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The Right to Information Act in India:
The Turbid World of Transparency Reforms

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Declaration

I certify that the thesis I have presented for examination for the MPhil/PhD degree of the London School of Economics and Political Science is solely my own work other than where I have clearly indicated that it is the work of others (in which case the extent of any work carried out jointly by me and any other person is clearly identified in it).

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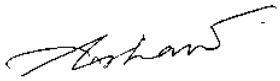

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For Ma and Pa

Contents

Abstract

The enactment of the national Right to Information (RTI) Act in 2005 has been produced, consumed and celebrated as an important event of democratic deepening in India both in terms of the process that led to its enactment (arising from a grassroots movement) as well as its outcome (fundamentally altering the citizen-state relationship). This thesis problematises this narrative and proposes that the explanatory factors underlying this event may be more complex than thus far imagined.

First, the leadership of the grassroots movement was embedded within the ruling elite and possessed the necessary resources as well as unparalleled access to spaces of power for the movement to be successful. Second, the democratisation of the higher bureaucracy along with the launch of the economic liberalisation project meant that the urban, educated, high-caste, upper-middle-class elite that provided critical support to the demand for an RTI Act was no longer vested in the state and had moved to the private sector. Mirroring this shift, the framing of the RTI Act during the 1990s saw its ambit reduced to the government, even as there was a concomitant push to privatise public goods and services. Third, the thesis locates the Indian RTI Act within the global explosion of freedom of information laws over the last two decades, and shows how international pressures, embedded within a reimagining of the role of the state vis-à-vis the market, had a direct and causal impact both on its content, as well as the timing of its enactment.

Taking the production of the RTI Act as a lens, the thesis finally argues that while there is much to celebrate in the consolidation of procedural democracy in India over the last six decades, existing economic, social and political structures may limit the extent and forms of democratic deepening occurring in the near future.

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As much of an individual process that a PhD is, one cannot conceive of it as anything but a project that can be carried out *only* with the support of numerous individuals. In the case of this thesis, I find myself overwhelmed by the limitless, unflinching and untiring generosity of not just family, friends and collaborators, but also of people that I interacted with only fleetingly. In this sense (and above all), the experience of conducting this research has essentially been a humbling one.

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List of Acronyms

ADB	*Asian Development Bank*
ATI	*Access to Information*
CERC	*Consumer Education Research Centre*
CHRI	*Commonwealth Human Rights Initiative*
CMP	*Common Minimum Programme*
CoS / COS	*Committee of Secretaries*
CPA	*Consumer Protection Act*
CPIA	*Country Policy and Institutional Assessment*
DfID	*Department for International Development, British Government*
DoPT / DOPT	*Department of Personnel and Training, Government of India*
FAO	*Food and Agriculture Organization of the United Nations*
FoI / FOI	*Freedom of Information*
GoI / GOI	*Government of India*
GoM / GOM	*Group of Ministers*
IAS	*Indian Administrative Service*
IDA	*International Development Association*
IDRC	*International Development Research Centre, Canada*
IFI	*International Financial Institution*
IIPA	*Indian Institute of Public Administration, New Delhi*
INGO	*International Non-Governmental Organisation*
LBSNAA	*Lal Bahadur Shastri National Academy of Administration, Mussoorie*
MHA	*Ministry of Home Affairs, Government of India*
MKSS	*Mazdoor Kisan Shakti Sangathan*
MLA	*Member of Legislative Assembly*

MP	*Member of Parliament*
NAC	*National Advisory Council*
NCPRI	*National Campaign for the People's Right to Information*
NDA	*National Democratic Alliance*
NGO	*Non-Governmental Organisation*
NIRD	*National Institute of Rural Development, Hyderabad*
NREGA	*National Rural Employment Guarantee Act*
OSA	*Official Secrets Act*
PCI	*Press Council of India*
PM	*Prime Minister*
PMO	*Prime Minister's Office*
PSC-HA	*Department-Related Parliamentary Standing Committee on Home Affairs*
PSC-PG	*Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice*
RAAG	*Right to Information Assessment and Analysis Group*
RTI	*Right to Information*
SWRC	*Social Work Research Centre, Tilonia, Rajasthan*
UK	*United Kingdom*
UNDP	*United National Development Programme*
UNESCAP	*United Nations Economic and Social Commission for Asia and the Pacific*
UNESCO	*United Nations Educational, Scientific and Cultural Organization*
UNICEF	*United Nations Children's Fund*
UPA	*United Progressive Alliance*
WHO	*World Health Organization*
WTO	*World Trade Organization*

Prologue

On the 5th of April 2011, Anna Hazare, a well-known social activist, began an indefinite fast at Jantar Mantar in New Delhi to pressurise the Government to enact a strong and effective Lokpal (Ombudsman) Act to root out corruption from the country.[1] His specific and immediate demand was that the Government should set up a joint committee to draft a Lokpal (Ombudsman) bill "comprising 50 per cent officials and the remaining citizens and intellectuals".[2] The build up to this event had taken place over several months. In January 2011, Hazare launched a campaign for the enactment of a Lokpal Act, including holding several rallies across the country. In response, the Prime Minister held a meeting with Hazare and some of his colleagues in March, and subsequently set up a sub-committee comprising of senior ministers to consider the demands. However, with the government not showing any signs of conceding any ground, Hazare began his fast in the first week of April.

