previous chapter examined the role of MKSS in the making of the RTI Act 2005 as part of the process of governance reforms. It was found that the civil society movement has played an important role in the making of the RTI Act 2005. However, there exist competing narratives about the making of and the nature of the RTI Act.³⁸⁵ The narratives throw light on other contributing factors for making of the RTI Act 2005. It is apt to discuss the narratives before dealing with the salient characteristics of the RTI Act 2005. This is helpful for understanding different assumptions about the RTI Act 2005 as well as the nature of the state response.

According to one narrative, the RTI Act is a public policy which has laid down new foundations of governance and has opened up new horizons of participatory and accountable democracy in the 21st century India. Accordingly, it is claimed that the enactment of RTI Act 2005 was an outcome of peoples' struggle at the grassroots level. The literature confirming the claim is huge and is ever growing³⁸⁶. It is argued, the

³⁸⁵ The term narrative is used in this study to denote 'narrative of narrative' as this study is not based on ethnographic work.

³⁸⁶ Some of the works in this regard is as follows in alphabetical order: A. Baviskar, "Is knowledge power?: the Right to Information Campaign in India", paper prepared for the project on Citizen Engagement and National Policy Change, Brighton: Institute of Development Studies, 2007; A.M. Goetz, and R. Jenkins, *Reinventing Accountability: Making Democracy Work for Human Development*, Basingstoke: Palgrave Macmillan, 2005; A.M. Goetz, and R. Jenkins, "Voice, Accountability and Human Development: The Emergence of a New Agenda", Occasional Paper, Background Paper for the Human Development Report 2002, Human Development Report Office, New York: UNDP, 2002; A.M. Goetz, and R. Jenkins, "Hybrid Forms of Accountability: Citizen Engagement in Institutions of Public Sector Oversight in India", *Public Management Review*, 3(3): 363-383.2001; A. Puddephatt, "Exploring the Role of Civil Society in the Formulation and Adoption of Access to Information Laws: The Cases of Bulgaria, India, Mexico, South Africa, and the United Kingdom", Access to Information Working Paper Series, Washington DC: World Bank Institute, 2009; A. Roberts, "A Great and Revolutionary Law? The First Four Years of India's Right to Information Act", *Public Administration Review*, 70(6): 925-933, 2010; Amit Bhaduri, "Guarantee Employment and the Right to Information", *Economic and Political Weekly*, 40(4): 267-269, 2005; Aruna Roy and Nikhil Dey, "Fighting for the Right to Know in India", *Development Dialogue*, 1: 77-90, 2002; Ashwini Kulkarni, "Governance and the Right to Information in Maharashtra", *Economic and Political Weekly*, 43(35): 15-17, 2008; Bharat Dogra, "Right to Information: Hope and Despair", *Economic and Political Weekly*, 32(29): 1794, 1997; Frederick Noronha, "Perils of Knowing: Right to Information Act, 1997", *Economic and Political Weekly*, 36(32): 3021-3023, 2001; Bunker Roy, "Right to Information: Profile of a Grass Roots Struggle", *Economic and Political Weekly*, 31(19): 1120-1121, 1996; Bunker Roy, "Where Does All the Money Go? People's Struggle for Information", *Economic and Political Weekly*, 32(28): 1688-1689, 1997; Deepti Priya,

apparent newness in governing in the form of participatory public policymaking and implementation has stemmed from the people's belief in responsible collective decision-making through large-scale mass mobilization campaigns aimed at raising public awareness on issues of public interest.

Accordingly, the genesis of the RTI Act in India can be located in the activities of the Supreme Court of India, the environmental movements, the grassroots movement in rural Rajasthan etc. The following comment made by Justice K.K. Mathew in the case of *State of UP vs. Rajnarain* in 1975 is often invoked by scholars as a first of its kind recognition of the right to information coming from the Supreme Court of India: "In a government...where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people...have a right to know every public act, everything that is done in a public way, by their public functionaries... The responsibility of officials to explain or to justify their acts is the chief safeguard against oppression and corruption."³⁸⁷ The importance of this comment lies in the fact that

"People's Knowledge, People's Power: Campaign for Citizens' Right to Information", *Economic and Political Weekly*, 31(2-3): 83-85, 1996; K.M. Srivastava, *The Right to Information: A Global Perspective* (New Delhi: Lancer Publishers and Distributors).2009; M. Webb, "Success stories: rhetoric, authenticity, and the right to information movement in north India", *Contemporary South Asia*, 18(3): 293-304, 2010; Mander and Joshi, "The Movement for Right to Information in India: People's Power for the Control of Corruption", *Commonwealth Human Rights Initiative*, New Delhi, 1999; Neelabh Mishra, 2003, "People's Right to Information Movement: Lessons from Rajasthan", Discussion Paper Series- 4, Human Development Resource Centre, New Delhi: UNDP, 2003; Oulac Niranjana, "Right to Information and the Road to Heaven", *Economic and Political Weekly*, 40(47): 4870-487, 2005; Prabodh Saxena, "Public Authority and the RTI", *Economic and Political Weekly*, 44(16): 13-16, 2009; Pradeep Sharma, "Civil Society and Right to Information: a Perspective on India's Experience", Oslo Governance Centre, Oslo: UNDP, 2004; R. Jenkins, "Democracy, Development and India's Struggle Against Corruption", *Public Policy Research*, 13(3): 147-155, 2006; Rob Jenkins and Anne Marie Goetz, "Accounts and Accountability: Theoretical Implications of the Right-to-Information Movement in India", *Third World Quarterly*, 20(3): 603-622,1999; Shekhar Singh, "India: Grassroots Initiatives" in Ann Florini (ed.), *The Right to Know* (New York: Columbia University Press), 19-53, 2007; Shekhar Singh, "The Genesis and Evolution of the Right to Information Regime in India", in Shekhar Singh et al (eds.), *Transparent Governance in South Asia*, New Delhi: Indian Institute of Public Administration, 43-124, 2011; Sowmya Kidambi, "Right to Know, Right to Live: Building a campaign for the right to information and Accountability", Minneapolis: The Center for Victims of Torture, 2008.

³⁸⁷ Harsh Mander and Abha Joshi, "The Movement for Right to Information in India: People's Power for the Control of Corruption", *Commonwealth Human Rights Initiative*, New Delhi, 1999.

officials' denial of public information sought by the people is taken as an unacceptable activity in a democratic country like India.

Apart from such judicial comments, the impetus for the right to information came from constitutional provisions and resistance movements at the grassroots as discussed earlier in chapters three and four respectively. Apparently, the RTI Act, a milestone in local to national governing practices, is celebrated as an outcome of civil society actors' restlessly consistent campaigns, agitations, and negotiations with civil servants and politicians at various levels of public governance. Such claims find legitimacy from the very provisions of the RTI Act. For example, chapter two of the RTI Act includes those obligations of public authorities that the bureaucratic state has refused to acknowledge let alone the question of following such obligations. These obligations are a demand from the people for accountability. It is the people's demand that every public authority shall maintain its record and publish relevant information about their official decisions that involve issues of public interest. It is the people's demand that the state shall do this in a systematic manner by way of designating Public Information Officers (PIO) at various levels of organization.

However, in addition to the narrative, there exist alternative claims which point to different dimensions of the genesis of the RTI Act. Such a claim is based on the observation that in order to have a comprehensive understanding of the making of the RTI Act in India, the following left out dimensions also need to be taken into account: The social background of the main actors (leadership) of the movements which influenced the making of the RTI Act, the role of the state in the making of the RTI Act, and the international context. In an attempt to bring forth the dimensions, the claim presents the construction of the RTI Act as a production of the plurality of actors and networks that were informed and influenced by the large scale changes at global level

by emphasizing central role of the ruling and non-ruling Indian middle class elites, a hollowing out Indian state, and the influence coming from outside the country.

Accordingly, rather than being a linear process the making of the RTI Act was a nonlinear process consisting of numerous unconnected events at the local, national, and international levels which were neither necessary nor sufficient in themselves for the enactment of the RTI Act. And, the claim is that instead of contributing for transformation, the making of the Act has turn out to be a process of maintaining 'status quo' in favor of the market.³⁸⁸ The claim also points to the fact that the expected transformation through the RTI Act requires a continuous engagement of civil society actors in the implementation process. Though limited in its many other observations concerning common man's leadership and mobilizing ability and the silence on the question as to the elites and middle class people came forward to lead the movement which may not be in their interest, this claim points to the possibility of the appropriation of the RTI Act in favour of the market and the elites.

In addition to the claim, there exist an argument which shows that the term information is open to multiple interpretation and accordingly it can be converted into a commodity by private interests on the one hand and into an institutionalized thing by public interests on the other³⁸⁹. From this claim, it follows that information can be bought and sold and that as an institution it may be converted into a reified thing which can have its own life. As such information could be used to maintain status quo in favour of elite and middle classes, the state, and the market. Suffice it to say,

³⁸⁸ Prashant Sharma, "The Right to Information Act in India: The Turbid World of Transparency Reforms", Unpublished PhD Thesis, submitted to the *London School of Economics and Political Science*, 2012, pp.115-116, 303-305.

³⁸⁹ Janaki Srinivasan, "The Political life of information: "Information" and the practice of governance in India", PhD Dissertation, submitted to *University of California, Berkeley*, 2011.

information can be a tool of transformation as well as of maintaining the status quo in the process of governance.

Turning to the role of the RTI Act in the transformation of governance, there exists a claim according to which the RTI Act itself is insufficient to bring about transformation. It is argued, instead of being an all-time solution, the RTI Act is an essential requirement of the people's struggle for right to work and right to minimum wages. Accordingly, the claim is that the RTI Act is a prerequisite to the right to work³⁹⁰.

The above discussion on the competing narratives suggests that the RTI Act 2005 has been interpreted differently by scholars. However, none of the narratives have denied the contribution of the civil society movement, which is sufficient to state that the civil society movement has contributed substantially to the making of the RTI Act 2005. However, it remains to be examined whether the contribution made by the civil society movement has been limited to the mere process of the making of the RTI Act 2005 or the citizen's right to access the official records demanded by the civil society movement has found any space in the provisions. In order to do so, it is apt to discuss the provisions of the RTI Act 2005.

6.2.1.2 Secrecy v/s Transparency in the Right to Information Act 2005

To recall, the Right to Information Act (RTI) Act came into force on 12 October 2005 (see Annexure I for the text of the Right to Information Act 2005). Doubtless, the Act, with people centric provisions, is a milestone in the process of transformation of governance. For example, Section 3 of the RTI Act empowers all citizens with the right to information. Section 2 (j) defines "right to information" as "the information

³⁹⁰ Suchi Pandey, *The Right to Know, The Right to Live: Grassroots Struggle for Information and Work in India*, Unpublished D.Phil. Thesis, Submitted to *University of Sussex*, February 2014, p. 149

accessible under this Act which is held by or under the control of any public authority and includes the rights to—(i) inspection of work, documents, records; (ii) taking notes, extracts or certified copies of documents or records; (iii) taking certified samples of material; (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device”³⁹¹.

Section 4 makes it obligatory for public authorities to implement Suo Moto Disclosure in a time bound manner³⁹². Further, it is an obligation of every public authority, according to Section 5 (1) and 5 (2), to designate within one hundred days of the enactment of this Act, Central/State/sub-divisional/sub-district level Public Information Officers (PIOs) in all administrative units or offices to facilitate information dissemination under this Act. Regarding time limit in dissemination of information, Section 7 (1) clearly states that the information relating to the life or liberty of a person shall be provided within forty-eight hours of the receipt of the request.

However, right to information under the RTI Act 2005 is not an absolute right of citizens. There are some provisions in Section 8 of this Act which exempt officials from the obligation of information dissemination to any citizen relating to law and enforcement, national security, foreign relations, citizens’ personal activity or interest etc. Interestingly, as provided in subsection 8(d), information that include “trade secrets or intellectual property, the disclosure of which would harm the competitive position of third party” shall not be given to citizens if the competent authority does not find it warranted for larger public interest. Finally, under Section 31 of the RTI Act 2005, the Freedom of Information Act, 2002 has been repealed.

³⁹¹ See Annexure II, *Right to Information Act, 2005*, Chapter 2, p.4).

³⁹² See subsections 4 (1) (b) and 4 (2) of Section 4, *Right to Information Act, 2005*.

The above discussion of the provisions of the RTI Act 2005 suggests that the demand of the civil society movement for citizen's right to access public records has found prominent space in the provisions. The very fact that the civil society demand has been given primacy in the provisions of the RTI Act 2005 is sufficient for stating that the state response to the civil society demand has been positive and that the civil society movement has been successful in legalizing one of the demands for governance reforms. However, critics have pointed out that the above discussed success of the civil society movement is not sufficient to conclude whether the civil society movement is contributing for substantial governance reforms. In order to make any statement as an answer to the above question, it is apt to discuss the issues and challenges of implementation of the RTI Act 2005.

A recent study focusing on three indicators of demand, supply, and awareness, undertaken by an international management consultancy PricewaterhouseCoopers on behalf of the Department of Personnel and Training, Government of India, on implementation of the RTI Act has criticized the government for failing to raise awareness level of the people.³⁹³ The study reminds the government of its responsibility concerning spreading of awareness about the RTI Act:

“While the Act has been clear in defining the responsibility of the appropriate Government, with respect to creating awareness on the Act, there has been lack of initiative from the Government's side. The efforts made by appropriate Governments and Public Authorities have been restricted to publishing of rules and FAQs on websites. These efforts have not been helpful in generating mass awareness of the RTI Act. As compared to RTI Act the common citizens (and disadvantaged communities) are significantly more aware of other Government schemes focused on socio-economic development.”³⁹⁴

³⁹³ Sunil Dutt, Anuradha S. Chagti and Sarita Nair (Eds), “Right to information: for Inclusion & Empowerment – RTI Fellows Report”, Department of Personnel and Training Ministry of Personnel, Public Grievances & Pensions, Government of India, 2013, p. 138.

³⁹⁴ PricewaterhouseCoopers Report, “Key Issues and Constraints” in implementing the RTI Act”, June 2009 p.39 < <http://rti.gov.in/> > accessed on 23 September 2014.

Yet another report prepared by the civil society actors has also raised concerns about the low awareness of people regarding various aspects of the RTI in general and the RTI Act in particular. One of their findings hold the public officials responsible for their failure to perform public duties when it comes to ‘proactive (Suo moto)’ disclosure:

“Despite a very strong provision for proactive (Suo moto) disclosure under section 4 of the RTI Act, there is poor compliance by public authorities, thereby forcing applicants to file applications for information that should be available to them proactively, and consequently creating extra work for themselves and for information commissions.”³⁹⁵

The problems highlighted by the above-mentioned two study reports indicate the slow pace of the implementation of the various provisions of the RTI Act. This is evident from the recent Annual Reports of the Chief Information Commission (CIC) of India. In addition, the reports show a growing tendency of rejecting applications filed under the RTI Act on grounds which are sometimes not clearly defined by the rules of the Act³⁹⁶. Additionally, there exists a persistent issue of the dilution of laws, which has recently been highlighted by the “Whistleblowers Protection (Amendment), Bill, 2015”, passed by the Lok Sabha in May 2015.³⁹⁷ One can rightly argue, unjustified rejection and dilution of the various provisions of the RTI Act the ways of denying information, which in turn shows bureaucratic resistance in favour of maintaining the status quo.

The above discussion of the issues in the implementation of the RTI Act 2005 suggests that there are difficulties in transforming the civil society demand of citizen’s

³⁹⁵ RAAG-NCPRI Report, “Revised Executive Summary: Report of People’s RTI Assessment 2008”, October 2009, p.39.

³⁹⁶ Venkatesh Nayak, ““CIC's latest Annual Report shows dwindling RTIs and increase in rejection rates in many Ministries under the Central Government”, RTI Facilitation Centre- Centre for Public Policy, Doon University: Dehradun <<http://rtifc.in/>> accessed on 11th May 2015.

³⁹⁷ *The Hindu*, May17, 2015.

right to information into an integral practice of governance. The observation in turn suggests that it is relevant to examine the state response to the issues of implementation of the RTI Act 2005. However, before doing so, it is apt to examine whether the demand of the civil society movement for accountability in terms of social audit in administration has found any space in the state response. In order to do so, the provisions of the MGNREGA 2005 are analyzed.

6.2.2 Social Audit in the MGNREGA 2005

6.2.2.1.1 The MGNREGA 2005

The MGNREGA 2005 was passed on the 23 of August 2005 with hundred per cent majority in the Lok Sabha (See Annexure III for the text of the National Rural Employment Guarantee Act 2005). Prior to MGNREGA, several employment generation schemes were implemented from time to time in post-independent rural India³⁹⁸.