The context that informs these events is important. The preceding months had seen a spate of financial scams of unprecedented scale, including the telecom spectrum scam, which by some accounts had short-changed the treasury by USD 40 billion. The Commonwealth Games held in Delhi in 2010 had become better known for the "organizers [buying] $80 rolls of toilet paper" rather than "signal[ling] to the world that India is rapidly marching ahead with confidence."[3] Another scandal reported in the media revealed that housing in Mumbai meant primarily for families of soldiers killed in the Kargil War of 1999 had instead been allotted at below-market rates to politicians, senior bureaucrats, and their families. Apart from these

[1] Jantar Mantar is an area in central Delhi that is the officially sanctioned site for protests against the government.
[2] As stated by Hazare in "Activist Anna Hazare's crusade against corruption continues", *Indian Express*, 6 April 2011.
[3] From "Toilet-Paper Scandal in India 'Shames' Commonwealth Games Host", *Business Week* magazine, 19 August 2010.

examples of financial and procedural impropriety at an epic scale, tapes of tapped phone conversations leaked to the media in 2010 seemed to suggest that large corporate entities had been directly involved in the process of cabinet berth selection and the allocation of key ministerial portfolios when the current Congress-led coalition government had taken charge in 2009.[4]

Public trust in government seemed to be at an all-time low and this meant that Hazare's fast drew an impassioned response. Thousands descended upon the site of the fast in New Delhi in his support, some even calling it 'India's Tahrir Square'.[5] Social media websites saw a huge outpouring of support for Hazare's cause, the dominant tone of which was an anguished tirade against corruption. Arguably, this was the largest popular protest in India in recent memory. An editorial in *The Indian Express* stated: "By now, it's been compared to Tahrir, to 1968, even to Woodstock. For those who have never experienced the energy of a mass movement, the Anna Hazare-led movement over the Lokpal bill feels like catharsis, like revolution, a tidal wave that will sweep away the entire venal political class and replace it with those who feel their pain. What connects this crowd of ex-servicemen, yoga enthusiasts, autorickshaw unions, candle-light vigilantes, actors and corporate big shots and students? That they all feel let down, in different ways, by the political apparatus, and they are mad as hell. And it is indeed satisfying for them to wrest compromise from the government, force it to correct some flaws in the draft of the Lokpal bill."[6] After several weak attempts to brazen it out over the next days, the government, under intense public pressure (fuelled in part by breathless television news coverage), conceded all of Hazare's demands, and he ended his fast on the 9th of April, 2011.

[4] See "Some Telephone Conversations", *Open* magazine, 20 November 2010.
[5] From "Media overkill" by T.S. Rajalakshmi, *Frontline* magazine, Volume 28, Issue 9, 23 April - 6 May, 2011.
[6] "Make it better", *Indian Express* newspaper, 9 April 2011.

While this was considered a great victory of the people over a recalcitrant government by some sections of the media (a headline in *The Times of India* crowed, "India wins again, Anna Hazare calls off fast"[7]), the events of that week brought fundamental debates on the nature, practice, and institutions of representative parliamentary democracy in contemporary India to the fore. With Jantar Mantar providing a backdrop suffused with the emotional intensity that often attends popular protest (and also much colour, as a Manmohan Singh lookalike traipsed into the protest site to express his support for Hazare), the strengths and weaknesses of democracy, constitutionalism, electoral politics, and the desirable degree of public participation in the legislative function of the state were intensely debated in the media.

Although the suggestion that this movement "was the first nationwide people's movement after the one launched by late Jayprakash Narayan" is reason enough to conduct a detailed and sophisticated examination of it, this research will not do so for the simple reason that the 'struggle' for a Lokpal Act still continues.[8] Attempting to meaningfully understand an ongoing process such as the Lokpal movement is fraught with risks that this research is unwilling to take. However, the 'Lokpal movement' possesses a striking resemblance with the 'Right to Information (RTI) movement' that preceded it by some years. The overarching thematic framework of fighting corruption, the assertion that legislative intervention is best placed to provide a comprehensive solution to this 'problem', the locating of the demand within the vocabulary of democratic deepening, a 'people's movement' leading the charge for such an intervention, the involvement of civil society in the drafting process of the RTI Act,

[7] From *The Times of India* newspaper, 9 April 2011.
[8] "Lokpal Bill Protest Biggest After JP Movement: Hazare", *Outlook* magazine, 11 April 2011. The well-chronicled and much celebrated 'JP movement' was led by a veteran Gandhian and socialist political figure, Jayaprakash Narayan, over 1974-75 against the Indira Gandhi-led government alleging rampant misrule and corruption. By scale and response, it was indeed a large-scale national movement the likes of which had not been seen since the struggle for independence.

and the subsequent celebration of its enactment in 2005 as a momentous victory of 'the people' over a resistant state - the parallels are significant.[9] In this sense, the movement demanding a Lokpal bill appears to rest on the same continuum as the one that sought an RTI Act, arguably extending it much further.

Given that the RTI Act has now been in place for some years, it possesses at least one definitive culmination point - the enactment of the Act itself. From the perspective of conducting research, this means that at least one well-defined boundary is already marked out. This research is therefore unapologetically pragmatic in choosing to focus on the RTI Act to explore the question of democratic deepening in India.[10] It is hoped that by examining the experience of the RTI Act, this study will provide some insights into the practice of democracy in India (and elsewhere), which in turn may provide some analytical tools to understand the ongoing evolution of the Lokpal movement, which is undoubtedly a significant event in the contemporary socio-political landscape of 'the world's largest democracy'.

[9] These characteristics of the popular narrative that describes the 'RTI movement' are discussed in detail in Chapter 3 and also inform the thesis as a whole.
[10] At the same time, it should be noted that the RTI Act also remains far from being a closed chapter. Vigorous debate on the implementation and implications of the RTI Act continues to take place.

Chapter 1

Democratic Deepening and the Right to Information

"What's wrong with open government? Why shouldn't the public know more about what's going on?"
"My dear boy, it's a contradiction in terms. You can be open, or you can have government."
"But surely the citizens of a democracy have a right to know?"
"No. They have a right to be ignorant. Knowledge only means complicity and guilt, ignorance has a certain dignity."[11]

Thirty five years after Sir Humphrey uttered his priceless homily on knowledge, ignorance and democratic citizenship, the President of India, A.P.J. Abdul Kalam, gave his assent to a bill on 15 June 2005, which the Parliament of India had passed a few weeks before.[12] His signature gave the country its national Right to Information (RTI) Act which had been enacted "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"[13].

The RTI Act has been widely hailed as a landmark piece of legislation both within and beyond the country, primarily for three reasons. First, the fact of enacting a right to information law is a radical departure from the access to information regime that existed prior to the enactment of this law. Previously, under the Official Secrets Act (OSA) of 1923, all

[11] Conversation between Bernard Woolley, Private Secretary to the Minister for Administrative Affairs, Sir Arnold Robinson, Cabinet Secretary, and Sir Humphrey Appleby, Permanent Secretary at the Department of Administrative Affairs, in the episode titled "Open Government" in the iconic BBC television series of the 1980s, *Yes Minister*. The Minister in the series is the Rt. Hon. Jim Hacker, Lord Hacker of Islington KG PC BSc.
[12] The Freedom of Information Act for the UK (except Scotland) was enacted in 2000, and came into force on 1 January 2005. Scotland has its own Act which also came into force on the same date.
[13] Excerpt from the RTI Act 2005. See Annexure I for the full text of the RTI Act 2005.

information held by public authorities was considered secret by default, unless the government itself deemed it otherwise.[14] The second reason is the specific nature of the Act – it is generally considered to be a very strong one within the context of access to information laws anywhere in the world, and is considered to be a transformatory piece of legislation which is fundamentally altering the citizen-state relationship in the country.[15] Finally, the narrative describing the process leading to the enactment of this Act traces it to a 'grassroots' struggle, which locates the vocabulary and the representation of the RTI discourse within a framework of 'real' and 'meaningful' democracy with respect to *both* the process and its outcome.

With some estimates suggesting that over two million applications for information were filed across the country under the RTI Act between its enactment in 2005 and 2008, it is not a law which has simply been enacted and shelved, but is being actively used.[16] Media reports extolling "India's powerful and wildly popular Right to Information law"[17] abound, citing myriad cases where the Act has been used by citizens or non-governmental organisations to unearth all manner of information from the government, in some cases resulting in its embarrassment, in others unearthing corruption, and in yet others allowing individuals to wrench from the government what is ordinarily their due.[18] Portrayed as a tool which in part enhances entitlement, in part increases empowerment, and in general attempts to hold public

[14] A detailed discussion on the access to information regime which existed in India prior to the RTI Act is provided in Chapter 5.
[15] The law is considered to be a strong one as it has clauses related to time-bound responses, public interest overrides, well-defined exceptions, and clearly defined sanctions for non-compliance. Advocates of the RTI Act often highlight its potential to effectively realise all other civil, political rights, economic and social rights. A discussion on the comparative aspects of the law is provided in Chapter 6.
[16] See RAAG and NCPRI (2009).
[17] From "Right-to-Know Law Gives India's Poor a Lever", *International Herald Tribune* newspaper, 29 June 2010.
[18] Although by law only citizens, and *not* groups or organisations, can seek information from public authorities, in many cases an individual associated with an organisation files an application, and then the information received is used publicly with credit to the organisation and not the individual who may have actually filed the application.

authorities accountable to citizens, some of these stories are heart-warming indeed. For example, a recently reported case recounted the story of a poor and socially marginalised woman who applied for a grant under a government scheme to construct a house. Not hearing anything about her application for four years, she filed a request for information to the relevant public authority seeking a list of successful grantees, and on the status of her application for the grant. While the story does not say whether she received the information, she received a grant to build a house within a few days.[19]