However, MGNREGA is considered as an entirely different programme of employment generation for various reasons. MGNREGA 2005 is in tune with the Article 41 of the Constitution of India, which directs the state “to make effective provisions for securing the right to work”.³⁹⁹ For instance, the central role of the Panchayati Raj Institutions (PRIs) in the implementation process of MGNREGA is credited with “the potential to institutionalize people’s power at the grassroots and radically transform governance in rural areas”. In addition, MGNREGA’s “rights-based

³⁹⁸ Some of these schemes were National Rural Employment Programme (NREP) 1980-89; Rural Landless Employment Guarantee Programme (RLEGP) 1983-89; Jawahar Rojgar Yojana (JRY) 1989-1990; Employment Assurance Scheme (EAS) 1993-99; Jawahar Gram Samridhi Yojana (JGSY) 1999-2002; were national rural employment schemes. It may be noted that the schemes of Sampoorna Grameen Rojgar Yojana (SGRY) 2001, and National Food for Work Programme (NFFWP) 2004) have been merged with MGNREGA.

³⁹⁹ The Article 41 reads as follows: “The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.” (*The Constitution of India*).

framework...propelled by proactive disclosures rules of right to information” is being considered as capable of addressing the challenges of unemployment in rural areas of India⁴⁰⁰.

In the process of implementation of MGNREGA, a “neo-institutional framework”, is considered to be a better approach by some of those who are in favour capability building of organization and individuals. In this framework, organization and individuals are treated as two aspects of capability building framework, and individual empowerment as a prerequisite for community empowerment.⁴⁰¹ Scholars have dealt with the question of implementation of MGNREGA 2005 from different angles, which itself is a separate issue of study and therefore beyond the scope of the present discussion⁴⁰². After having introduced the MGNREGA 2005, it is apt to deal with the

⁴⁰⁰ Central Employment Guarantee Council, *Final Report of the Working Group on Capacity Building Volume 1: Main Report*, 2010, p.1.

⁴⁰¹ Under this “neo-institutional-framework” capability building is defined as “the dynamic process of developing, strengthening and institutionalizing the ‘rules of game’, norms, standard operating procedures, skills, abilities, and resources that organizations, communities and individuals need to survive, adapt, and thrive in the fast changing world of policy implementation”. (Central Employment Guarantee Council, *Final Report of the Working Group on Capacity Building Volume 1: Main Report*, 2010, p.17).

⁴⁰² The literature on the implementation of MGNREGA in India is huge and is ever growing. Sample the following: M. Shah, “NREGA: A Historic Opportunity”, *Economic and Political Weekly*, Vol. 39 (50), 2004, pp 5287-5290; L.C. Jain, “Putting Panchayats in charge”, *Economic and Political Weekly*, Vol. 40 (33) 2005, pp 3649-3650; A. Vaidyanathan, “Employment Guarantee and Decentralisation”, *Economic and Political Weekly*, Vol. 40 (16), 2005, pp 1582-1587; P Ambastha, P V S Shankar, and M Shah, “Two Years of NREGA-The Road Ahead” *Economic & Political Weekly*, Vol. 43 (08), 2008, pp 41-50; P Chakraborty, “Implementation of Employment Guarantee: A preliminary Appraisal”, *Economic and Political Weekly*, Vol. 42, No.7, February 17, 2007, pp-548-551; C Datar, “Failure of National Rural Employment Guarantee Scheme in Maharashtra”, *Economic and Political Weekly*, Vol. 42, No. 34, August 25, 2007, pp 3454-3457; K H Rao and P Durgaprasad, “Rural Poverty Alleviation in India: Contribution of NREGS” *IASSI Quarterly* edition, Vol. 27, Nos. 1&2, 2008; R Khera and A Vanaik, “Rajasthan Way Ahead”, *Frontline*, Vol. 26, Issue 1, January 16, 2009, pp 24-25; L Mathur, “Employment Guarantee: Progress So Far”, *Economic and Political Weekly*, Vol. 42 (52), 2007, pp 17-20; S Mehrotra, “NREGA Two Years on: Where Do We Go from Here?” *Economic Political Weekly*, Vol.43 (31), 2008, pp 27-35; Kurukshetra, “NREGA to change the face of rural India”, *Kurukshetra*, Vol 57 (12), 2009, pp 58-59; J Dre’ze, and R Khera, “Battle for Work”: *Frontline* - Cover Story, Vol. 26, Issue 1, 2009, pp 1-6; J Dre’ze and C Oldiges, “Work in progress”, *Frontline*, Vol. 26 (4), 2009, pp 1-7; R. Jha, R. Gaiha, and S Sankar (2008), “Reviewing the National Rural Employment Guarantee Programme”, *Economic and Political Weekly*, Vol. 43 (11), 2008, pp-44-48; R Khera, “Wages of delay”, *Frontline*, Vol. 27 (10), 2010, pp 105-109; Anandita and Bhatia, “NREGA Wage Payments: Can we Bank on the Banks?”, *Economic and Political Weekly*, Vol. 15 (1), 2010, pp. 30-37; I Hirway, “Providing Employment Guarantee in India: Some critical issues”, *Economic Political Weekly*, Vol. 39, No. 48, November 27, 2004, pp 5117-5121; Aakella and Kidambi, “Challenging Corruption with Social Audits”, *Economic and Political Weekly*, Vol. 42, No.05, 2007, pp 345-347; F Afridi, “Can Community

question whether the civil society demand for accountability in governance in terms of social audit has found any space in the MGNREGA 2005. However, before doing so, it is apt to discuss the idea of social audit.

6.2.2.1.2 Accountability through Social Audit

The idea of social audit refers to “an accountability mechanism where citizens organize and mobilize to evaluate or audit government’s performance and policy decisions. It rests on the premise that when government officials are watched and monitored, they feel greater pressure to respond to their constituents’ demands and have fewer incentives to abuse their power”⁴⁰³. Accordingly, “Social audit can be defined as an approach and process to build accountability and transparency in the use and management of public resources”⁴⁰⁴.

The practice of social audit “relies on engagement from citizens and/or Civil Society Organizations (CSOs) to directly and/or indirectly demand accountability and transparency in the public policy and budget cycles”. Social audit a participatory process, and in that sense it has the potential to “be an anti-corruption and efficiency enhancing mechanism”⁴⁰⁵. The concept of social audit is “based on the premise that citizens want and have the right to know what the government does; how it does it; how

Monitoring Improve the Accountability of Public Officials?”, *Economic and Political Weekly*, Vol. 43 (42) 2008, pp 35-40; A Roy, J Dre’ze and N Dey, “Finish the job”, *Hindustantimes*, January 31, 2008; K S Gopal, “NREGA Social Audit: Myths and Reality”, *Economic and Political Weekly*, Vol. 44, (3), 2009, pp – 70-71; P Sainath, ‘NREGA hits buses to Mumbai’, *The Hindu*, Opinion page, May 31, 2008; P. Goswami, “A Critique of the Unorganised Workers’ Social Security Act”, *Economic and Political Weekly*, Vol. XLIV, No. 11, March 14, 2009, pp 17-18; B.K Pattanaik, “Implementing NREGA in Haryana: A Study on Social Audit”, *Kurukshetra*, Vol. 57, No.6, April, 2009, pp 40-45; K Sankaran, “NREGA wages: Ensuring Decent Work”, *Economic and Political Weekly*, Vol. XLVI (7), 2011, pp-23-25; J Sharma, “NREGA: Potential and challenges”, *Kurukshetra*, Vol. 58(2), 2009, pp 3-6.; M Shah, “Employment Guarantee, Civil Society and Indian Democracy”, *Economic and Political Weekly*, Vol. 42, (45 and 46), 2007, pp 43-51; Siddhartha and A Vanaik “CAG Report on NREGA: Facts and Fictions”, *Economic and Political Weekly*, Vol 43, (28) 2008, pp 39-45.

⁴⁰³ Gerardo Berthin, “A Practical Guide to Social Audit as A Participatory Tool to Strengthen Democratic Governance, Transparency, and Accountability”, *United Nations Development Programme (UNDP)*, 2011, p.20.

⁴⁰⁴ Ibid.

⁴⁰⁵ Ibid.

it impacts on them; and that the government has an obligation to account and be transparent to citizens”⁴⁰⁶. Keeping the above-mentioned idea of social audit in view, the next few pages discuss the provisions of social audits in MGNREGA 2005.

6.2.2.1.3 Social Audit in MGNREGA 2005

Evidently, Section 17 (2) of the MGNREGA 2005 provides for regular social audits by Gram Sabha of all the projects under the Scheme taken up within the Gram Panchayat. In addition to the above provision, in order to ensure transparency and accountability, Section 23 (1) of the MGNREGA 2005 put the responsibility of proper implementation and utilization of the funds on the District Programme Officer (DPO) and all the implementing agencies in the District⁴⁰⁷. Further, Section 23 (2) provides for “the manner of maintaining proper books and accounts of employment of labourers and the expenditure incurred in connection with the implementation of the provisions of this Act and the Schemes made thereunder”⁴⁰⁸.

Apart from this, Section 23 (3) provides for determination of the arrangements by the State Governments to made for “the proper execution of Schemes and programmes under the Schemes and to ensure transparency and accountability at all levels in the implementation of the Schemes”⁴⁰⁹. Section 23 (4) of the MGNREGA 2005 provides for making of “All payments of wages in cash and unemployment allowances... directly to the person concerned and in the presence of independent persons of the community on pre-announced dates”⁴¹⁰. Further, Section 23 (5) and

⁴⁰⁶ Ibid.

⁴⁰⁷ Section 17 (1) of the MGNREGA 2005 reads as follows: “The District Programme Coordinator and all implementing agencies in the District shall be responsible for the proper utilisation and management of the funds placed at their disposal for the purpose, of implementing a Scheme.” (See Annexure III, p.10).

⁴⁰⁸ Annexure III, p. 10.

⁴⁰⁹ Ibid.

⁴¹⁰ Ibid.

Section 23 (6) provides for dispute resolution within seven days of the receipt of a complaint received by the Programme Officer⁴¹¹. Finally, the MGNREGA 2005 provides for the “appropriate arrangements for audits of the accounts of the Schemes at all levels” and the manners of maintaining the accounts⁴¹² (see Annexure III).

In addition to the MGNREGA 2005, the Ministry of Rural Development (MoRD), Government of India (GoI), has issued guidelines regarding the process of social audit. Accordingly, public vigilance and verification of the following 11 stages of implementation should be included in the process of social audit: (1) Registration of families, (2) Distribution of job cards, (3) Receipt of work applications and issue of dated receipts, (4) Preparation of shelf of projects and selection of sites, (5) Development and approval of technical estimates and issuance of work order, (6) Allotment of work to applicants, (7) Execution of works and maintenance of muster rolls, (8) Payment of wages, (9) Evaluation of work, (10) Payment of unemployment allowance, and (11) Mandatory social audit in the Gram Sabha (Social Audit Forum).⁴¹³ The guidelines put emphasis on Social Audit Forum (SAF) and highlight its significant role in terms of ensuring accountability at the village level while focusing on the various aspects of an effective SAF:

“[T]here will be a mandatory review of all aspects of the social audit at the Gram Sabha meetings to be held at least once every six months for this purpose. At these ‘Social Audit Forums’ information will be read out publicly, and people will be given an opportunity to question officials, seek

⁴¹¹ Section 23 (5) & (6) of the MGNREGA 2005 read as follows: “23. (5) If any dispute or complaint arises concerning the implementation of a Scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer. (6) The Programme Officer shall enter every complaint in a complaint register maintained by him and shall dispose of the disputes and complaints within seven days of its receipt and in case it relates to a matter to be resolved by any other authority it shall be forwarded to such authority under intimation to the complainant.” (Annexure III, p.10).

⁴¹² Section 24 (1) & (2) of the MGNREGA 2005 read as follows: “24. (1) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the Schemes at all levels. (2) The accounts of the Scheme shall be maintained in such form and in such manner as may be prescribed by the State Government.” (Annexure III, p.10).

⁴¹³ Ministry of Rural Development, *The National Rural Employment Guarantee Act 2005 (NREGA): Operational Guidelines*, 2008, pp.62-70.

and obtain information, verify financial expenditure, examine the provision of entitlements, discuss the priorities reflected in choices made, and critically evaluate the quality of work as well as the services of the programme staff.... Thus, the Social Audit Forum will not only give people an opportunity to review compliance with the ongoing requirements of transparency and accountability, but will also serve as an institutional forum where people can conduct a detailed public audit of all NREGA works that have been carried out in their area in the preceding six months.... An effective Social Audit Forum requires careful attention to three sets of issues: (1) publicity and preparation before the Forum; (2) organizational and procedural aspects of the Forum; and (3) the Mandatory Agenda of the NREGS Social Audit Forum.”⁴¹⁴

The guidelines recognize the fact that, the success of the SAF “depends upon the open and fearless participation of all people, particularly potential beneficiaries of the programme. Effective public participation requires adequate publicity about the Forum as well as informed public opinion. This itself requires that people have prior access to information from the President of the Gram Panchayat in a demystified form.”⁴¹⁵ The guidelines lays down procedural and organizational requirements for the success of the Social Audit Forum. A circular issued by the MoRD to ensure the success of the Social Audits in the North-Eastern States reiterates its significance: “social audits enable the rural communities to monitor and analyse the quality, durability and usefulness of MGNREGA works as we as mobilize awareness and enforcement of their rights”⁴¹⁶.

The above-mentioned provisions of the MGNREGA 2005 and the guidelines issued the Ministry of Rural Development (MoRD), Government of India (GoI), for mandatory social audit in the SAF are in tune with the principles of the process of social audit. The principles and related practices (accessing, acquiring, verifying, auditing, and testifying information) were innovated by the Mazdoor Kisan Shakti Sangathan during the *jan sunwais*. In fact, to recall, the entire mobilization process for governance

⁴¹⁴ Ibid.

⁴¹⁵ Ibid., p.71.

⁴¹⁶ No. M-1301S/2/2012-MGNREGA- VII, *Ministry of Rural Development*, Government of India, 5th July 2012. Retrieved from- nrega.nic.in.

reforms led by the MKSS had begun with the question of ensuring accountability of administration in development works and ensuring timely disbursement of minimum wages to labourers. The fact that the MGNREGA 2005 provides for the maintenance of accounts, timely disbursement of wage payments, and grievance redressal is nothing else but an evidence of success of the MKSS led mobilization process for governance reforms in terms of ensuring accountability through social audit.

In addition to the above-discussed provisions of the MGNREGA 2005, the state has responded to the civil society demand for governance reforms in terms of accountability through the recommendations of the Second Administrative Reforms Commission (ARC). The Second ARC has taken into account the issues in implementation of MGNREGA and has submitted several recommendations for ensuring accountability through social audit in MGNREGA. In order to examine the nature of state response to the civil society demands for governance reforms in terms of transparency, accountability, and restructuring of governance machinery, the recommendations of the Second ARC have been examined the next few pages.

6.2.3 The Second Administrative Reforms Commission's Recommendations for Governance Reforms

The Second ARC was set up in the changed political context of the neo-liberal ideas of New Public Management (NPM). As discussed earlier in chapter two, the idea that state is best suitable to steer and serve the people if outsource its role of public policy implementation to the market was promoted by the neoliberals during the 1970s in the form of New Public Management (NPM). To recall, NPM was an offshoot of the attempts of neoliberals in their dealing with the overloaded state in the Western democracies. Among others, Osborne and Gaebler supported NPM and marketization

of public services⁴¹⁷. Osborne and Gaebler argued for contracting out of public service delivery with the assumption that doing so would enable the state in steering of public governance due to the availability of extra resources at the time of policy making on the one hand, and people will get the best services from a competitive public service delivery system based on market calculation. They argue that limiting the state to the task of steering will open up a holistic approach to policy making. By arguing in favor of limited role of the state in service delivery, they presupposed the efficiency of the competitive market.⁴¹⁸

The Second ARC has taken into account the various aspects of NPM, which were in practice when it was set up. For example, the Commission has made the following observation about the origin and usefulness of NPM:

“New Public Management (NPM) – has also been called market-based public administration, managerialism, reinventing government, and post-bureaucratic model. It evolved in Britain and the us, and later spread to most of the affluent liberal Western countries and also to several developing countries like Ghana, Malaysia, Thailand, and Bangladesh. Its initial growth can be traced to the relatively minimalist, non-interventionist state ideology of the late 1970s and early 1980s, but the basic approach of NPM was later adopted by a number of countries that did not necessarily share this ideology. NPM sought to bring management professionalism to the public sector without necessarily discarding the active role and welfare goals of the state. NPM also offered the possibility of a more cost-effective and citizen-friendly state, and the possibility of substantially enhancing the governance capacity of the state for tackling the highly complex challenges of our times”⁴¹⁹.

It was against the backdrop of the above-mentioned academic and political context of public reforms in Western democracies that the Second ARC was set up in India by the President of India on the 31st of August 2005 as a Commission of Inquiry “to prepare a detailed blueprint for revamping the public administration system”. The Commission was headed by a Member of Parliament Shri Veerappa Moily. The

⁴¹⁷ See David Osborne & Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector*, Addison-Wesley Publishing Company, 1992.

⁴¹⁸ Mark Bevir, (Ed), *Public Governance*, Vol III, Sage Publications, 2007, pp. ix-x.

⁴¹⁹ Government of India, *Second Administrative Reforms Commission, First Report 13th Report*, April 2009, p.8.