In other instances, information regarding the framing of government policies has been sought and responses from the government received. For example, the response to an RTI application regarding the Indian government's policies on climate change "revealed that no process exists within the Ministry of Environment and Forests and the Prime Minister's Office to identify, prioritise and pass on new scientific knowledge about climate change to the heads of the two institutions, which play the most significant role in determining India's climate policy".[20] Another application under the RTI Act sought, and received, copies of all correspondence between the Prime Minister Manmohan Singh and Sonia Gandhi, the Chairperson of the United Progressive Alliance, the ruling coalition in the Parliament.[21] In yet another case, a request for information brought an amusing, if worrying statistic to light – "42 cases of pilots report[ed] drunk for duty" in 2009.[22]

Inebriated pilots notwithstanding, the story is intriguing. The state in India (across the colonial and post-independence eras) has zealously guarded its 'right' to produce and control

[19] See "Right-to-Know Law Gives India's Poor a Lever", *International Herald Tribune* newspaper, 29 June 2010.
[20] See http://www.alertnet.org/db/an_art/60167/2010/05/7-154006-1.htm. Accessed 29 June 2010.
[21] See "Focus on NAC-I issues in Sonia letters to PM" by D.K. Singh, *Indian Express* newspaper, 12 April 2010.
[22] See "Eight 'tipsy' pilots sacked: DGCA", *India Today* magazine, 6 June 2010.

information. In a radical and relatively sudden departure from this position, it gives up this 'right' without making any incremental changes in policy. To confound the situation further, not only does it do so in a formal sense, but it does so very substantially. This event, both in its process and in outcome, is then produced and consumed as *the* marker of 'modern' democracy,[23] of voice, of empowerment, of the reclaiming of sovereignty by the people, of accountability, of the creation of citizenship, and of even being the "second freedom struggle"[24].

How did this come to be and what does this imply? While these are indeed the first questions that come to mind, several others abound. Why should a state give up control over what in many formulations is the very source of its power, viz. information? What is the nature of a state that would do so? Was public pressure on the state so great that it was not allowed any room to manoeuvre? Even if it was responding to pressures of some kind, why must it seemingly capitulate so completely? Has the nature of the state in India changed so immeasurably over the past few decades that this should *not* be a surprising phenomenon? Does this indicate that the conception of the state itself must be recalibrated? What was the nature of the process which allowed this 'event' to be produced and consumed in the way it was? What were the roles of and the relationships between civil and political society in this process? Have their nature and relationship with the state changed as represented by this particular process? What was the relationship between the process and its outcome? Is this indeed a significant historical moment, a tipping point as it were, where the practice of democracy in India shifts from being merely a formal one to a substantive one? Does this

[23] For example, the headline of the editorial published in *The Economic Times* newspaper on the fifth anniversary (15 June 2010) of the enactment of the RTI Act was "Right to information, key to democracy".
[24] Noted social activist Anna Hazare in a media interview in February 2005, a few months before the national RTI Act was enacted. The quote continues as "The first [freedom struggle] was against the white sahib, this one will be against the brown sahib". See http://www.indiatogether.org/2005/feb/rti-hazare.htm. Accessed 30 June 2010.

indicate that power has indeed begun to move inexorably downwards? Is the imagination of and aspiration to a 'modern' and effective liberal democracy actually coalescing into reality?

The Puzzle

The enactment of the RTI Act in India at this particular juncture seems to dramatise and bring into sharp relief questions such as these which lie at the heart of several ongoing debates around democracy and its deepening, the production and evolution of civil society and citizenship, the nature of the post-colonial developmental state, and citizen-state relationships, amongst others. Informed by these debates, this thesis will therefore attempt to investigate the following questions:

1. How and why was the RTI Act enacted in India at the time that it was?
2. How and why did it take the specific form that it did?
3. What does this tell us about the nature of the democratic process in India?
4. How does this improve our understanding of debates on democratic deepening, the location and exercise of power, and the relationship between these?

While these are the questions that the thesis *will* engage with, it will *not* attempt to evaluate the nature of implementation, or the impact of the usage of the RTI Act on governance or corruption. Although these are important questions in themselves and do have a bearing on the questions above, they are not the centrepiece of this thesis, in part because the legislation has been in force for just under seven years, a period of time that is too short to assess its impact on structures of governance and the implications for some of the questions mentioned

above.[25] But perhaps more importantly, the organising principle of this thesis concerns itself with the political processes that bring about what appear to be substantial changes in the policy environment within a democratic polity.

This orientation of this research also points to a gap in the literature related to 'policy processes', particularly in the Indian context. Even as much energy is expended on analysing the implementation of various social policies, "The issues and questions, for instance, of why policies are formulated and designed in particular ways in the first place, and the political shaping of policies 'on the ground', do not receive much attention" (Mooij and de Vos, 2003: vii). The politics which informs the policy-making process *ex-ante* is more often than not definitive in terms of the contours any policy might eventually take. In this context, this research also attempts to redress this imbalance by focusing on the processes *preceding* the institutionalisation and implementation of new policies. Thus even as outcomes are important, the processes which produce an event, which in turn *allow* certain (expected or unexpected) outcomes to take place, is the primary focus of this research. Therefore, the thesis will be developed primarily by tracing, unpacking and analysing the processes leading up to the enactment of the RTI Act, and will refer to post-enactment events only when relevant to the sphere circumscribed by the questions above.