Commission was asked to “suggest measures to achieve a proactive, responsive, accountable, sustainable and efficient administration for the country at all levels of the government”. In addition to this, the Commission was asked to consider thirteen issues surrounding the various aspects public administration in India: Organizational structure of the Government of India; Ethics in governance; Refurbishing of Personnel Administration; Strengthening of Financial Management Systems; Steps to ensure effective administration at the State level; Steps to ensure effective District Administration; Local Self Government/Panchayati Raj Institutions; Social Capital, Trust and Participative public service delivery; Citizen-centric administration; Promoting e-governance; Issues of Federal Polity; Crisis Management; and Public Order.⁴²⁰

6.2.3.1 Recommendations for Governance Reforms

The Commission has presented as many as fifteen reports covering the following issues: Right to Information, Human Capital, Crisis Management, Ethics in Governance, Public Order, Local Governance, Capacity Building for Conflict Resolution, Combating Terrorism, Social Capital, Refurbishing of Personnel Administration, Promoting e-Governance, Citizen Centric Administration, Organizational Structure of Government of India, Strengthening Financial Management Systems, and State & District Administration.

The Commission has presented over fifteen hundred recommendations on the various aspects of administrative reforms⁴²¹. These recommendations can be grouped into the categories of changes (in administrative structures, processes and techniques)

⁴²⁰ Government of India, Ministry of Personnel, Public Grievances & Pensions (Department of Administrative Reforms and Public Grievances), Resolution No. K-11022/9/2004-RC., 5th January 1966. (Retrieved from- <http://arc.gov.in/>).

⁴²¹ Federation of Indian Chambers of Commerce and Industry (FICCI), *Handbook on 2nd ARC Recommendations and Related Concepts*, 2014, p. 29.

and work programmes to implement these changes. The focus of the Commission's reports and the recommendations is more on the State Governments and the District Administration.⁴²² As far as the acceptance of the Commissions' recommendations' is concerned, there has been a mixed response of the Government. In what follows, we shall briefly discuss some of the recommendations made by the Commission in its reports. In its first two reports, the Commission has dealt the issues of secrecy, transparency, right to information, and right to work.

6.2.3.1.1 *Secrecy, Transparency, and Right to Information*

In its first report, the Commission has dealt the issues of secrecy, transparency, and right to information by examining the existing rules and acts such as the IOSA 1923, the National Security Act (NSA) 1980, the Indian Evidence Act (IEA) 1872, the Central Civil Services (Conduct) Rules (CCSR), the Right to Information Act (RTI) 2005, and the Manuals of Departmental Security Instructions (MoDSI) and the Manual of Office Procedure (MoOP) etc. The Commission recommended for repealing of the Official Secrets Act 1923 by arguing that "The Official Secrets Act, 1923 should be repealed, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets"⁴²³. This recommendation is based on the Commission's certain observations about the Official Secrets Act 1923. The Commission was of the view that the IOSA 1923 has over a period created a culture of secrecy based on the norm of confidentiality and exceptional disclosure, which is "against the spirit of the Right to Information Act". Accordingly, the IOSA 1923 in its

⁴²² Ibid., 30.

⁴²³ Government of India, *Second Administrative Reforms Commission*, First Report- Right to Information: Master Key to Good Governance, 2006, p.11. (Hereafter Second ARC, First Report).

present form “in the statute books is an anachronism” with “illiberal and draconian provisions” such as Section 5 etc.

The Commission concurred with the recommendations of the Law Commission’s (1971) recommendations of consolidating all laws relating to national security and suggested that a new chapter needs to be added to the National Security Act 1980. Further, the Commission differed from the Ministry of Home Affairs in terms of the priority of secrecy and disclosure. While the Ministry preferred secrecy over disclosure, the Commission was of the view that “the disclosure of information has to be the norm and keeping it secret should be an exception” and that “OSA, in its present form is an obstacle for creation of a regime of freedom of information, and to that extent the provisions of OSA need to be amended”.⁴²⁴

On the issue of secrecy and transparency in the domain of Ministers’ relationship with the people, the Commission sided with the idea of transparency and recommended for abolition of the oath of secrecy, which is presently administered by a Minister in the Union and State Governments. The Commission was of the view that the oath of office was apparently a legacy of the colonial times where “the public was subjugated to the government” and that “a very public oath of secrecy at the time of assumption of office is both unnecessary and repugnant to the principles of democratic accountability, representative government and popular sovereignty.” Even if it is required for national security and larger public interest, a written undertaking is preferable instead of “public display of prosperity to secrecy”. Therefore, the Commission viewed that “the Oath of Secrecy may be dispensed with and substituted by a statutory arrangement and a written undertaking. Further, keeping in view the spirit

⁴²⁴ Second ARC, *First Report*, pp. 4-10.

of the Act to promote transparency and as recommended by the National Commission to Review the Working of the Constitution (NCRWC) it would be appropriate if Ministers on assumption of office are administered an oath of transparency along with the oath of office”.⁴²⁵

Regarding the bureaucratic tendency of enacting rules for self-perpetuation, the Commission agreed with the views of the Shourie Committee that the Central Civil Services (Conduct) Rules were part of the rules which are aimed “to hold back information”. Such rules should be re-formed for making the goal of dissemination of information as the rule and holding back information as an exception. Similarly, the provisions of the Manual of Office Procedure violate the RTI Act and therefore these provisions need to be reframed as “Communication of official Information” so as to conform the RTI Act. Another tendency that promotes the culture of secrecy is the practice of classifying information “even when such classification is clearly unwarranted. Recognizing the need to keep certain outside public domain, the Commission viewed that the purpose of the instructions contained in the Manual of Departmental Security Instruction and the Manual of Office Procedure was to safeguard national security and not to promote the culture of secrecy. The Commission suggested that since “the task of classifying a document is vital in the larger national interest, and should be handled with great caution as any security classification denies access of information to public. Therefore, only officers of sufficient seniority should be empowered to classify documents”. The Commission also suggested that after a certain time limit such as thirty years, the classified information should be declassified and should be kept in the public domain. In addition, the Commission suggested that there

⁴²⁵ Ibid., pp. 18-19.

is a need to rationalize the hierarchy of security classification, which should reflect the scheme of exemptions under the RTI Act and emerging challenges.⁴²⁶

The Commission, while dealing with the challenges of implementing the RTI Act, reviewed the following steps taken till the first half of the year of 2006: Building Institutions, information and record keeping, capacity building and awareness generation, and creation of monitoring mechanisms. Regarding the challenges of institution building, the Commission observed that many states (including Bihar, Jharkhand, Manipur, Sikkim, Arunachal Pradesh and Mizoram) had failed to constitute Information Commissions even after ten months of the enactment of the RTI Act. In addition, as far as the issue of dispersal of information is concerned, the Commission observed that the Chief Information Commission (CIC) and State Information Commissions (SICs) were not able to overcome the tendency of centralized institutional mechanism as neither the CIC nor the SICs had established offices other than the Capitals. The Commission suggested that there should be a sufficient number of regional centers (at least four regional CICs) to for easy access. Regarding the membership of the SICs Chief Information Commissioners, the Commission found “the preponderance of persons with civil service background” and suggested that “at least half of the members of the Information Commissions should be drawn from non civil services background” to motivate public confidence. Apart from this The Commission recommended for designation of a nodal Assistant Public Information Officer in the Ministries/Departments/Agencies/Offices with more than one Public Information Officer (PIO).⁴²⁷

⁴²⁶ Second ARC, First Report, pp.21-26.

⁴²⁷ Ibid., pp.27-29.

The Commission observed that the core of transparency in governance is constituted by the Pro-active disclosure of vital information and that honest and conscientious public servants should be encouraged to disclose information in public interest. Since this effort requires protection of confidentiality and protection of whistle blower, the Commission recommended for an appropriate legislation to protect whistle blowers. The Commission observed the problem of record keeping as the weakest link in our information system. Land records, which are very important documents, have suffered a great neglect in terms of updating and maintenance after Independence. In order to enforce the RTI Act it is essential to have easily retrievable and intelligible information which is possible through the process of digitalizing the available records by way of developing record keeping procedures, concerting documents into rational, intelligible, retrievable information modules. The Commission recommended that to achieve this goal, an independent Public Records Office (PRO) should be established in Government of India and in each State Government.⁴²⁸

Given the bureaucratic tendency to promote a culture of secrecy, wherein secrecy is the norm and disclosure the exception, there is a need for capacity building and awareness generation to change the mindset of the people and of the civil servants in order to enforce the RTI Act. The Commission suggested for publishing of Awareness Guidance Series, awareness programmes on electronic media, time bound completion of awareness programmes etc. In addition to this, there is a basic need for a strong multilevel monitoring mechanism to ensure successful implementation of the RTI Act. The Commission recommend for assigning the task of effective monitoring of implementation to the CIC and SICs. The administrative challenge of implementing the RTI Act has thrown up various structural, procedural, and logistical issues and

⁴²⁸ Ibid., pp. 30-33.

problems including the problems of access to information, complicated system of accepting requests, insistence on demand drafts, difficulties in filling application by post, varying and generally higher rates of application fee etc. The Commission recommended for harmonizing the fee structure, amending the Rules to include payment through postal orders etc. There is a need for a catalogued and indexed list of all public authorities to be made available for facilitating peoples' access to information by the Department of Personnel and Training, which has been recognized as the nodal department for implementing the RTI Act. For rapid processing of applications, a Single Window Agency (SWA) is necessary in each District.⁴²⁹

The Commission viewed that lower tiers of the Government such as the Block and Taluka levels in the States have neither been considered as Public Authorities nor have PIO been designated. The recommended for treating lower tiers as Public Authorities. Doing so would make them responsible for making suo moto disclosure of information, which would facilitate peoples' faster access to information as these bodies are nearest to them both physically and functionally. Further, "substantially financed" bodies are mentioned but are not defined in the RTI Act, which should be defined. Another problem in successful implementation of the RTI Act is a uniform limit of twenty years on the disclosure of information under Section 3 of the RTI Act. This time limit should be restricted to only those records which require such time limit and rest of the documented records should be made available to people. Apart from this, there should be grievance redressal mechanism as a large number of applications belong to a grievance against a department/agency. The defensive approach of the functionaries/departments underlines the need for an independent mechanism which should hear both the public authority and the people. The Commission also recognized

⁴²⁹ Second ARC, *First Report*, pp.34-42.

the danger of “frivolous and vexatious requests” and recommended for refusal of information by PIO, who should inform the applicant about the status of application within fifteen days.⁴³⁰

On the question of applying the RTI Act to the judiciary, the Commission observed that there is a need to bring the administrative processes of the judiciary within the ambit of RTI Act without compromising with the independence and the dignity of the courts. The Commission recommended for storing of records at the district court and the subordinate courts “in a scientific way, by adopting uniform norms for indexing and cataloguing.” In addition, computerization of the administrative processes should be done in a time bound way, which should be completely in public domain. Regarding Legislative records, the Commission observed the problems of disaggregation and inadequate synthesis of information. There is a need for indexing, cataloguing, and computerizing of legislative records with online access to all people and supply on demand. Such information should be provided as a part of proactive disclosure. In addition, the Commission recommended for throwing the working of the legislative committees open to the public.⁴³¹

The foregoing discussion on the first report and recommendations of the Commission suggests that the challenge of implementing the RTI Act in order to discourage a culture of secrecy by promoting transparency in the administrative processes and practices of the Executive, Legislative, and Judiciary has remained the most important purpose throughout the report.

⁴³⁰ Second ARC, *First Report*, pp.43-49.

⁴³¹ *Ibid.*, pp. 50-53.

6.2.3.1.2 Accountability in Governance

In July 2006, the Commission presented its second report, which is about the peoples' right to work as guaranteed under MGNREGA. While dealing MGNREGA, the Commission identifies the five factors from which stem the challenges for successful implementation of this Act: Shift towards universalization and entitlements, funding by the Union Government and execution by State Governments, centrality of Local Governments, administrative and institutional arrangements, and problems in backward area. The Commission recommended that to make the guarantee of employment a successful programme, there is a need to evolve a clear mechanism for flow of funds to be driven by the demand rather than the normal bureaucratic procedure. Such a mechanism would require better coordination between providing work and provisioning of funds. In addition to this, it is necessary to describe the accountability mechanism in clear and explicit terms and that funds must to be used exclusively for furthering the goals of MGNREGA. Further, given the central role of Gram Sabha and Ward Sabhas in the implementation of schemes under MGNREGA, it is necessary to take steps for capacity building in these institutions so that they could discharge their responsibilities. Another important thing in implementation of MGNREGA is to avoid complexity, which can be done by a vigorous technology mechanism.⁴³²

In order to deal with the problems of corruption and leakages, the Commission recommended for simultaneous monitoring of the programme by Gram Sabhas, self-help groups, local monitoring committees, Non-Governmental Organizations (NGOs) etc. The task of institutionalizing simultaneous monitoring can be fulfilled by defining “a clear charter of roles and responsibilities through activity mapping and capacity building of all the monitoring agencies.” The Commission also observed that the

⁴³² Second ARC, *Second Report*, pp.10-12.

community should participate in planning, implementing, supervising, and monitoring of the schemes to avoid the possibility of leaving the decision making process to bureaucracy which could result in a bureaucratic and top-down approach.⁴³³

The Commission found a contradiction between the Act and the Operational Guidelines regarding the definition of a 'household'. To resolve this contradiction, the Commission recommended for adopting the nuclear family i.e. husband, wife, and minor children as the eligible unit. Doing so would provide improved employment prospects particularly for women and physically challenged persons, which would be helpful in improving the reach of the Scheme. The Commission recommended for giving a job card to every adult physically challenged person with suitable tasks assignment such as supervision of works, looking after crèches, doing measurements etc. which do not involve much physical strength. On the issue of guaranteeing outcomes, the Commission recommended for conducting an impact evaluation at regular breaks, ideally of three years, to assess the socio-economic impact of MGNREGA. The Commission felt the insufficiency of the envisaged evaluation in the Operational Guidelines and recommended for evolving a much more rigorous impact evaluation system, which should include indemnification of parameters to be evaluated, a baseline survey to establish their current status, prescribing target limits for each of these parameters etc.⁴³⁴

There are substantial variations in notified minimum wages fixed by different States/Union Territory administrations under the Minimum Wages Act (MWA) 1948. Further, the Commission observed that minimum wages are usually fixed on time rate basis whereas works are performed on piece rate basis. Moreover, the Minimum Wages

⁴³³ Second ARC, *Second Report*, p.13.

⁴³⁴ *Ibid.*, pp. 20-24.

Act provides different rates for agriculture labour and construction work. There is a need to examine the permissible rate for construction work under MGNREGA. The Commission recommended for constitution of a task force consisting representatives of the Ministry of Rural Development (MoRD), Ministry of Labour (MoL), Ministry of Law and Justice (MoLJ) and some State Governments to examine this issues. Regarding the issue of fund flow, the Commission recommended that fund from Government of India should be transferred every month directly to the districts in order to restore target levels. Further, a system of concurrent monitoring and audit through an independent agency should replace the existing system of fund release based on utilization certificates. Audit should be carried out every quarter and corrupt practitioners should be booked for criminal activities and that the whole country should follow a uniform financial flow system, which should keep in view the proactive role of banks and post offices. It is better to make payments, on the basis of piece rate system and not the time rate system, through banks and post offices in order to avoid leakages.⁴³⁵

The foregoing discussion on the second ARC's second report on MGNREGA suggests that the various aspects of the programme needs a comprehensive review. After having discussed the implementation aspect of MGNREGA, it is apt to turn to the other reports of the second ARC on the various issues pertaining to governance reforms. In order to do so, the recommendations of the second ARC relating to citizen centric governance are analyzed in the next few pages.

Further, the district government should be based on the principle of subsidiarity, the core idea of which is that "citizens as sovereigns and stake-holders in a democracy are the final decision-makers. Citizens are also the consumers of all services provided by the State. The citizen-sovereign-consumer must exercise as much authority as

⁴³⁵ Second ARC, *Second Report*, pp. 29-53.

practicable, and delegate upward the rest of the functions which require economies of scale, technological and managerial capacity or collective amenities”⁴³⁶. The Commission’s above recommendation is based on its observation that effective local empowerment goes beyond the mere formation of structures of elected local governments and conducting of regular elections, which suggest that there is a strong need to revisit the basic constitutional schemes relating to local government, which should be guided by the premise of a citizen-centric governance

It may be noted that one of the terms of reference of the Commission is to recommend the various measures necessary for promoting citizen-centric governance. In this regard, the Commission observed that there exist some barriers to citizen-centric administration, which include attitudinal problems of the civil servants, lack of accountability, red tapism, low levels of awareness of the rights and duties of citizens, ineffective implementation of laws and rules etc.⁴³⁷ According to the Commission, citizen-centric governance has some core principles, which include the following: Rule of Law -Zero Tolerance Strategy, making institutions vibrant, responsive and accountable, active citizens’ participation – decentralization and delegation, transparency, civil service reforms, ethics in governance, process reforms, periodic & independent evaluation of the quality of governance etc.⁴³⁸ These principles envisage active role of citizens in planning, implementation and monitoring of regulatory functions, service providing functions, and developmental functions of government. Apart from this, the Commission recommended for mandatory social audit of all programmes.⁴³⁹

⁴³⁶ Ibid., pp. 13-14, 21.

⁴³⁷ Second ARC, *Twelfth Report*, pp. 14-16.

⁴³⁸ Ibid., pp. 22-24.

⁴³⁹ Ibid., pp. 25-32.

One of the important dimension of citizen-centric government highlighted by the Commission is the idea of the Citizen Charter, which is “a set of commitments made by an organization regarding the standards of service which it delivers... [it is] a public statement that defines the entitlements of citizens to a specific service, the standards of the service, the conditions to be met by users, and the remedies available to the latter in case of non-compliance of standards”⁴⁴⁰. Based on a review of the domestic and international experience regarding an effective Citizen Charter, the Commission recommended for keeping in view the following principles of an effective Citizen Charter: One size does not fit all; Citizens’ Charter should be prepared for each independent unit under the overall umbrella of the organizations’ charter; wide consultation which include Civil Society in the process; firm commitments to be made; Internal processes and structure should be reformed to meet the commitments given in the Charter; redressal mechanism in case of default; periodic evaluation of Citizens’ Charters; benchmark using end-user feedback; and Hold officers accountable for results.⁴⁴¹

In order to ensure citizen-centric governance, the Commission recommended for making the ARC Seven Step Model for Citizen Centricity mandatory for all organizations having public Interface in the Union and State Governments. This model should be built in view of the following things: Define all services which you provide and identify your clients; set standards and norms for each service; develop capability to meet the set standards; perform to achieve the standards; monitor performance against the set standards; evaluate the impact through an independent mechanism; and

⁴⁴⁰ Ibid., 33-34.

⁴⁴¹ Second ARC, *Twelfth Report*, pp. 47-48.

continuous improvement based on monitoring and evaluation results.⁴⁴² The government of India has accepted this recommendation of the Commission.

The foregoing discussion on the various recommendations of the Commission suggests that administration in the post 73rd and 74th Amendments have gone through a rapid change, which has been visualized by the Commission as a transition in the nature of the state from administration to governance. While the recommendations promise a big change in the transformation of governance, their implementation has been a matter of debate among politicians and civil servants. It is apt to briefly discuss the response of the government regarding the recommendations of the Commission.

6.2.3.2 The Government's Response to the Second ARC Recommendations for Governance Reforms

The Government has come out with a mixed response to the various reports and recommendations of the Second ARC. One of the most important recommendations of the Commission regarding the Official Secrets Act 1923 has been to repeal this Act and insert its modified Section 5 in the National Security Act (NSA) 1980. The Government has accepted to amend Sections 5 of the Official Secret Act 1923, however, it has not accepted the Commission recommendation to repeal this Act on the basis of the assumption that “OSA is the only law to deal with the cases of espionage, wrongful possession and communication of sensitive information detrimental to the security of the State. This law has stood the test of time and has a very high conviction rate” and that the National Security Act “provides for preventive detention but does not define any substantive offence. On the other hand, the OSA is a substantive law”.⁴⁴³ Similarly,

⁴⁴² Ibid., pp.54-57.

⁴⁴³ Government of India, Ministry of Personnel, Public Grievances & Pensions, (Department of Administrative Reforms), “Government Decisions on the recommendations of Second Administrative Reforms Commission”, Decision on the First Report, p.1. (Retrieved from -<http://darpg.gov.in/>). (Hereafter, Government Decisions on the First Report).

the Government has not accepted the recommendation for amendments regarding governmental privilege on evidence concerning Section 123 of the Indian Evidence Act citing a specific provision under Section 22 of the RTI Act.⁴⁴⁴ The recommendation regarding a Minister's oath of secrecy has also not been on the ground that "in spite of the RTI Act, a Union Minister will be required to maintain official secrets"⁴⁴⁵.

Further, the recommendation regarding deleting of para 118 of the Manual of Office Procedure has not been accepted by the Government on the basis that "this para in the Manual of Office Procedure is about treating the notes portion of a file as confidential".⁴⁴⁶ Regarding the decentralization of CIC, the government has not accepted the Commission's recommendation of establishing four regional offices of CIC on the ground that "it involves huge financial implications and does not appear to serve any purpose". Further, the recommendation regarding non-civil service background for membership of the Information Commissions has not been accepted by the government on the basis that the RTI "Act provides that persons of eminence in public life with wide knowledge and experience in different fields might be appointed to the post of Chief Information Commissioner/Information Commissioners". The government has not accepted the Commissions' recommendation regarding designating a nodal Assistant Public Information Officer and the level of PIOs in Central Secretariats on the ground that "the provisions regarding receiving applications under the Act are adequate and that there is no need to make any rules as recommended by the Commission" and that the RTI "Act does not prescribe the level of PIOs. The

⁴⁴⁴ Government Decisions on the First Report, p.2.

⁴⁴⁵ Ibid., p.3.

⁴⁴⁶ Government Decisions on the First Report, p.5.

information is generally available at lower level and it is easier to provide the information to the information seeker at that level”⁴⁴⁷.

The recommendation of the Commission regarding the designation and notification of Appellate Authorities for each public authority either under rules or by invoking Section of the RTI Act has not been accepted on the basis that “it is not necessary to do so by framing rules or issue of orders under Section 30”. The government has not accepted the recommendation regarding printing of Suo motu disclosures, establishments of Public Record Offices who should function under the overall supervision and guidance of CIC/SIC, creation of funds for maintenance of Public Records and for Land Records Modernization on the ground that “it is difficult to print information periodically and practically not possible. A small change in situation would require another edition of the publication. It is also not cost effective” and that setting up of a new independent authority/office as the Public Records Office in Government of India and States was not necessary. “Existing bodies involved in record management, such as, National Archives and Department of Administrative Reforms & Public Grievances should be strengthened by providing more funds and technical expertise. Public Records Act, 1993 should be strengthened for enforcing discipline in record management”. Further, “updating of records, improving of infrastructure and creating manuals is a continuing process for which no separate funds are needed to be earmarked” and that “the States are already modernizing their land records, which is also one of the components of the national E-Governance Programme. There is, therefore, no need to create such a Fund”.⁴⁴⁸

⁴⁴⁷ Ibid., p.7

⁴⁴⁸ Government Decisions on the First Report, pp. 8-9.

The government has not accepted the Commission's recommendation regarding setting up of a Single Window Agency (SWA) in each District on the basis that "it is not possible to setup a single window agency in each district by the Central Government since complaints pertain to different areas and time would be lost in distributing them to relevant offices"⁴⁴⁹. The government has partially accepted the Commissions' recommendation regarding frivolous and Vexatious requests "subject to the deletion of the second proviso from the proposed provision"⁴⁵⁰.

The Commission recommendations regarding implementation of MGNREGA were also partially accepted by the government. For example, the Commission's recommendation of redefining the term "Household" to mean "a nuclear family i.e. husband, wife and minor children, and may include any person wholly or substantially dependent on the head of the family" has been accepted but its recommendation of issuing job cards separately to each adult physically challenged person was not accepted on the ground that "the basic unit under NREGA is the "household" and not an "individual". The Act also does not specifically address the problem of physically challenged who required special assistance of different nature"⁴⁵¹.

Further, the recommendations regarding fixing of target (maximum) levels of funds for Panchayats and replacing of the system of realizing funds based on utilization certificates with a system of concurrent monitoring and audit through an independent agency has not been accepted on the basis that "The Ministry of Rural Development mentioned that NREGA funds released is not based on budget allocation but on employment demand in a district" and that "The implementation coverage is extensive

⁴⁴⁹ Ibid., pp.12-13.

⁴⁵⁰ Ibid., p.14.

⁴⁵¹ Government Decisions on the Second Report, p. 2.

with huge number of works. Therefore, it would not be feasible to replace Utilization Certificate (UC) and go for concurrent audit. Further, Section 24(1) of the Act provides for audit of accounts of NREGA, Section 25 provides for penalties for non-compliance and Section 27(2) provided for suspending Central assistance in case of misutilisation of funds”⁴⁵².

The recommendations regarding redefining the concept of a Ministry, restructuring of the Government of India by grouping together closely related subjects have not been accepted by the Government.⁴⁵³ The Commission’s recommendations regarding an integrated governing structure at the district level in the form of the “District Council” has not been accepted by the government without assigning any reason for it. Similarly, the recommendations regarding a dual role of the District Collector has not been accepted by the government without assigning any reason or explanation. There are many other areas of district administration where the government has responded positively. However, implementation of the accepted recommendations and the expected outcome from implementation is a time taking process and only time will tell the future of governance reforms.

6.3 Conclusion

The chapter has examined critically the policy response of the state to the civil society movement for governance reforms. In doing so, the provisions of the RTI Act 2005 have been analyzed from the angle of transparency against the backdrop of the colonial legacy of administrative culture of secrecy. The provisions regarding social audit in the MGNREGA 2005 have been examined while focusing on the issue of accountability. In addition, the recommendations of the Second ARC with reference to

⁴⁵² Ibid. p.5

⁴⁵³ Government Decisions on the Thirteenth Report, p. 5.

transparency, and accountability have been discussed in order to examine the state response to the issue of colonial legacy of institutions of governance. Different narratives offer competing arguments regarding the scope of the RTI Act 2005 in terms of substantial governance reforms.

It is found that the RTI Act is a significant step towards the empowerment of the poor people in terms of participatory governance. The very struggle for the RTI Act was to achieve the goal of empowering people with the right to know. An overview of the practices of information dissemination provided in the first report of the Second ARC makes it clear that RTI Act is potent with the possibility of becoming popular among people, which can be ensured through awareness building measures and decentralization of information delivery mechanism. The appointment of the Second ARC in the 2005 was important in terms of the state response to the civil society movement for governance reforms. Although the Government of India has not accepted all the recommendations of the Commission, the recommendations of the Commissions reflect the ongoing practices and processes of the transition in the nature of the state. In addition, the recommendations point to the importance of the civil society demand for the necessity of people centric governance with transparency and accountability as the norm and secrecy as the exception.

The process of governance reforms is a continuous one, which requires continuous participation of people in general and civil society in particular. Interestingly, as found in the preceding chapter, the MKSS has been actively participating in ensuring timely implementation of the RTI Act 2005 and the social audit provisions of the MGNREGA 2005. MKSS has been successfully adopting to the changing political context after legalization of the right to information and social audit by utilizing the available legal and political space in terms of organizing social audit

camps and awareness campaigns regarding accountability. To sum up, it is found that the mass movement launched by the MKSS for governance reforms in terms of ensuring transparency through right to information and accountability through social audit has received positive response from the state in terms of the RTI Act 2005, the social audit provisions in the MGNREGA 2005, and the Second ARC recommendations relating to governance reforms.

Chapter 7

Summary and Conclusion

7.1 Summary and Findings

The study was started with the discussion on the mass movement launched by MKSS for governance reforms against the backdrop of the colonial legacy of the administrative institutions, the administrative culture of Official Secrets, and the inadequacy of administrative reforms in post-independent India. The review of literature established the gap in research in terms of lack of research studies on the problem of official secrets as a constraint to people's participation. It was found that the issue of civil society movement for governance reforms against the above-mentioned backdrop has not found space in the literature.

In order to fill in the gap, the issue of civil society movement for governance reforms was taken up for investigation with the following objectives: (1) to analyse critically the colonial legacy of institutions and administrative culture of Official Secrets Acts, (2) to appraise the administrative reforms in post-independent India, (3) to understand the Mazdoor Kisan Shakti Sangathan in terms of its role in bringing about governance reforms, and (4) to analyse the state response to the civil society movement for governance reforms. The present study was guided by the question whether civil society movement is contributing for substantial governance reforms.

The study followed a Historical Analysis approach, which involves interpretation and understanding of several historical events, documents, and processes. The different accounts about civil society resistance to the colonial legacy of official secrets and making and implementation of the policies of information and work in post-

independent India were used for a historical analysis. The required data was obtained from the following sources: Books, journals, survey reports, dissertations and theses, newspapers, magazines, working papers, pamphlets, seminar and conference presentations/publications, web portals of government ministries and departments, civil society organizations, research institutes, libraries etc.

In order to gain an understanding of the conceptual aspects of the idea of civil society movement and governance, chapter two assessed the theoretical assumptions about civil society movement and governance in the existing literature. The chapter initially focused on the literature on civil society and then went on to narrate the theoretical perspectives on civil society movement. This was done to understand the various ways of theorizing civil society movement. Next, the chapter examined the issue of defining governance and then proceeded to analyze the various theoretical perspectives on governance. Following this, the question concerning the making and implementation of public policy was investigated in the light of the literature on governance.

The perspective of civil society as a sector of association, as suggested by Carolyn M. Elliott⁴⁵⁴, was taken as the guiding idea of civil society organizations for the purpose of the study. The idea of decentered governance as an aggregated idea consisting of power and resistance, as suggested by Mark Bevir⁴⁵⁵, along with the five propositions of Gerry Stocker⁴⁵⁶, was adopted as the guiding idea of governance for the purpose of the study. Keeping the conceptual aspects of the ideas of civil society movement and governance in view, the study proceeded to analyse critically the

⁴⁵⁴ Carolyn M. Elliott, Carolyn M. Elliott (Ed), *Civil Society and Democracy: A Reader*, Oxford University Press: New Delhi, 2003.

⁴⁵⁵ Mark Bevir, Mark Bevir, *Public Governance*, Vol. 1., Sage Publications Pvt. Ltd.: Delhi, 2007.

⁴⁵⁶ Gerry Stocker, "Governance as theory: five propositions. *International Social Science Journal*, 50, (155).

colonial legacy of institutions and administrative culture of Official Secrets Acts. This was done in chapter three.

Chapter three analyzed critically the establishment of institutions of colonial administration and the institutionalization of official secrets by undertaking an analysis of the Official Secrets Acts of 1889, 1905, 1911, and 1923. Next, the various aspects of the colonial legacy of official secrets in the administration of post-independent India were examined while focusing on the machinery of administration in the light of the provisions of the Constitution of India. Following this, a critical assessment of the various attempts of administrative reforms made by the state in post-independent India was undertaken in the chapter. In doing so, the chapter pointed out inadequacy of administrative reforms and the persisting problem of the colonial legacy of institutions of administration and the administrative culture of official secrets.

7.1.1 The Colonial Legacy of Institutions, Administrative Culture of Official Secrets Acts, and the Inadequacy of Administrative Reforms in Post-Independent India

The first and second objectives of the study were to analyse critically the colonial legacy of institutions and administrative culture of Official Secrets Acts and to appraise the administrative reforms in post-independent India. An analysis of the administrative structure in post-independent India made it clear that the centralized bureaucratic system of administration is being practiced at all the levels of administration ranging from the administrative machinery of cabinet secretary at the center to the village secretary at the level of village panchayat. This system includes a range of Central Services (including Indian Income Tax Service and Indian Railway Services), All India Civil Services, State Civil Services, and village level services of panchayat secretary, *Patwari* etc.

It was found in chapter three that the attempts toward administrative reforms turned out to be insufficient for moving away from the negative aspects of colonial legacy such as the culture of official secrecy in terms of policy implementation at the different levels of administration. By analyzing the various provisions of the Constitution of India, the study has examined how the centralized bureaucratic administration of colonial times was given space in the administration of post-independent India. The chapter established that the state in post-independent India, despite its repeated attempts toward administrative reforms, could not get rid of counter-productive colonial legacy of centralized administrative practices. This was done without discrediting the state led administrative reforms. Even during the time when insufficiency of the measures towards democratic decentralization in India was prominently visible, no serious attempt was made by the state to look into the persistent problem of failure in terms of policy implementation at the local level. The chapter thus provided a basis for chapter four, which was about the rise of civil society movement in India against the backdrop of the discontentment of the inadequate administrative reforms.

Chapter four systematically pointed out the factors which led to the discontentment among people and then went on to narrate the story of the rise of civil society movement in general and the Mazdoor Kisan Shakti Sangathan in particular. In doing so, the problems of the state led centralized model of development plans and their implementation were examined critically. An analysis of the politician-bureaucrat nexus and the feudal and colonial hangover of master-subject relationship was made in an effort to locate the epicentre of the colonial legacy of official secrecy. It was established in the chapter that amid a state of disappointing processes and practices of the nexus, the people at the grassroots level began to confront the contradictory

elements of highly centralized bureaucratic practices of administration in post-independent India.

Apart from this, the rise of non-party political process was highlighted as one of the contributing factors for the growth of grassroots movements. The analysis of the factors in turn enabled us to view the persisting colonial legacy of official secrecy as a major constraint to people's participation. Keeping this in view, an overview of some civil society organizations in post-independent India, especially of those organized under the banner of the Coordination of Democratic Rights Organisations (CDRO) and the National Alliance of People's Movements (NAPM) was provided. This overview helped us in terms of focusing on the leading civil society organization in the domain of governance reforms. In this way, the Mazdoor Kisan Shakti Sangathan was singled out for further investigation, as the most representative case of civil society movement for governance reforms. It was done against the backdrop of the discontentment of inadequate administrative reforms, the persisting colonial legacy of administrative institutions, and the administrative culture of official secrets.