Literature on the RTI in India

Over the last two decades, the world has seen a sharp rise in the number of countries which have some sort of a law pertaining to public access to government documents. Until 1989,

[25] Although a geographically limited study analysing the impact of the RTI on, for example, public service delivery, could have been carried out, it would be a different thesis. However, scattered studies on the impact aspect of the RTI Act are in fact beginning to emerge, albeit not on a large scale, either geographically, or in scope.

only eight countries in the world had any such legislation. In 2011, this number stood at eighty eight.[26] Unsurprisingly, a number of publications which address the issue of transparency, accountability and access to information have also emerged concomitantly.[27] Curiously, only limited academic literature has specifically addressed the RTI Act in India. In addition, within this literature that has appeared intermittently over the last decade or so, a few consistently repeated tropes can be discerned.[28] First, much of this literature has placed its attention on a 'grassroots struggle' for the right to information in rural Rajasthan, a state in western India. This literature primarily locates (and more often than not celebrates) the RTI Act as a highly successful example of innovations being carried out by social activists and movements in rural India within the larger project of pressuring the state to become more responsive to the needs of the poor and the marginalised, as well as creating and expanding new democratic spaces. The second broad trend which appears in the literature is of placing this narrative within the conceptual framework of accountability of public institutions. The discussion is then circumscribed by questions such as how accountability is exercised, between whom, in which forms, and at which sites. The third trend is the location of the RTI Act within the deepening democracy debate where this particular example is posited as evidence of democratic deepening in India, both because it was produced as a result of a 'people's movement' and a 'people's campaign', as well as for what it sought to do – create an institutional framework within which citizens could directly, and on an everyday basis, hold the government to account.

For an event which is being produced as immensely momentous to the democracy debate in India, there is a singular lack of diversity of perspectives on the issue. Virtually every version

[26] See Vleugels (2011).
[27] A review of this literature is taken up in Chapters 3 and 6.
[28] Baviskar (2007), Goetz and Jenkins (1999), Roberts (2010), Roy and Dey (2002) and Singh (2007, 2011) are key publications which develop and reinforce the dominant narrative. The dominant narrative, its veracity, and why it has become so are analysed in greater detail in Chapters 3, 4 and 6.

of the history of the production of the Act consistently invokes the narrative of a grassroots struggle which led to the enactment of the Act, a vision which suggests vast multitudes of the masses locked in an epic contest against a government which eventually, though begrudgingly, gives in to a widely popular demand for access to public information. Armed with this new weapon in an otherwise limited arsenal that promotes the practice of citizenship, the masses emerge victorious. Democracy has now been deepened exponentially, even as the struggle to hold on to this victory continues.

This, as Neera Chandhoke (2003) points out in the context of the discourse on civil society, *flattening* of the RTI narrative in India is intriguing and needs deeper examination, especially given the fact that obvious silences exist in this literature. For example, the existing literature does not address the issue of the arrangement of formal political forces or the political context within which the 'people's struggle' was carried out and how these might have impacted the process. Even as the dominant narrative focuses on *how* the struggle was carried out, it does not discuss the constitutive characteristics of individuals and civil society groups which were involved in the struggle and the campaign for the RTI Act, which had immense, if not defining, implications on the outcome of the process. There is also an obvious silence on the role of various governments, both past and present, in the process of enacting the RTI Act. While the literature celebrates the RTI Act as a very successful outcome of a movement, very little has been written about possible causal factors behind the lack of effective resistance from a powerful adversary, the bureaucracy, to the RTI Act. Further, existing literature does not speak of the possibility of international processes influencing relevant

domestic events given the fact that the enactment of the Indian RTI Act falls squarely within a larger global trend.[29]

That the narrative has been flattened to this extent points to a peculiar incongruity. On the one hand, the existing narrative suggests a fairly straightforward thesis – that of a democratic state responding to pressures from below. At the same time, it also locates the narrative within the framework of democratic deepening, which is an area of inquiry that continues to engender wide and diverse debates. It may thus be of some value to review the terrain of democratic deepening (digging up becoming a necessary action for deepening, as it were) to better locate the RTI Act within this debate, as well as problematise the claims of the existing literature. In this chapter I will therefore first review debates around democracy and its deepening, followed by reviewing key ideas related to the specificities of Indian democracy.[30] Finally, I will revisit the organising questions of this thesis and locate them across these overlapping conceptual categories.

Deepening Democracy[31]