7.1.2 MKSS Movement and the Process of Mobilization for Governance Reforms

The third objective of the study was to understand the Mazdoor Kisan Shakti Sangathan in terms of its role in bringing about governance reforms. While focusing on the Mazdoor Kisan Shakti Sangathan, its organizational structure, leadership and membership, and ideological underpinnings were analysed in chapter four. In order to point out the guiding principle of the MKSS, the idea of 'common man', as projected by it, was examined. The profile of founding members was provided to find out the linkage between their beliefs and the ideological underpinnings of the MKSS.

The ideological underpinnings of MKSS movement were highlighted while focusing on idea of 'common man' and his/her perception about market, state, and civil

society. The idea of common man projected by MKSS as the leader of the movement includes those men and women who have been marginalized in the process of governance and public policy making and implementation. Keeping the analysis in view, chapter five took up the struggle of the MKSS for governance reforms.

Chapter five dealt in detail with the various phases of struggle and strategies deployed by the MKSS for bringing about governance reforms. In doing so, the persisting colonial legacy of the administrative culture of official secrets in the domain of land administration and draught relief works in Rajasthan was problematized in terms of the most immediate reasons for the events that led to the formation of the MKSS. Next the struggle for the making of the Right to Information Act 2005 was narrated. MKSS leadership was able to communicate its political agenda of the right to information at the national level through the platforms of NCPRI and NAC, which was eventually transformed into the election agenda of UPA-I. MKSS movement leaders have been able to find political space in the political arena at the local, regional and national levels because of their strategic foresights regarding the sustainability of struggle for legalization of right to information.

In this vein, the idea of *Jan Sunwai* (public hearing) and practice of social audit was examined while focusing on the various types of *jan sunwais* held by the MKSS before the enactment of the RTI Act 2005. The innovative practices of MKSS in terms of their strategies of *jan sunwais*, *dharnas*, *ghotala rath yatras*, street plays, songs and slogans, *truck yatras*, *jawabdehi yatras* etc have added to the existing practices of non-violent resistance. The chapter established that the struggle for right to information was one of the most important participatory role of MKSS in the making and implementation of the RTI Act 2005. Chapter five thus enabled us to look at the nature

of state response to civil society movement for governance reforms, which was examined in chapter six.

Chapter six was an ambitious endeavour to summarize the various attempts made by the state in response to the civil society movement for governance reforms. In doing so, the various provisions of the RTI Act 2005 and social audit in the MGNREGA 2005 were discussed in an effort to find out whether the struggle of the MKSS for governance reforms in terms of transparency and accountability has found any space in the state led governance reforms. In order to examine the question from a different angle, the various narratives concerning the making and implementation of the above-mentioned two Acts were examined. It was found that the state response to the demands for governance reforms has been influenced by both the civil society movement at the domestic level and the trend of public sector reforms at the global level. To further investigate the state response, the various reports and recommendations of the Second Administrative Reforms Commission (ARC) pertaining to the transparency and the accountability aspects of the above-mentioned two Acts were analysed. Chapter six thus provided us a ground for making some conclusions about the struggle of the MKSS for governance reforms.

7.1.3 State Response to the Civil Society Movement for Governance Reforms

The fourth objective of the study was to analyse the state response to the civil society movement for governance reforms. It was found in chapter six that the RTI Act 2005, the provision of social audit in the MGNREGA 2005, and the recommendations of the Second ARC were the positive policy response of the state to the civil society movement for governance reforms. The very struggle for the RTI Act was to achieve the goal of empowering people with the right to know. An overview of the practices of information dissemination provided in the Second ARC's first report makes it clear that

RTI Act is potent with the possibility of becoming popular among people, which can be ensured through awareness building measures and decentralization of information delivery mechanism. Although the Government of India has not accepted all the recommendations of the Commission, the recommendations of the Commission reflect the ongoing practices and processes of the transition in the nature of the state. The analysis of the Second ARC recommendations pointed to the importance of the civil society demand for the necessity of people centric governance with transparency and accountability as the norm and secrecy as the exception.

The research question of the study was to examine whether the civil society movement is contributing for the substantial governance reforms. In the light of the state response, we can submit that the MKSS movement has been a significant civil society participation in the process of mobilization for governance reforms. In view of the findings from the evidence at hand, we can conclude that despite some issues and challenges the civil society movement is contributing for governance reforms. The entire exercise of dealing with the process of mobilization led by the civil society movement for governance reforms has added to recent trends in the literature on governance, especially to the debate on governance and culture of official secrets.

7.2 Theoretical Implications of the Civil Society Movement for Governance Reforms

The present study, which was conducted in the light of the literature on civil society movement for governance reforms, conforms to and further adds up to the emerging perspective of governance in terms of as an aggregated idea involving, but not limited to, the interactions of civil society and state. In the context of the present study, some observations can be made regarding the space of interaction between civil society and the state. Firstly, it can be observed that the civil society movement for

governance reforms is not in opposition to the state. Rather, it is very much grounded in the possibility and limitations offered by the contemporary state in India. Secondly, the interaction between civil society and the state is taking place in a space where separation between the two is apparently blurred, if it has not disappeared completely. And finally, the civil society movement for governance reforms has been limited to the task of bringing about transformation in the procedural dimension of governance and not the substantive dimension.

The civil society movement for governance reforms examined in the present study has been mobilizing people within the limited space offered by the contemporary state in India. There is no evidence to argue that the civil society movement is aimed to overthrow the institution of the state. The bottom line is that the civil society movement does not find any conflict of interest while operationalizing its non-violent strategies of mobilizing people for governance reforms. Neither the beliefs of the political leadership nor the ideological underpinnings of the civil society movement approve of any sort of opposition to the very existential authenticity of the state. It follows from this that civil society approves of the state as a sort of regulator of the practices of governance and not as an arbitrary institution.

The interaction between those representing civil society and those representing the state has taken place in a space where power relations between the two are not radically different. To illustrate the point further, it can be argued that the political leadership representing the MKSS movement at the national level has not been completely detached from the worldview of those representing the contemporary state in India at the Center. The fact that, one of the founding leaders of the MKSS Aruna Roy has been closely interacting through 'informal' networks of communications with

the top level politicians and bureaucrats of India substantiates the observation. Further, the civil society as perceived by the political leadership of the MKSS movement does not recognize the state which exists outside the people. In other words, nature of civil society represented by the MKSS is political, which is not different from the political nature of the state as far as the interaction between the two regarding the making of public policy for governance reforms is concerned.

In the context of the present study, it emerges that the entire process of mobilization for governance reforms was limited to the task of procedural dimension of governance only. The MKSS movement is very much a believer and practitioner of the Constitutional framework and the philosophy of administrative institutions of India. The emphasis is limited to the task of ensuring transparency and accountability in governance and to increase people's participation in it. It can be stated that neither the civil society nor the state is capable of bringing about governance reforms on their own. The outcomes of the interaction between the civil society and the state reiterates the importance of dialogue and deliberation in governance.

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ANNEXURES

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ANNEXURE-I

Institutionalization of Official Secrecy through the Official Secrets Acts (1889 onwards)

1. The Indian Official Secrets Act, 1889
2. The Indian Official Secrets (Amendment) Act, 1904
3. The Indian Official Secrets Act, 1923 (Original)
4. The Official Secrets (Amendment) Act, 1967
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Secrets Act with amendments after 1967)

ACT No. XV OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 17th October, 1889.)

An Act to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

Title, extent
and applica-
tion.

1. (1) This Act may be called the Indian Official Secrets Act, 1889; and

(2) It extends to the whole of British India, and applies—

(a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and

(b) to all Native Indian subjects of Her Majesty without and beyond British India.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty:

(2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated:

(3) “document”

- (3) "document" includes part of a document :
- (4) "model" includes design, pattern and specimen :
- (5) "sketch" includes any photograph or other mode of representation of any place or thing :
and
- (6) "office under Her Majesty" includes any office or employment in or under any department of the Government.

3. (1) (a) Where a person for the purpose of wrongfully obtaining information— Disclosure of information.

- (i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or,
 - (ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,
 - (iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or
- (b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or
- (c) where

- (c) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

Breach of
official trust.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information

information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person guilty of a breach of official trust shall—

(a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor General in Council.

Restriction
on prosecution.

ACT No. V OF 1904.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 4th March, 1904.)

An Act to amend the Indian Official Secrets Act, 1889.

WHEREAS it is expedient to amend the Indian Official Secrets Act, 1889; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Official Secrets (Amendment) Act, 1904.

Addition of definition of "civil affairs" to section 2, Act XV, 1889.

2. In section 2 of the Indian Official Secrets Act, 1889, the word "and", where it occurs between clauses (5) and (6), shall be omitted, and after the latter clause the following shall be added, namely:—

"and

(7) "civil affairs" means affairs—

(a) affecting the relations of His Majesty's Government or of the Governor General in Council with any foreign State, or

(b) affecting the relations of the Governor General in Council with any Native State in India, or relating to the public debt or the fiscal arrangements of the Government of India or any other important matters of State, where these affairs are of such a confidential nature that the public interest would suffer by their disclosure."

Amendment of section 3, Act XV, 1889.

3. In section 3 of the said Act, the following alterations shall be made, namely:—

(a) in sub-section (1), sub-head (a), clause (i), the word "office" shall be omitted;

(b) in

(b) in clause (ii) of the same sub-section and sub-head,—

(i) after the word "aforesaid", the words "or in any office belonging to His Majesty" shall be inserted,

(ii) after the words "obtains", "obtain" and "takes", the words "or attempts to obtain", "or any copy of any such document, sketch, plan or model", and "or attempts to take", respectively, shall be inserted, and

(iii) for the word "anything" the words "any naval, military or civil affair of His Majesty" shall be substituted,

(c) in sub-head (c) of the same sub-section and in sub-section (2), for the words "naval or military" the words "naval, military or civil" shall be substituted,

(d) after sub-section (1), the following shall be inserted as sub-section (2), and the present sub-sections (2) and (3) shall be renumbered sub-sections (3) and (4) :—

"(2) Where a person commits any act specified in clauses (i), (ii) and (iii) of sub-section (1), sub-head (a), without lawful authority or permission (the proof of which authority or permission shall be upon him), the Court may presume that he has committed such act for the purpose of wrongfully obtaining information."; and

(e) for the words "in the interest of the State" wherever they occur, the words "in the public interest" shall be substituted.

4. In section 4, sub-section (1), of the said Act, the words "in the interest of the State or otherwise" shall be omitted.

Amendment
of section 4,
Act XV,
1889.

5. For section 5 of the said Act the following sections shall be substituted, namely :—

Substitution
of sections
for section 5,
Act XV,
1889.

"5. (1) Notwithstanding

Certain
offences
under Act
declared
cognizable.

"5. (1) Notwithstanding anything in the Code of Criminal Procedure, 1898, every offence against this Act committed in relation to any fortress, arsenal, factory, dockyard, camp or ship belonging to His Majesty, or in relation to the naval or military affairs of His Majesty, shall, for the purposes of the said Code, be deemed to be cognizable: V of 1898.

Provided that a person accused of any such offence shall not be released on bail unless on the order of a Magistrate of the first class.

(2) Every other offence against this Act shall be non-cognizable.

Procedure
after arrest
on charge of
certain
offences
punishable
under Act.

"6. (1) Any person, being a public servant as defined in the Indian Penal Code, may arrest any person who in his view commits any of the offences described in section 5, sub-section (1), and any such person, or any police-officer who has arrested any person on a charge of any such offence, and any police-officer to whom any person arrested on any such charge has been made over, shall take or send him before the officer for the time being in command or charge of the fortress, arsenal, factory, dockyard, camp or ship, or of the nearest military station, or before a Magistrate of the first class. XLV of 1860.

(2) Where any person has been taken or sent before the commanding or other officer in accordance with sub-section (1), such officer may, if he think fit, discharge such person, but, if he does not discharge him, shall, without unnecessary delay, take or send him to the nearest police-station or to any Magistrate of the first class.

(3) Where any person has been taken or sent to a police-station or to a Magistrate under sub-section (2), the provisions of the Code of Criminal Procedure, 1898, shall, save as otherwise provided by section 7, apply to him as though he had been taken to such police-station or Magistrate without being taken or sent before the commanding or other officer. V of 1898.

Restriction
on trial of
offences.

"7. (1) No Magistrate of the second class shall have

have jurisdiction to try any person for an offence against this Act.

(2) No Court shall proceed to the trial of any person for an offence against this Act, except with the consent of the Local Government or the Governor General in Council."

6. For the expression "Her Majesty", wherever it occurs in the said Act, the expression "His Majesty" shall be substituted.

Alteration of
expression
"Her Majes-
ty".

ACT NO. XIX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act to consolidate and amend the law in British India relating to official secrets.

XV of 1889.
V of 1904.

I & 2 Geo.
VI, c. 28.
I & 2 Geo.
VI, c. 28.
10 & 11 Geo.
V, c. 75.

WHEREAS the law in British India relating to official secrets is at present contained in two Acts of the Governor General in Council, namely, the Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, and one Statute of Parliament, namely, the Official Secrets Act, 1911; and

WHEREAS the Official Secrets Act, 1911, has been amended by the Official Secrets Act, 1920, which Statute applies to the United Kingdom and to certain British possessions, but not to British India; and

WHEREAS it is expedient that the law relating to official secrets in British India should be consolidated and amended;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Secrets Act, 1923.

Short title,
extent and
application.

(2) It extends to the whole of British India, and applies also—

(a) to all subjects of His Majesty and servants of the Crown within the dominions of Princes and States in India in alliance with His Majesty; and

(b) to all Indian subjects of His Majesty without and beyond British India.

2. In
1

[Price four annas and six pies.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) any reference to a place belonging to His Majesty includes a place occupied by any department of the Government, whether the place is or is not actually vested in His Majesty;
- (2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document;
- (3) “document” includes part of a document;
- (4) “model” includes design, pattern and specimen;
- (5) “munitions of war” includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adapted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;
- (6) “Office under His Majesty” includes any office or employment in or under any department of the Government or of the Government

Government of the United Kingdom or of any British possession;

(7) "photograph" includes an undeveloped film or plate;

(8) "prohibited place" means—

(a) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, His Majesty, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;

(b) any place not belonging to His Majesty where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, His Majesty, or otherwise on behalf of His Majesty;

(c) any place belonging to or used for the purpose of His Majesty which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to

an

an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

- (d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of His Majesty, which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;
- (9) " sketch " includes any photograph or other mode of representing any place or thing; and
- (10) " Superintendent of Police " includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Governor General in Council or by any Local Government.

3. (1) If

OF 1923.] *Indian Official Secrets.*

3. (1) If any person for any purpose prejudicial to the safety or interests of the State— Penalties for spying.

- (a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or
- (c) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of His Majesty or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained,

obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

Communica-
tions with
foreign
agents to be
evidence of
commission
of certain
offences.

4. (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without British India, shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(a) a person may be presumed to have been in communication with a foreign agent if—

- (i) he has, either within or without British India, visited the address of a foreign agent or consorted or associated with a foreign agent, or
- (ii) either within or without British India, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person;

(b) the expression "foreign agent" includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him

him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act, either within or without British India, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without British India, committed, or attempted to commit, such an act in the interests of a foreign power;

- (c) any address, whether within or without British India, in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

5. (1) If any person having in his possession of control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Majesty, or as a person who holds or has held a contract made on behalf of His Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract—

Wrongful
communica-
tion, etc., of
information.

- (a) wilfully communicates the code or pass word, sketch, plan, model, article, note, document

document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it; or

(b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State; or

(c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or

(d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information;

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term

term which may extend to two years, or with fine, or with both.

6. (1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

Unauthoris-
ed use of
uniforms;
falsification
of reports,
forgery,
personation,
and false
documents.

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or
- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document; or
- (d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under His Majesty, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement; or
- (e) uses, or has in his possession or under his control, without the authority of the department

department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military, or air force authority appointed by or acting under the authority of His Majesty, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp;

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State—

(a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer; or

(c) without

- (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of His Majesty, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

7. (1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of His Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

Interfering with officers of the police or members of His Majesty's forces.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

8. (1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of His Majesty's forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable

Duty of giving information as to commission of offences.

reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Attempts,
incitements,
etc.

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

Penalty for
harbouring
spies.

10. (1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(2) It shall be the duty of every person having harboured any such person as aforesaid, or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Search war-
rants.

11. (1) If a Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence
under

OF 1923.] *Indian Official Secrets.*

under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a police officer under sub-section (2) he shall, as soon as may be, report such action, in a Presidency town to the Chief Presidency Magistrate, and outside such town to the District or Sub-divisional Magistrate.

V of 1898. **12.** Notwithstanding anything in the Code of Criminal Procedure, 1898,— Power to arrest.

(a) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be a cognizable and non-bailable offence;

(b) an offence under clause (a) of sub-section (1) of section 6 shall be a cognizable and bailable offence; and

(c) every

- (c) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

Restriction
on trial of
offences.

13. (1) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the Local Government) which is inferior to that of a District or Presidency Magistrate shall try any offence under this Act.

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in British India in which the offender may be found.

Exclusion of
public from
proceedings.

14. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings

on

OF 1923.] *Indian Official Secrets.*

on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence. Offences by companies, etc.

XV of 1889.
V of 1904.

16. The Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, are hereby repealed. Repeals.

CALCUTTA.
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

Act No. 56 of 1974, S. 2 & Sch. I.

THE INDIAN OFFICIAL SECRETS (AMENDMENT) ACT, 1967

No. 24 OF 1967

[15th August, 1967]

An Act further to amend the Indian Official Secrets Act, 1923.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Indian Official Secrets (Amendment) Act, 1967.

(2) Clause (b) of section 5 shall come into force on such ¹ date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas; and the remaining provisions of this Act shall come into force at once.

Substitu-
tion of
new sec-
tion for
section 1.

2. For section 1 of the Indian Official Secrets Act, 1923 (herein- 19 of 1923. after referred to as the principal Act), the following section shall be substituted, namely:—

Short
title, ex-
tent and
applica-
tion.

“1. (1) This Act may be called the Official Secrets Act, 1923.

(2) It extends to the whole of India and applies also to ser-
vants of the Government and to citizens of India outside India.”

Amend-
ment of
section 2.

3. In section 2 of the principal Act, in clause (6), the words “or of the Government of the United Kingdom or of any British posses-
sion” shall be omitted.

Amend-
ment of
section 3.

4. In section 3 of the principal Act,—

(a) in clause (c) of sub-section (1), after the words “use-
ful to an enemy”, the following shall be inserted, namely:—

¹/₄ 10.7.1968: Vide holifn. No. S.O 2300 dated 22.6.68,
Gaz of India, Pt. II, Sec. 3(11) p 2181

"or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States";

(b) in sub-section (2),—

(i) the words "with imprisonment for a term which may extend to fourteen years" shall be omitted;

(ii) for the words "or information shall be presumed to have been made", the words "information, code or pass word shall be presumed to have been made" shall be substituted.

5. In section 5 of the principal Act,—

Amend-
ment of
section 5.

(a) in sub-section (1), for the words "or which has been made or obtained in contravention of this Act," the following shall be substituted, namely:—

"or which is likely to assist, directly or indirectly, an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States or which has been made or obtained in contravention of this Act,";

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

6. In section 6 of the principal Act,—

Amend-
ment of
section 6.

(a) in sub-section (3), for the words "two years", the words "three years" shall be substituted;

(b) in sub-section (4), the words "with imprisonment for a term which may extend to fourteen years" shall be omitted.

7. In section 7 of the principal Act, in sub-section (2), for the words "two years", the words "three years" shall be substituted.

Amend-
ment of
section 7.

8. In section 8 of the principal Act, in sub-section (2), for the words "two years", the words "three years" shall be substituted.

Amend-
ment of
section 8.

Amendment of section 10.

9. In section 10 of the principal Act, in sub-section (3), for the words "one year", the words "three years" shall be substituted.

Substitution of new section for section 12.

10. For section 12 of the principal Act, the following section shall be substituted, namely:—

Provisions of section 337 of Act 5 of 1898 to apply to offences under sections 3, 5 and 7.

"12. The provisions of section 337 of the Code of Criminal Procedure, 1898 shall apply in relation to an offence punishable under section 3 or under section 5 or under section 7 or under any of the said sections 3, 5 and 7 read with section 9, as they apply in relation to an offence punishable with imprisonment for a term which may extend to seven years."

Amendment of section 13.

11. In section 13 of the principal Act, in sub-section (3), the proviso shall be omitted.

Substitution of new section for section 15.

12. For section 15 of the principal Act, the following section shall be substituted, namely:—

Offences by companies.

'15. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other

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OF 1967]

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officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.’

13. In section 6 of the Defence of India Act, 1962, sub-clause (c) of clause (1) shall be omitted.

Amend-
ment of
section 6
of Act 51
of 1962.

Act Name : _THE OFFICIAL SECRETS ACT, 1923

Act title : ACT NO. 19 OF 1923 1* 3* * * * *

Enactment date : [2nd April, 1923.]

THE OFFICIAL SECRETS ACT, 1923 ACT NO. 19 OF 1923 1* 3* * * * * [2nd April, 1923.] An Act to consolidate and amend the law 2* * * relating to official secrets. WHEREAS it is expedient that the law relating to official secrets 2* * * should be consolidated and amended; It is hereby enacted as follows.- 4*[1.Short title, extent and application. (1) This Act may be called the Official Secrets Act, 1923. (2) It extends to the whole of India and applies also to servants of the Government and to citizens of India outside India.]

2.Definitions. In this Act, unless there is anything repugnant in the subject or context,- (1) any references to a place belonging to Government includes a place occupied by any department of the Government, whether the place is or is not actually vested in Government 5* * * * (2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received ; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document ; and expressions referring to the communication of any sketch, plan, model, article, note or document ----- 1
The Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, s. 3 and Sch.; to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I ; to Pondicherry by Reg. 7 of 1963, s. 3 and Sch. I and to Laccadive, Minicoy and Amindivi Islands by Reg. 8 of 1965, s. 3 and Sch. 2 The words "in the Provinces " were omitted by the A. O. 1950. 3 First two paragraphs of the Preamble were omitted, ibid. 4 Subs. by Act 24 of 1967, s. 2, for the former section. 5 Cl. (1a), ins. by the A. O. 1937, was rep. by the A. O. 1948. -----
----- 640 include the transfer or transmission of the sketch, plan, model, article, note or document; (3) "document" includes part of a document; (4) " model " includes design, pattern and specimen; (5) " munitions of war " includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adapted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use ; (6) "office under Government " includes any office or employment in or under any department of the Government 1* * * ; (7) "photograph " includes an undeveloped film or plate; (8) "prohibited place " means- (a)any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, Government, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war; (b)any place not belonging to Government where any munitions of war or any sketches, models, plans or documents relating thereto, are being

made, repaired, gotten or stored under contract with, or with any person on behalf of, Government, or otherwise on behalf of Government; (c) any place belonging to or used for the purpose of Government which is for the time being declared by the Central Government, by notification in the Official Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an ----- 1

The words "or of the Government of the United Kingdom or of any British possession " omitted by Act 24 of 1967, s. 3. -----

641 enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality; (d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of Government, which is for the time being declared by the Central Government, by notification in the Official Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality ; (9) "sketch " includes any photograph or other mode of representing any place or thing; and 1* * * * * (10) " Superintendent of Police " includes any police- officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Central Government 2* * * .

3. Penalties for spying. (1) If any person for any purpose prejudicial to the safety or interests of the State- (a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly; or indirectly, useful to an enemy or (c) obtains collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other -

----- 1 Cl. (9A), ins. by the A. O. 1950, was rep. by Act 3 of 1951, s. 3 and Sch. 2 The words " or by any L. G. " were rep. by the A. O. 1937. ----- 642

document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy 1*[or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States]; he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Government or in relation to any secret official code, to fourteen years and in other case to three years. (2) On a prosecution for an offence punishable under this section [2* * * , it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted

if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch, plan, model, article, note, document, 3*[information, code or pass word shall be presumed to have been made], obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

4. Communications with foreign agents to be evidence of commission of certain offences.

(1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without 4*[India], shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the -----

----- 1 Ins. by Act 24 of 1967, s. 4. 2 The words " with imprisonment for a term which may extend to fourteen years " omitted by s. 4, ibid. 3 Subs. by s. 4, ibid., for "or information shall be presumed to have been made ". 4 Subs. by Act 3 of 1951, s. 3 and Sch., for " the States". -----

643 State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy. (2) For the purpose of this section, but without prejudice to the generality of the foregoing provisions,- (a) a person may be presumed to have been in communication with a foreign agent if- (i) he has, either within or without 1*[India], visited the address of a foreign agent or consorted or associated with a foreign agent, or (ii) either within or without 1*[India], the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person; (b) the expression " foreign agent " includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act, either within or without 1*[India], prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without 1*[India], committed, or attempted to commit, such an act in the interests of a foreign power; (c) any address, whether within or without 1*[India], in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with, a foreign agent.

5. Wrongful communication. etc., of information. (1) If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or

relates to anything in such a place, 2*[or which is likely to assist, directly or indirectly, an enemy or which relates to a matter -----

--- 1 Subs. by Act 3 of 1951, s. 3 and Sch., for "the States ". 2 Subs. by Act 24 of 1967, s. 5, for "or which has been made or obtained in contravention of this Act". -----

----- 644 the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States or which has been made or obtained in contravention of this Act,] or which has been entrusted in confidence to him by any person holding office under Government, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Government, or as a person who holds or has held a contract made on behalf of Government, or as a person who is or has been employed under a person who holds or has held such an office or contract- (a) wilfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it; or (b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State ; or (c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information ; he shall be guilty of an offence under this section. (2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this sections. (3) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section. 645 (4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or if such offence is committed with intent to assist any country committing external aggression against India or to wage war against India, with death or imprisonment for life or imprisonment for a term which may extend to ten years and shall, in either case, also be liable to fine."

6. Unauthorised use of uniforms; falsification of reports, forgery, personation, and false documents. (1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety to the State- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly

makes or connives at the making of any false statement or any omission; or (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered or irregular official document; or (d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under Government, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement; or (e) uses, or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military, or air force authority appointed by or acting under the authority of Government, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such -----

----- 1 Subs. by Act 24 of 1967, s. 5, for former sub-section (4) (w.e.f. 10-7-1968). 2 Subs. by Act 42 of 1971, S.6 ?(during emergency and six months thereafter. --

----- 646 die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp ; he shall be guilty of an offence under this section. (2) If any person for any purpose prejudicial to the safety of the State- (a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof ; or (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police-officer ; or (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid ; he shall be guilty of an offence under this section. (3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to 1*[three years], or with fine, or with both. (4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of Government, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State, to prosecutions for offences punishable under that section 2* * *:

7. Interfering with officers of the police or members of the Armed forces of the Union. (1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, -----

--- 1 Subs. by Act 24 of 1967, s. 6, for "two years ". 2 The words "with imprisonment for

a term which may extend to fourteen years" omitted by s. 6, *ibid.* -----
----- 647 any police-officer, or any member of 1*[the Armed Forces of the Union] engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place. (2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to 2*[three years], or with fine, or with both.

8. Duty of giving information as to commission of offences. (1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police-officer not below the rank of Inspector, empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of 1*[the Armed Forces of the Union] engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information. (2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to 3*[three years], or with fine, or with both.

9. Attempts, incitements, etc. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

10. Penalty for harbouring spies. (1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section. (2) It shall be the duty of every person having harboured any such person as aforesaid, or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police-officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section. ----- 1
Subs. by the A. O. 1950 for "His Majesty's forces". 2 Subs. by Act 24 of 1967, s. 7, for "two years". 3 Subs. by s. 8, *ibid.*, for "two years". -----
----- 648 (3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to 1*[three years], or with fine, or with both.

11. Search warrants. (1) If a Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search warrant authorising any police-officer named therein, not being below the rank of an officer in charge of a police-station, to enter at any time any premises or

place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document. or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed. (2)Where it appears to a police-officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police-officer the like authority as may be given by the warrant of a Magistrate under this section. (3)Where action has been taken by a police-officer under sub- section (2) he shall, as soon as may be, report such action, in a presidency-town to the Chief Presidency Magistrate, and outside such town to the District or Sub-divisional Magistrate.

2 * [12. Provisions of section 337 of Act 5 of 1898 to apply to offences under sections 3, 5 and 7. The provisions of section 337 of the Code of Criminal Procedure, 1898 number shall apply in relation to an offence punishable under section 3 or under section 5 or under section 7 or under any of the said sections 3, 5 and 7 read with section 9, as they apply in relation to an offence punishable with imprisonment for a term which may extend to seven years.]

13. Restriction on trial of offences. (1) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the 3*[appropriate Government]) which is inferior to that of a District or Presidency Magistrate shall try any offence under this Act. ----- 1 Subs. by Act 24 of 1967, s. 9, for "one year". 2 Subs. by s. 10, *ibid.*, for the former section. 3 Subs. by the A. O. 1937 for "L. G.". ----- 649 (2)If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court. (3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the 1*[appropriate Government] 2* * * or some officer empowered by the 3*[appropriate Government] in this behalf: 4* * * * (4)For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in 5*[India] in which the offender may be found. 6*(5) In this section, the appropriate Government means- (a) in relation to any offences under section 5 not connected with a prohibited place or with a foreign power, the State Government; and (b) in relation to any other offence, the Central Government.]

14. Exclusion of public from proceedings. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the

publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

7*[15. Offences by companies. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed -----

1 Subs. by the A. O. 1937 for "G. G. in C.". 2_ The words " the L. G. " were omitted, ibid. 3. Subs. ibid for "L.G." 4 Proviso omitted by Act 24 of 1967, s. 11. 5 Subs. by Act 3 of 1951, S. 3 and Sch., for "the States". 6 Ins. by the A. O. 1937. 7 Subs. by Act 24 of 1967, s. 12 for the former section. -----

- 649A to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.-For the purposes of this section,- (a) "company" means a body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.]

16. [Repeals.] Rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

ANNEXURE-II

Transparency and the Right to Information

The Right to Information Act, 2005

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II — खण्ड 1
PART II — Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 21st June, 2005/Jyaistha 31, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 15th June, 2005, and is hereby published for general information:—

THE RIGHT TO INFORMATION ACT, 2005

No. 22 OF 2005

[15th June, 2005.]

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

NOW, THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Right to Information Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—

(i) by the Central Government or the Union territory administration, the Central Government;

(ii) by the State Government, the State Government;

(b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;

(c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;

(e) "competent authority" means—

(i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court in the case of a High Court;

(iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;

(v) the administrator appointed under article 239 of the Constitution;

(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(h) "public authority" means any authority or body or institution of self-government established or constituted—

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;
 (d) by notification issued or order made by the appropriate Government,
 and includes any—

(i) body owned, controlled or substantially financed;
 (ii) non-Government organisation substantially financed,
 directly or indirectly by funds provided by the appropriate Government;

(i) "record" includes—

(a) any document, manuscript and file;
 (b) any microfilm, microfiche and facsimile copy of a document;
 (c) any reproduction of image or images embodied in such microfilm
 (whether enlarged or not); and
 (d) any other material produced by a computer or any other device;

(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—

(i) inspection of work, documents, records;
 (ii) taking notes, extracts or certified copies of documents or records;
 (iii) taking certified samples of material;
 (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

(k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;

(l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;

(m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(n) "third party" means a person other than the citizen making a request for information and includes a public authority.

CHAPTER II

RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

3. Subject to the provisions of this Act, all citizens shall have the right to information.

Right to
information.

4. (1) Every public authority shall—

(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

Obligations
of public
authorities.

(b) publish within one hundred and twenty days from the enactment of this Act,—

(i) the particulars of its organisation, functions and duties;
 (ii) the powers and duties of its officers and employees;
 (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
 (iv) the norms set by it for the discharge of its functions;

(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorisations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers;

(xvii) such other information as may be prescribed;

and thereafter update these publications every year;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi-judicial decisions to affected persons.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information *suo motu* to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

(3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation.—For the purposes of sub-sections (3) and (4), “disseminated” means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

Designation of
Public
Information
Officers.

5. (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:

Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

6. (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—

Request for
obtaining
information.

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be,

specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,—

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority,

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

Disposal of
request.

7. (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving—

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;

(b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,—

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred;
- and
- (iii) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

Exemption
from
disclosure of
information.

- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (f) information received in confidence from foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

19 of 1923.

(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

Grounds for rejection to access in certain cases.

9. Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

Severability.

10. (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing—

(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;

(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;

(c) the name and designation of the person giving the decision;

(d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and

(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

Third party information.

11. (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to

make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

CHAPTER III

THE CENTRAL INFORMATION COMMISSION

12. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

Constitution
of Central
Information
Commission.

(2) The Central Information Commission shall consist of—

(a) the Chief Information Commissioner; and

(b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—

(i) the Prime Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Lok Sabha; and

(iii) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.

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

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

13. (1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Term of office
and conditions
of service.

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

(3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;

(b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

14. (1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

Removal
of Chief
Information
Commissioner
or Information
Commissioner.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

(4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER IV

THE STATE INFORMATION COMMISSION

15. (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

Constitution of
State
Information
Commission.

(2) The State Information Commission shall consist of—

(a) the State Chief Information Commissioner, and

(b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—

(i) the Chief Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Legislative Assembly; and

(iii) a Cabinet Minister to be nominated by the Chief Minister.

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.

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

(6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

Term of office
and conditions
of service.

16. (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier; and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

(3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;

(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

17. (1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

Removal of
State Chief
Information
Commissioner
or State
Information
Commissioner.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,—

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.

(4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the

Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER V

POWERS AND FUNCTIONS OF THE INFORMATION COMMISSIONS, APPEAL AND PENALTIES

Powers and
functions of
Information
Commissions.

18. (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—

(a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

Appeal.