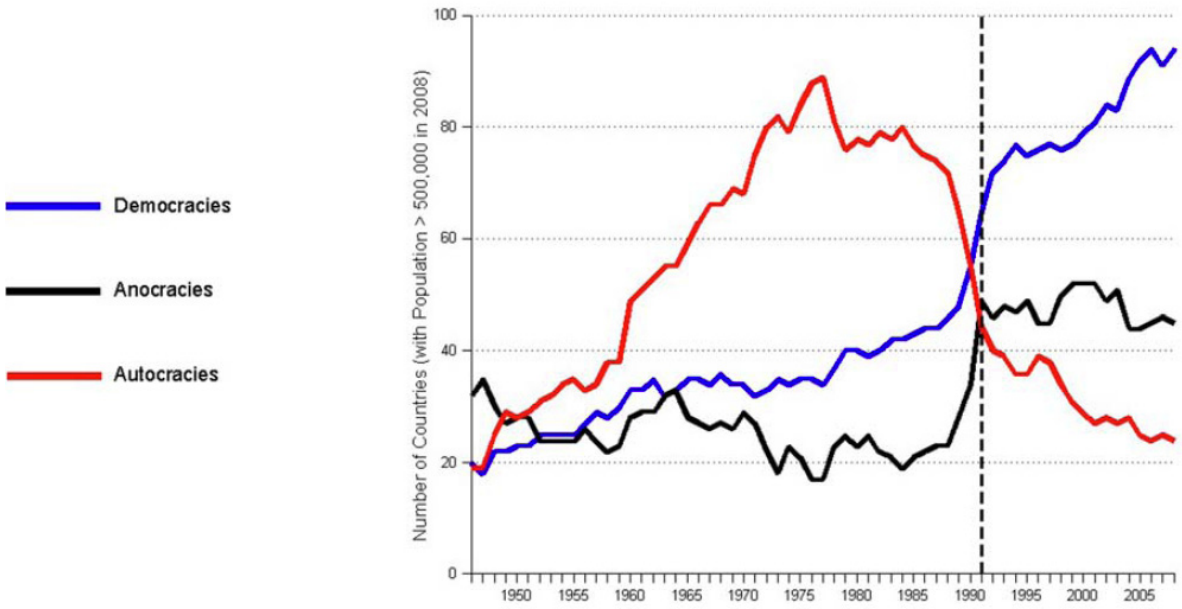
The Rise and Rise of Democracy

Perhaps the very idea of the need for deepening democracy arose from a tension between a sharp rise in the number of formal democracies on the one hand, and a growing concern

[29] Even as it attempts to fill these gaps, this thesis will also unpack each of the assertions mentioned above in later chapters.
[30] Entering the debate through a discussion on the 'state' could have been another possible approach. However, given that the dominant narrative of the production of the RTI Act (as also its consumption) lies squarely within the framework of democratic deepening, even as significant claims have been made in terms of its transformatory potential, entering the debate through this lens allows for greater conceptual coherence.
[31] For the purposes of the thesis, deepening democracy means "a process through which citizens exercise ever deepening control over decisions which affect their lives, and as such it is also constantly under construction" (Gaventa, 2006: 11).

around what has come to be known as 'democratic deficits' on the other. In the literature which analyses the expansion of democracy, democratisation processes have often been seen as coming in 'waves' (Huntington, 1992), with the third wave being the most pronounced. Electoral democracies seem to be generally on the rise, at least in terms of numbers, with 115 countries out of 194 conducting elections regularly, and 87 of these being considered 'full' democracies, if the defining characteristics are taken to be respect for rule of law and protection of civil and political rights of citizens, apart from holding free and fair elections regularly (Freedom House, 2011).

Figure 1.1: Global trends in governance, 1946-2008[32]



Source: Marshall and Cole, 2009: 11

Although the causes behind this sharp increase have been widely debated (Ackerman, 1992; Higley and Gunther, 1992; Huntington, 1992; O'Donnell and Schmitter, 1986), what is

[32] The report defines an 'anocracy' as "a middling category rather than a distinct form of governance. [Anocracies] are countries whose governments are neither fully democratic nor fully autocratic but, rather, combine an, often, incoherent mix of democratic and autocratic traits and practices" (Marshall and Cole, 2009: 9).

uncontested is that there certainly has been an increase in the number of formal democracies in the world in recent decades. The graph above can be taken as representative in terms of the overall trends being observed, even if the methodology of data collection could well be contested.[33] In tandem with this increase in numbers, the language of global politics is suffused with a victorious note, where liberal democracy is being increasingly seen as *the* desirable form of government for all humanity. From Bhutan, where a ruling and popular monarchy almost seems to foist democracy onto a people unwilling to let go of their king, to the recent events in Tunisia, Egypt and Libya, to Iraq and Afghanistan, where attempts to produce democracy are being made primarily by external actors, liberal democracy seems to be on an unassailable ascendant.

However, the approach which focuses on the 'scaffolding' that makes democracy possible has been critiqued by suggesting that an overbearing focus on the procedural aspects of democracy is an extension of the democratic elitism experienced by the north, and foisting this form of democracy upon the global south in fact depoliticises the practice of democracy itself. "Democratic elitism was based on two main theses: first that in order to be preserved, democracy must narrow the scope of political participation; and the second that the only way to make democratic decision-making rational is to limit it to elites and to restrict the role of the masses to that of choosing between elites" (Avritzer, 2002: 14-15, quoted in Gaventa, 2006: 13). Thus politics is "stripped of its horizontal elements, which are replaced