19. (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

Penalties.

20. (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

CHAPTER VI

MISCELLANEOUS

Protection of action taken in good faith.

21. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Act to have overriding effect.

22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

19 of 1923.

Bar of jurisdiction of courts.

23. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

Act not to apply to certain organisations.

24. (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the

Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

25. (1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.

Monitoring and reporting.

(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state in respect of the year to which the report relates,—

(a) the number of requests made to each public authority;

(b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;

(c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;

(d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;

(e) the amount of charges collected by each public authority under this Act;

(f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;

(g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

(4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

(5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

Appropriate
Government to
prepare
programmes.

26. (1) The appropriate Government may, to the extent of availability of financial and other resources,—

(a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;

(b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;

(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and

(d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include—

(a) the objects of this Act;

(b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;

(c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;

(d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;

(e) the assistance available from the Central Information Commission or State Information Commission, as the case may be;

(f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;

(g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;

(h) the notices regarding fees to be paid in relation to requests for access to an information; and

(i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

27. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules by appropriate Government.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(b) the fee payable under sub-section (1) of section 6;

(c) the fee payable under sub-sections (1) and (5) of section 7;

(d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;

(e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and

(f) any other matter which is required to be, or may be, prescribed.

28. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules by competent authority.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(ii) the fee payable under sub-section (1) of section 6;

(iii) the fee payable under sub-section (1) of section 7; and

(iv) any other matter which is required to be, or may be, prescribed.

29. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of rules.

(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal.

31. The Freedom of Information Act, 2002 is hereby repealed.

5 of 2003.

THE FIRST SCHEDULE
[See sections 13 (3) and 16(3)]

FORM OF OATH OR AFFIRMATION TO BE MADE BY THE CHIEF INFORMATION COMMISSIONER/THE
INFORMATION COMMISSIONER/THE STATE CHIEF INFORMATION COMMISSIONER/THE STATE
INFORMATION COMMISSIONER

"I,, having been appointed Chief Information Commissioner/Information
Commissioner/State Chief Information Commissioner/State Information Commissioner
swear in the name of God that I will bear true faith and allegiance to the
solemnly affirm

Constitution of India as by law established, that I will uphold the sovereignty and integrity
of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment
perform the duties of my office without fear or favour, affection or ill-will and that I will
uphold the Constitution and the laws."

THE SECOND SCHEDULE

(See section 24)

INTELLIGENCE AND SECURITY ORGANISATION ESTABLISHED BY THE CENTRAL GOVERNMENT

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

T. K. VISWANATHAN,
Secy. to the Govt. of India.

ANNEXURE-III

Social Audit and the Right to Work

The National Rural Employment Guarantee Act, 2005



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 7th September, 2005/Bhadra 16, 1927 (Saka)

The following Act of Parliament received the assent of the President on 5th September, 2005 and is hereby published for general information:—

THE NATIONAL RURAL EMPLOYMENT GUARANTEE ACT, 2005

No. 42 OF 2005

[5th September, 2005.]

An Act to provide for the enhancement of livelihood security of the households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Rural Employment Guarantee Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State and any reference in any such provision to the

Short title,
extent and
commencement.

commencement of this Act shall be construed as a reference to the coming into force of that provision in such State or, as the case may be, in such area:

Provided that this Act shall be applicable to the whole of the territory to which it extends within a period of five years from the date of enactment of this Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "adult" means a person who has completed his eighteenth years of age;
- (b) "applicant" means the head of a household or any of its other adult members who has applied for employment under the Scheme;
- (c) "Block" means a community development area within a district comprising a group of Gram Panchayats;
- (d) "Central Council" means the Central Employment Guarantee Council constituted under sub-section (1) of section 10;
- (e) "District Programme Coordinator" means an officer of the State Government designated as such under sub-section (1) of section 14 for implementation of the Scheme in a district;
- (f) "household" means the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card;
- (g) "implementing agency" includes any department of the Central Government or a State Government, a Zila Parishad, Panchayat at intermediate level, Gram Panchayat or any local authority or Government undertaking or non-governmental organisation authorised by the Central Government or the State Government to undertake the implementation of any work taken up under a Scheme;
- (h) "minimum wage", in relation to any area, means the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers as applicable in that area; 11 of 1948.
- (i) "National Fund" means the National Employment Guarantee Fund established under sub-section (1) of section 20;
- (j) "notification" means a notification published in the Official Gazette;
- (k) "preferred work" means any work which is taken up for implementation on a priority basis under a Scheme;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "Programme Officer" means an officer appointed under sub-section (1) of section 15 for implementing the Scheme;
- (n) "project" means any work taken up under a Scheme for the purpose of providing employment to the applicants;
- (o) "rural area" means any area in a State except those areas covered by any urban local body or a Cantonment Board established or constituted under any law for the time being in force;
- (p) "Scheme" means a Scheme notified by the State Government under sub-section (1) of section 4;
- (q) "State Council" means the State Employment Guarantee Council constituted under sub-section (1) of section 12;
- (r) "unskilled manual work" means any physical work which any adult person is capable of doing without any skill or special training;
- (s) "wage rate" means the wage rate referred to in section 6.

CHAPTER II

GUARANTEE OF EMPLOYMENT IN RURAL AREAS

3. (1) Save as otherwise provided, the State Government shall, in such rural area in the State as may be notified by the Central Government, provide to every household whose adult members volunteer to do unskilled manual work not less than one hundred days of such work in a financial year in accordance with the Scheme made under this Act.

Guarantee of rural employment to households.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive wages at the wage rate for each day of work.

(3) Save as otherwise provided in this Act, the disbursement of daily wages shall be made on a weekly basis or in any case not later than a fortnight after the date on which such work was done.

(4) The Central Government or the State Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a Scheme for any period beyond the period guaranteed under sub-section (1), as may be expedient.

CHAPTER III

EMPLOYMENT GUARANTEE SCHEMES AND UNEMPLOYMENT ALLOWANCE

4. (1) For the purposes of giving effect to the provisions of section 3, every State Government shall, within six months from the date of commencement of this Act, by notification, make a Scheme, for providing not less than one hundred days of guaranteed employment in a financial year to every household in the rural areas covered under the Scheme and whose adult members, by application, volunteer to do unskilled manual work subject to the conditions laid down by or under this Act and in the Scheme:

Employment Guarantee Schemes for rural areas.

Provided that until any such Scheme is notified by the State Government, the Annual Action Plan or Perspective Plan for the *Sampoorna Grameen Rozgar Yojana* (SGRY) or the National Food for Work Programme (NFFWP) whichever is in force in the concerned area immediately before such notification shall be deemed to be the action plan for the Scheme for the purposes of this Act.

(2) The State Government shall publish a summary of the Scheme made by it in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which such Scheme shall apply.

(3) The Scheme made under sub-section (1) shall provide for the minimum features specified in Schedule I.

5. (1) The State Government may, without prejudice to the conditions specified in Schedule II, specify in the Scheme the conditions for providing guaranteed employment under this Act.

Conditions for providing guaranteed employment.

(2) The persons employed under any Scheme made under this Act shall be entitled to such facilities not less than the minimum facilities specified in Schedule II.

11 of 1948.

6. (1) Notwithstanding anything contained in the Minimum Wages Act, 1948, the Central Government may, by notification, specify the wage rate for the purposes of this Act:

Wage rate.

Provided that different rates of wages may be specified for different areas:

Provided further that the wage rate specified from time to time under any such notification shall not be at a rate less than sixty rupees per day.

11 of 1948.

(2) Until such time as a wage rate is fixed by the Central Government in respect of any area in a State, the minimum wage fixed by the State Government under section 3 of the Minimum Wages Act, 1948 for agricultural labourers, shall be considered as the wage rate applicable to that area.

Payment of
unemployment
allowance.

7. (1) If an applicant for employment under the Scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.

(2) Subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of this Act and the Schemes and the economic capacity of the State Government, the unemployment allowance payable under sub-section (1) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the State Government, by notification, in consultation with the State Council:

Provided that no such rate shall be less than one-fourth of the wage rate for the first thirty days during the financial year and not less than one-half of the wage rate for the remaining period of the financial year.

(3) The liability of the State Government to pay unemployment allowance to a household during any financial year shall cease as soon as—

(a) the applicant is directed by the Gram Panchayat or the Programme Officer to report for work either by himself or depute at least one adult member of his household; or

(b) the period for which employment is sought comes to an end and no member of the household of the applicant had turned up for employment; or

(c) the adult members of the household of the applicant have received in total at least one hundred days of work within the financial year; or

(d) the household of the applicant has earned as much from the wages and unemployment allowance taken together which is equal to the wages for one hundred days of work during the financial year.

(4) The unemployment allowance payable to the household of an applicant jointly shall be sanctioned and disbursed by the Programme Officer or such local authority (including the Panchayats at the district, intermediate or village level) as the State Government may, by notification, authorise in this behalf.

(5) Every payment of unemployment allowance under sub-section (1) shall be made or offered not later than fifteen days from the date on which it became due for payment.

(6) The State Government may prescribe the procedure for payment of unemployment allowance under this Act.

Non-
disbursement
of
unemployment
allowance in
certain
circumstances.

8. (1) If the Programme Officer is not in a position to disburse the unemployment allowance in time or at all for any reason beyond his control, he shall report the matter to the District Programme Coordinator and announce such reasons in a notice to be displayed on his notice board and the notice board of the Gram Panchayat and such other conspicuous places as he may deem necessary.

(2) Every case of non-payment or delayed payment of unemployment allowance shall be reported in the annual report submitted by the District Programme Coordinator to the State Government along with the reasons for such non-payment or delayed payment.

(3) The State Government shall take all measures to make the payment of unemployment allowance reported under sub-section (1) to the concerned household as expeditiously as possible.

Disentitlement
to receive
unemployment
allowance in
certain
circumstances.

9. An applicant who—

(a) does not accept the employment provided to his household under a Scheme;
or

(b) does not report for work within fifteen days of being notified by the Programme Officer or the implementing agency to report for the work; or

(c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month,

shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the Scheme at any time.

CHAPTER IV

IMPLEMENTING AND MONITORING AUTHORITIES

10. (1) With effect from such date as the Central Government may, by notification specify, there shall be constituted a Council to be called the Central Employment Guarantee Council to discharge the functions, and perform the duties, assigned to it by or under this Act.

Central
Employment
Guarantee
Council.

(2) The headquarters of the Central Council shall be at Delhi.

(3) The Central Council shall consist of the following members to be appointed by the Central Government, namely:—

(a) a Chairperson;

(b) not more than such number of representatives of the Central Ministries including the Planning Commission not below the rank of Joint Secretary to the Government of India as may be determined by the Central Government;

(c) not more than such number of representatives of the State Governments as may be determined by the Central Government;

(d) not more than fifteen non-official members representing Panchayati Raj Institutions, organisations of workers and disadvantaged groups:

Provided that such non-official members shall include two chairpersons of District Panchayats nominated by the Central Government by rotation for a period of one year at a time:

Provided further that not less than one-third of the non-official members nominated under this clause shall be women:

Provided also that not less than one-third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes and Minorities;

(e) such number of representatives of the States as the Central Government may, by rules, determine in this behalf;

(f) a Member-Secretary not below the rank of Joint Secretary to the Government of India.

(4) The terms and conditions subject to which the Chairperson and other members of the Central Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council shall be such as may be prescribed by the Central Government.

11. (1) The Central Council shall perform and discharge the following functions and duties, namely:—

Functions and
duties of
Central
Council.

(a) establish a central evaluation and monitoring system;

(b) advise the Central Government on all matters concerning the implementation of this Act;

(c) review the monitoring and redressal mechanism from time to time and recommend improvements required;

(d) promote the widest possible dissemination of information about the Schemes made under this Act;

(e) monitoring the implementation of this Act;

(f) preparation of annual reports to be laid before Parliament by the Central Government on the implementation of this Act;

(g) any other duty or function as may be assigned to it by the Central Government.

(2) The Central Council shall have the power to undertake evaluation of the various Schemes made under this Act and for that purpose collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes.

State
Employment
Guarantee
Council.

12. (1) For the purposes of regular monitoring and reviewing the implementation of this Act at the State level, every State Government shall constitute a State Council to be known as the(name of the State) State Employment Guarantee Council with a Chairperson and such number of official members as may be determined by the State Government and not more than fifteen non-official members nominated by the State Government from Panchayati Raj institutions, organisations of workers and disadvantaged groups:

Provided that not less than one-third of the non-official members nominated under this clause shall be women:

Provided further that not less than one third of the non-official members shall be belonging to the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes and Minorities.

(2) The terms and conditions subject to which the Chairperson and members of the State Council may be appointed and the time, place and procedure of the meetings (including the quorum at such meetings) of the State Council shall be such as may be prescribed by the State Government.

(3) The duties and functions of the State Council shall include—

(a) advising the State Government on all matters concerning the Scheme and its implementation in the State;

(b) determining the preferred works;

(c) reviewing the monitoring and redressal mechanisms from time to time and recommending improvements;

(d) promoting the widest possible dissemination of information about this Act and the Schemes under it;

(e) monitoring the implementation of this Act and the Schemes in the State and coordinating such implementation with the Central Council;

(f) preparing the annual report to be laid before the State Legislature by the State Government;

(g) any other duty or function as may be assigned to it by the Central Council or the State Government.

(3) The State Council shall have the power to undertake an evaluation of the Schemes operating in the State and for that purpose to collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes and Programmes in the State.

13. (1) The Panchayats at district, intermediate and village levels shall be the principal authorities for planning and implementation of the Schemes made under this Act.

Principal
authorities for
planning and
implementation
of Schemes.

(2) The functions of the Panchayats at the district level shall be—

(a) to finalise and approve blockwise shelf of projects to be taken up under a programme under the Scheme;

(b) to supervise and monitor the projects taken up at the Block level and district level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(3) The functions of the Panchayat at intermediate level shall be—

(a) to approve the Block level Plan for forwarding it to the district Panchayat at the district level for final approval;

(b) to supervise and monitor the projects taken up at the Gram Panchayat and Block level; and

(c) to carry out such other functions as may be assigned to it by the State Council, from time to time.

(4) The District Programme Coordinator shall assist the Panchayat at the district level in discharging its functions under this Act and any Scheme made thereunder.

14. (1) The Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district.

District
Programme
Coordinator.

(2) The District Programme Coordinator shall be responsible for the implementation of the Scheme in the district in accordance with the provisions of this Act and the rules made thereunder.

(3) The functions of the District Programme Coordinator shall be—

(a) to assist the district Panchayat in discharging its functions under this Act and any scheme made thereunder;

(b) to consolidate the plans prepared by the Blocks and project proposals received from other implementing agencies for inclusion in the shelf of projects to be approved by the Panchayat at district level;

(c) to accord necessary sanction and administrative clearance, wherever necessary;

(d) to coordinate with the Programme Officers functioning within his jurisdiction and the implementing agencies to ensure that the applicants are provided employment as per their entitlements under this Act;

(e) to review, monitor and supervise the performance of the Programme Officers;

(f) to conduct periodic inspection of the works in progress; and

(g) to redress the grievances of the applicants.

(4) The State Government shall delegate such administrative and financial powers to the District Programme Coordinator as may be required to enable him to carry out his functions under this Act.

(5) The Programme Officer appointed under sub-section (1) of section 15 and all other officers of the State Government and local authorities and bodies functioning within the district shall be responsible to assist the District Programme Coordinator in carrying out his functions under this Act and the Schemes made thereunder.

(6) The District Programme Coordinator shall prepare in the month of December every year a labour budget for the next financial year containing the details of anticipated demand

Programme
Officer.

for unskilled manual work in the district and the plan for engagement of labourers in the works covered under the Scheme and submit it to the district panchayat.

15. (1) At every Panchayat at intermediate level, the State Government shall appoint a person who is not below the rank of Block Development Officer with such qualifications and experience as may be determined by the State Government as Programme Officer at the Panchayat at intermediate level.

(2) The Programme Officer shall assist the Panchayat at intermediate level in discharging its functions under this Act and any Scheme made thereunder.

(3) The Programme Officer shall be responsible for matching the demand for employment with the employment opportunities arising from projects in the area under his jurisdiction.

(4) The Programme Officer shall prepare a plan for the Block under his jurisdiction by consolidating the project proposals prepared by the Gram Panchayats and the proposals received from intermediate panchayats.

(5) The functions of the Programme Officer shall include—

(a) monitoring of projects taken up by the Gram Panchayats and other implementing agencies within the Block;

(b) sanctioning and ensuring payment of unemployment allowance to the eligible households;

(c) ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block;

(d) ensuring that regular social audits of all works within the jurisdiction of the Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the objections raised in the social audit;

(e) dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block; and

(f) any other work as may be assigned to him by the District Programme Coordinator or the State Government.

(6) The Programme Officers shall function under the direction, control and superintendence of the District Programme Coordinator.

(7) The State Government may, by order, direct that all or any of the functions of a Programme Officer shall be discharged by the Gram Panchayat or a local authority.

Responsibilities
of the Gram
Panchayats.