[33] For example, there is some debate (Dahl, 1971; Di Palma, 1990; Huntington, 1989, 1991; O'Donnell and Schmitter, 1986; Schumpeter, 1947) in terms of what are the minimum defining features of a functioning democracy, and hence at what point does a country 'make the grade'. Further, even as there is a clear trend in the increase in the numbers of procedurally democratic countries in this graph, the data underlying it does not take into account an overall increase in the number of countries itself, especially after the collapse of the Soviet Union, as well as countries in the Balkans splitting into several new countries. If such details were to be overlaid with this particular data, perhaps the trend line showing the ascendance of democracy would not display such a steep curve as of 1990. However, a general consensus seems to exist that the number of countries espousing liberal democracy as *the* desired form of government is definitely on the rise. As Heller (2000) says, "there are far more countries today in which democracy is the *only* game in town than was the case just fifteen years ago" (Heller, 2000: 484; emphasis added).

by the political authorization of elites through elections" (Avritzer, 2002: 23). In this context, " the hegemonic model of democracy (liberal, representative democracy), while prevailing on a global scale, guarantees no more than low-intensity democracy, based on the privatization of public welfare by more or less restricted elites, on the increasing distance between representatives and the represented, and on an abstract political inclusion made of concrete social exclusion" (Sousa, 2005: ix-x). Avritzer goes on to develop the idea of 'participating publics' and suggests that "the most sensible way to further democratize state-society relations is to transfer democratic potentials that emerge at the society level to the political arena through participatory designs" (2002: 8-9).

Democratic Deficits

Apart from such critiques that question the legitimacy of manufacturing a specific type of democracy from above, a parallel stream of literature focuses on the evolution and consolidation of democracies around the world, both in the global north and south. Although the typology of questions varies, in the north questions are being asked about the degree of political engagement of citizens (or lack thereof) (Clarke 2002; Putnam, 2000; Skopcol, 2003; Wainwright, 2003), while in the south the nature of inquiry has often focused on the relationship between democracy and poverty (Moon and Dixon, 1985; Przeworski et al 2000; Ross, 2006; Sen 1981, 1999). In either case, the underlying conceptual underpinnings are broadly similar. Are citizens actually participating in democratic processes, not limited merely to exercising their franchise? Who is taking decisions on behalf of the 'public', even in countries where the architecture of democratic governance has been in place for long? What is the level of public involvement with political life and engagement with politics? What are the structural limitations which need to be overcome to achieve meaningful

democracy? Does democracy axiomatically lead to the material betterment of people? As Sousa puts it, "At the very moment of its most convincing triumphs across the globe, liberal democracy becomes less and less credible and convincing not only in the "new frontier" countries but also in the countries where it has its deepest roots. The twin crises of representation and participation are the most visible symbols of such a deficit of credibility, as well as, in the last instance, of legitimacy" (Sousa, 2005: xxx). In light of such questioning, a variety of epithets have emerged which seem to qualify the practice of democracy in different national and political contexts. 'Elite democracy' (Wainwright, 2003), 'diminished democracy' (Skocpol, 2003), 'downsized democracy' (Crenson and Ginsberg, 2002), 'exclusionary democracy' (Abrahamsen, 2000) are some, each pointing to concerns being raised about the practice and relational aspects of democracy, rather than its procedural characteristics. This qualifying of democracy in such a manner has also led to a rise in describing 'democracy with adjectives' (Collier and Levitsky, 1997). These range from "authoritarian, neo-patrimonial, or military-dominated forms of democracy on the one hand, to more substantive, inclusionary, participatory, deliberative, or deepened democracy on the other, with perhaps forms of representative, procedural or delegative democracy occupying a type of middle ground" (Gaventa, 2006: 10).

Given that most such adjectives point to ""diminished" subtypes of democracy" (Collier and Levitsky, 1997: 431), there is a clear concern amongst scholars of democracy and democratisation regarding the limitations of democracy in its practice(s). These limitations have been usefully organised into four broad types of 'democratic deficits' by Luckham et al (2000: 22-24).

1. Hollow citizenship, where deep inequalities exist in the exercise of citizenship in both formal arrangements and the practice of power;
2. Lack of vertical accountability, where citizens are unable to hold their governments to account effectively;
3. Weak horizontal accountability, where existing formal institutions, such as the judiciary, are unable to exercise their monitoring and sanctioning role over the government; and
4. International accountability dilemmas, where governments themselves are unable to exercise control over national policies and decisions due to a shift in power towards transnational entities.

Addressing Democratic Deficits by Deepening Democracy

Given this tension between the growth of formal, procedural democracies, along with the overwhelming evidence documenting its limitations in practice, has led to a growing interest in unearthing and conceptualising spaces, forms and processes which address such deficits. However, all these formulations continue to presume procedural democracy as the point of embarkation from which the imagination of a system of governance arises. Other ways of exploring what is essentially a question of the distribution and exercise of power in a society and the nature of its power relations, but not necessarily circumscribed by a formal conception of democracy, are rarely found. In this manner, this exercise to articulate gaps, identify contestations, and then propose solutions returns to reinforce one of the basic causes of the tension, that of the establishment of the liberal representative democratic way as a hegemonic ideal in the Gramscian sense of the term (Escobar, 1995; Santos, 2005).