16. (1) The Gram Panchayat shall be responsible for identification of the projects in the Gram Panchayat area to be taken up under a Scheme as per the recommendations of the Gram Sabha and the Ward Sabhas and for executing and supervising such works.

(2) A Gram Panchayat may take up any project under a Scheme within the area of the Gram Panchayat as may be sanctioned by the Programme Officer.

(3) Every Gram Panchayat shall, after considering the recommendations of the Gram Sabha and the Ward Sabhas, prepare a development plan and maintain a shelf of possible works to be taken up under the Scheme as and when demand for work arises.

(4) The Gram Panchayat shall forward its proposals for the development projects including the order of priority between different works to the Programme Officer for scrutiny and preliminary approval prior to the commencement of the year in which it is proposed to be executed.

(5) The Programme Officer shall allot at least fifty per cent. of the works in terms of its cost under a Scheme to be implemented through the Gram Panchayats.

(6) The Programme Officer shall supply each Gram Panchayat with—

(a) the muster rolls for the works sanctioned to be executed by it; and

(b) a list of employment opportunities available elsewhere to the residents of the Gram Panchayat.

(7) The Gram Panchayat shall allocate employment opportunities among the applicants and ask them to report for work.

(8) The works taken up by a Gram Panchayat under a Scheme shall meet the required technical standards and measurements.

17. (1) The Gram Sabha shall monitor the execution of works within the Gram Panchayat. Social audit of work by Gram Sabha.

(2) The Gram Sabha shall conduct regular social audits of all the projects under the Scheme taken up within the Gram Panchayat.

(3) The Gram Panchayat shall make available all relevant documents including the muster rolls, bills, vouchers, measurement books, copies of sanction orders and other connected books of account and papers to the Gram Sabha for the purpose of conducting the social audit.

18. The State Government shall make available to the District Programme Coordinator and the Programme Officers necessary staff and technical support as may be necessary for the effective implementation of the Scheme. Responsibilities of State Government in implementing Scheme.

19. The State Government shall, by rules, determine appropriate grievance redressal mechanisms at the Block level and the district level for dealing with any complaint by any person in respect of implementation of the Scheme and lay down the procedure for disposal of such complaints. Grievance redressal mechanism.

CHAPTER V

ESTABLISHMENT OF NATIONAL AND STATE EMPLOYMENT GUARANTEE FUNDS AND AUDIT

20. (1) The Central Government shall, by notification, establish a fund to be called the National Employment Guarantee Fund for the purposes of this Act. National Employment Guarantee Fund.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants or loans such sums of money as the Central Government may consider necessary to the National Fund.

(3) The amount standing to the credit of the National Fund shall be utilised in such manner and subject to such conditions and limitations as may be prescribed by the Central Government.

21. (1) The State Government may, by notification, establish a fund to be called the State Employment Guarantee Fund for the purposes of implementation of the Scheme. State Employment Guarantee Fund.

(2) The amount standing to the credit of the State Fund shall be expended in such manner and subject to such conditions and limitations as may be prescribed by the State Government for the purposes of implementation of this Act and the Schemes made thereunder and for meeting the administrative expenses in connection with the implementation of this Act.

(3) The State Fund shall be held and administered on behalf of the State Government in such manner and by such authority as may be prescribed by the State Government.

22. (1) Subject to the rules as may be made by the Central Government in this behalf, the Central Government shall meet the cost of the following, namely:— Funding pattern.

(a) the amount required for payment of wages for unskilled manual work under the Scheme;

(b) up to three-fourths of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) such percentage of the total cost of the Scheme as may be determined by the Central Government towards the administrative expenses, which may include the salary and allowances of the Programme Officers and his supporting staff, the administrative expenses of the Central Council, facilities to be provided under Schedule II and such other item as may be decided by the Central Government.

(2) The State Government shall meet the cost of the following, namely:—

(a) the cost of unemployment allowance payable under the Scheme;

(b) one-fourth of the material cost of the Scheme including payment of wages to skilled and semi-skilled workers subject to the provisions of Schedule II;

(c) the administrative expenses of the State Council.

Transparency
and
accountability.

23. (1) The District Programme Coordinator and all implementing agencies in the District shall be responsible for the proper utilisation and management of the funds placed at their disposal for the purpose of implementing a Scheme.

(2) The State Government may prescribe the manner of maintaining proper books and accounts of employment of labourers and the expenditure incurred in connection with the implementation of the provisions of this Act and the Schemes made thereunder.

(3) The State Government may, by rules, determine the arrangements to be made for the proper execution of Schemes and programmes under the Schemes and to ensure transparency and accountability at all levels in the implementation of the Schemes.

(4) All payments of wages in cash and unemployment allowances shall be made directly to the person concerned and in the presence of independent persons of the community on pre-announced dates.

(5) If any dispute or complaint arises concerning the implementation of a Scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer.

(6) The Programme Officer shall enter every complaint in a complaint register maintained by him and shall dispose of the disputes and complaints within seven days of its receipt and in case it relates to a matter to be resolved by any other authority it shall be forwarded to such authority under intimation to the complainant.

Audit of
accounts.

24. (1) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the Schemes at all levels.

(2) The accounts of the Scheme shall be maintained in such form and in such manner as may be prescribed by the State Government.

CHAPTER VI

MISCELLANEOUS

Penalty
for non-
compliance.

25. Whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees.

Power to
delegate.

26. (1) The Central Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules) may, in such circumstances and subject to such conditions and limitations, be exercisable also by the State Government or such officer subordinate to the Central Government or the State Government as it may specify in such notification.

(2) The State Government may, by notification, direct that the powers exercisable by it (excluding the power to make rules and Schemes) may, in such circumstances and subject to such conditions and limitations, be exercisable also by such officer subordinate to it as it may specify in such notification.

27. (1) The Central Government may give such directions as it may consider necessary to the State Government for the effective implementation of the provisions of this Act.

Power of Central Government to give directions.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may, on receipt of any complaint regarding the issue or improper utilisation of funds granted under this Act in respect of any Scheme if *prima facie* satisfied that there is a case, cause an investigation into the complaint made by any agency designated by it and if necessary, order stoppage of release of funds to the Scheme and institute appropriate remedial measures for its proper implementation within a reasonable period of time.

28. The provisions of this Act or the Schemes made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law:

Act to have overriding effect.

Provided that where a State enactment exists or is enacted to provide employment guarantee for unskilled manual work to rural households consistent with the provisions of this Act under which the entitlement of the households is not less than and the conditions of employment are not inferior to what is guaranteed under this Act, the State Government shall have the option of implementing its own enactment:

Provided further that in such cases the financial assistance shall be paid to the concerned State Government in such manner as shall be determined by the Central Government, which shall not exceed what the State would have been entitled to receive under this Act had a Scheme made under this Act had to be implemented.

29. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend Schedule I or Schedule II and thereupon Schedule I or Schedule II, as the case may be, shall be deemed to have been amended accordingly.

Power to amend Schedules.

(2) A copy of every notification made under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is made.

30. No suit, prosecution or other legal proceedings shall lie against the District Programme Coordinator, Programme Officer or any other person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code in respect of anything which is in good faith done or intended to be done under this Act or the rules or Schemes made thereunder.

Protection of action taken in good faith.

45 of 1860.

31. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without the prejudice of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of representatives of the State Governments under clause (e) of sub-section (3) of section 10;

(b) the terms and conditions subject to which the Chairman and other members of the Central Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of the Central Council, under sub-section (4) of section 10;

(c) the manner in which and the conditions and limitations subject to which the National Fund shall be utilised under sub-section (3) of section 20;

(d) the rules relating to funding pattern to meet the cost of certain items under sub-section (1) of section 22;

(e) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the Central Government by rules.

32. (1) The State Government may, by notification, and subject to the condition of previous publication, and consistent with this Act and the rules made by the Central Government, make rules to carry out the provisions of this Act.

Power of State Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions upon which eligibility for unemployment allowance may be determined under sub-section (2) of section 7;

(b) the procedure for payment of unemployment allowance under sub-section (6) of section 7;

(c) the terms and conditions subject to which the Chairperson and members of the State Council may be appointed, and the time, place and procedure of the meetings (including the quorum at such meetings) of their appointment to the State Council, under sub-section (2) of section 12;

(d) the grievance redressal mechanism at the Block level and the District level and the procedure to be followed in such matter under section 19;

(e) the manner in which and the conditions and limitations subject to which the State Fund shall be utilised under sub-section (2) of section 21;

(f) the authority who may administer and the manner in which he may hold the State Fund under sub-section (3) of section 21;

(g) the manner of maintaining books of account of employment of labourers and the expenditure under sub-section (2) of section 23;

(h) the arrangements required for proper execution of Schemes under sub-section (3) of section 23;

(i) the form and manner in which the accounts of the Scheme shall be maintained under sub-section (2) of section 24;

(j) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by the State Government by rules.

Laying of
rules and
Schemes.

33. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall have thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule or Scheme made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

Power to
remove
difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

SCHEDULE I

[See section 4(3)]

MINIMUM FEATURES OF A RURAL EMPLOYMENT GUARANTEE SCHEME

1. The focus of the Scheme shall be on the following works in their order of priority:—
 - (i) water conservation and water harvesting;
 - (ii) drought proofing (including afforestation and tree plantation);
 - (iii) irrigation canals including micro and minor irrigation works;
 - (iv) provision of irrigation facility to land owned by households belonging to the Scheduled Castes and Scheduled Tribes or to land of beneficiaries of land reforms or that of the beneficiaries under the Indira Awas Yojana of the Government of India;
 - (v) renovation of traditional water bodies including desilting of tanks;
 - (vi) land development;
 - (vii) flood control and protection works including drainage in water logged areas;
 - (viii) rural connectivity to provide all-weather access; and
 - (ix) any other work which may be notified by the Central Government in consultation with the State Government.
2. Creation of durable assets and strengthening the livelihood resource base of the rural poor shall be an important objective of the Scheme.
3. The works taken up under the scheme shall be in rural areas.
4. The State Council shall prepare a list of preferred works for different areas based on their ability to create durable assets.
5. The Scheme shall be subject to appropriate arrangements as may be laid down by the State Government under the rules issued by it for proper maintenance of the public assets created under the Scheme.
6. Under no circumstances shall the labourers be paid less than the wage rate.
7. When wages are directly linked with the quantity of work, the wages shall be paid according to the schedule of rates fixed by the State Government for different types of work every year, in consultation with the State Council.
8. The schedule of rates of wages for unskilled labourers shall be so fixed that a person working for seven hours would normally earn a wage equal to the wage rate.
9. The cost of material component of projects including the wages of the skilled and semi-skilled workers taken up under the Scheme shall not exceed forty per cent. of the total project costs.
10. It shall be open to the Programme Officer and Gram Panchayat to direct any person who applied for employment under the Scheme to do work of any type permissible under it.
11. The Scheme shall not permit engaging any contractor for implementation of the projects under it.
12. As far as practicable, a task funded under the Scheme shall be performed by using manual labour and not machines.
13. Every Scheme shall contain adequate provisions for ensuring transparency and accountability at all level of implementation.
14. Provisions for regular inspection and supervision of works taken up under the Scheme shall be made to ensure proper quality of work as well as to ensure that the total wages paid for the completion of the work is commensurate with the quality and quantity of work done.

15. The District Programme Coordinator, the Programme Officer and the Gram Panchayat implementing the Scheme shall prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme within his or its jurisdiction and a copy of the same shall be made available to the public on demand and on payment of such fee as may be specified in the Scheme.

16. All accounts and records relating to the Scheme shall be made available for public scrutiny and any person desirous of obtaining a copy or relevant extracts therefrom may be provided such copies or extracts on demand and after paying such fee as may be specified in the Scheme.

17. A copy of the muster rolls of each Scheme or project under a Scheme shall be made available in the offices of the Gram Panchayat and the Programme Officer for inspection by any person interested after paying such fee as may be specified in the Scheme.

SCHEDULE II

(See section 5)

CONDITIONS FOR GUARANTEED RURAL EMPLOYMENT UNDER A SCHEME AND MINIMUM ENTITLEMENTS OF LABOURERS

1. The adult members of every household who—

- (i) reside in any rural areas; and
- (ii) are willing to do unskilled manual work,

may submit their names, age and the address of the household to the Gram Panchayat at the village level (hereafter in this Schedule referred to as the Gram Panchayat) in the jurisdiction of which they reside for registration of their household for issuance of a job card.

2. It shall be the duty of the Gram Panchayat to register the household, after making such enquiry as it deems fit and issue a job card containing such details of adult members of the household affixing their photographs, as may be specified by the State Government in the Scheme.

3. The registration made under paragraph 2 shall be for such period as may be laid in the Scheme, but in any case not less than five years, and may be renewed from time to time.

4. Every adult member of a registered household whose name appears in the job card shall be entitled to apply for unskilled manual work under the Scheme.

5. All registered persons belonging to a household shall be entitled to employment in accordance with the Scheme made under the provisions of this Act, for as many days as each applicant may request, subject to a maximum of one hundred days per household in a given financial year.

6. The Programme Officer shall ensure that every applicant referred to in paragraph 5 shall be provided unskilled manual work in accordance with the provisions of the Scheme within fifteen days of receipt of an application or from the date he seeks work in case of advance application, whichever is later:

Provided that priority shall be given to women in such a way that at least one-third of the beneficiaries shall be women who have registered and requested for work under this Act.

7. Applications for work must be for at least fourteen days of continuous work.

8. There shall be no limit on the number of days of employment for which a person may apply, or on the number of days of employment actually provided to him subject to the aggregate entitlement of the household.

9. Applications for work may be submitted in writing either to the Gram Panchayat or to the Programme Officer, as may be specified in the Scheme.

10. The Gram Panchayat and Programme Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.

11. Applicants who are provided with work shall be so intimated in writing, by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the Panchayats at the district, intermediate or village level.

12. As far as possible, employment shall be provided within a radius of five kilometres of the village where the applicant resides at the time of applying.

13. A new work under the Scheme shall be commenced only if—

(a) at least fifty labourers become available for such work; and

(b) the labourers cannot be absorbed in the ongoing works:

Provided that this condition shall not be applicable for new works, as determined by the State Government, in hilly areas and in respect of afforestation.

14. In cases the employment is provided outside such radius, it must be provided within the Block, and the labourers shall be paid ten per cent. of the wage rate as extra wages to meet additional transportation and living expenses.

15. A period of employment shall ordinarily be at least fourteen days continuously with not more than six days in a week.

16. In all cases where unemployment allowance is paid, or due to be paid, the Programme Officer shall inform the District Programme Coordinator in writing the reasons why it was not possible for him to provide employment or cause to provide employment to the applicants.

17. The District Programme Coordinator shall, in his Annual Report to the State Council, explain as to why employment could not be provided in cases where payment of unemployment allowance is involved.

18. Provision shall be made in the Scheme for advance applications, that is, applications which may be submitted in advance of the date from which employment is sought.

19. Provision shall be made in the Scheme for submission of multiple applications by the same person provided that the corresponding periods for which employment is sought do not overlap.

20. The Gram Panchayat shall prepare and maintain or cause to be prepared and maintained such registers, vouchers and other documents in such form and in such manner as may be specified in the Scheme containing particulars of job cards and passbooks issued, name, age and address of the head of the household and the adult members of the household registered with the Gram Panchayat.

21. The Gram Panchayat shall send such list or lists of the names and addresses of households and their adult members registered with it and supply such other information to the concerned Programme Officer at such periods and in such form as may be specified in the Scheme.

22. A list of persons who are provided with the work shall be displayed on the notice board of the Gram Panchayat and at the office of the Programme Officer and at such other places as the Programme Officer may deem necessary and the list shall be open for inspection by the State Government and any person interested.

23. If the Gram Panchayat is satisfied at any time that a person has registered with it by furnishing false information, it may direct the Programme Officer to direct his name to be struck off from the register and direct the applicant to return the job card:

Provided that no such action under this paragraph shall be directed unless the applicant has been given an opportunity of being heard in the presence of two independent persons.

24. If any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme.

25. Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work.

26. If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of twenty-five thousand rupees or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be.

27. The facilities of safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work being performed shall be provided at the work site.

28. In case the number of children below the age of six years accompanying the women working at any site are five or more, provisions shall be made to depute one of such women worker to look after such children.

29. The person deputed under paragraph 28 shall be paid wage rate.

30. In case the payment of wages is not made within the period specified under the Scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the Payment of Wages Act, 1936 (4 of 1936).

31. The wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least one-fourth of the wages shall be paid in cash only.

32. The State Government may prescribe that a portion of the wages in cash may be paid to the labourers on a daily basis during the period of employment.

33. If any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government.

34. In case of every employment under the Scheme, there shall be no discrimination solely on the ground of gender and the provisions of the Equal Remuneration Act, 1976 (25 of 1976), shall be complied with.

B. A. AGRAWAL,
Addl. Secretary to the Govt. of India.

ANNEXURE-IV

Plagiarism Report

CIVIL SOCIETY MOVEMENT AND GOVERNANCE REFORMS

by Ramesh Kumar

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CIVIL SOCIETY MOVEMENT AND GOVERNANCE REFORMS

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