It is within this conceptual terrain that the deepening democracy approach has arisen. While taking on board the importance of procedural aspects of democracy, the deepening democracy argument also attempts to produce more nuanced conceptions of citizenship, and questions the political aspects of the relationship that citizens have with the institutions and actors who represent and govern them. The focus then, in comparison to strengthening procedural aspects, shifts to the relationship between the governing and the governed. This relationship and its changing nature has been defined through a varied vocabulary – 'expansion of politics' and deepening the 'intensity of citizenship' (O'Donnell, 1993), 'degrees of democracy' (Heller, 2000) and 'expansive democracy' (Warren, 1992). However, all of these formulations agree on a basic conceptual springboard – that if "control by citizens over their collective affairs, and equality between citizens in the exercise of that control, are the key democratic principles" (Beetham, 1999: 3), then greater attention needs to be given to the spaces in which democracy can be redefined beyond its procedural forms.[34] Linz and Stepan state this more elegantly, "Within the category of consolidated democracies there is a continuum from low to high quality democracy; an urgent political and intellectual task is to think about how to improve the quality of most consolidated democracies" (1996: 6).

Types of Democratic Deepening

Although there is a substantial level of consensus in literature on democracy that its 'quality' needs to be improved, there is much debate on *how* this is being (or can be) done. John Gaventa has developed a useful, if simplified, classification which identifies broad approaches in the thinking on how democracy is being, and can be deepened, viz. civil

[34] By formal procedural democracy I mean "universal suffrage, regular and competitive elections, accountability of state apparatuses to elected representatives, and legally codified and enforced rights of association" (Heller, 2000: 487-88).

society democracy, deliberative democracy and participatory democracy (2006: 14).[35] While there are considerable overlaps between these approaches, using this classification provides a coherent structure in the examination of different institutional structures, sites, strategies and processes that deepen democracy.

Civil Society Democracy

The first of these approaches focuses on the centrality of 'civil society' in the process of democratic deepening and draws its philosophical moorings from the Tocquevillean tradition of celebrating the associational characteristic of formal procedural democracies. Civil society, in this conceptualisation, constitutes the 'third sphere' (Cohen and Arato, 1992), with an attendant logic, organisation, political impulse and ethos which is very different from the other two spheres – the state and the market. Vibrant and widespread associations, such as voluntary organisations, social movements, self-help groups, unions, associations and so on, lead to deeper democracy. The free association of individuals is considered to be good in and of itself, and an increase in the densities of such interactions is essential if democracy is to become more meaningful (Diamond, 1994; Fukuyama, 1991; O'Donnell, 1993; Putnam, 2000; Seligman, 1992). In the broadest sense then, the celebratory aspect of civil society is premised on it being able to create the possibility of people defining their political realities on their own through interaction, debate and deliberations on an equal footing in a democratic

[35] Although he has also suggested a fourth category, that of 'empowered, participatory governance', I will not include that in this review since it is premised on a single work (Fung and Wright, 2003), and is essentially a more layered and nuanced articulation of the three approaches mentioned already. In addition, although this classification appears to have been produced within the context of donor-led democratisation processes, I have used this here as it provides a good general overview of the types of approaches that are informing the thinking around democratic deepening. At the same time, it assumes greater salience since an important cause of the rise of the democratic deepening project has been the push which it has received from donor governments and international financial institutions, which has translated into related policy changes. Indeed, some evidence regarding the genesis of the RTI Act in India also seems to highlight the influence of such external actors in the process, even if the dominant narrative locates it within a 'grassroots' movement. See Chapter 6 for more details.

space, and through such processes, constantly reclaim power from the state. It is indeed a very attractive image. "The picture here is of people freely associating and communicating with one another, forming and reforming groups of all sorts, not for the sake of any particular formation – family, tribe, nation, religion, commune, brotherhood or sisterhood, interest group or ideological movement – but for the sake of sociability itself. For we are by nature social, before we are political or economic beings" (Walzer, 1998: 16).

However, this approach, where civil society is considered to be the lynchpin of the democratic deepening project, has been critiqued in many ways. In the first instance, conceiving of it as separate from the state has itself been seen as problematic. Historically, "for De Tocqueville civil society limits the state, for Hegel civil society is a necessary stage in the formation of the state, for Marx civil society is the source of power of the state, and for Gramsci civil society is the space where the state constructs its hegemony in alliance with the dominant classes" (Chandhoke, 2003: 11). Other criticisms take the idea further and question the very notion of 'civil society', and suggest that civil society is itself deeply limited and implicated within the rubric of the state, when not constituted or co-opted by it, and hence cannot, by definition, exercise any kind of meaningful countervailing power against the state (Chandhoke, 2001; Harriss, 2007; Houtzager et al, 2003). Whichever political predilection one may subscribe to, it is, after all, the state that legitimises civil society, as "the *conditions* of civil society – for instance, the rule of law, which regulates the sphere and guarantees the rights of the inhabitants – are institutionalised by the state" (Chandhoke, 2003: 10, emphasis in original). Another critique highlights power relationships within societies, the ways in which these relationships define spaces of association, which in turn affects the constitution of civil society itself in terms of *whose* voices can be heard (Hirschmann, 1994). Other critiques have gone further to make a distinction between 'civil' and 'political' societies,

suggesting that these are defined by the social and institutional spheres that their constituting publics are embedded in (Chatterjee, 2004). These formulations question the very composition of civil society, and by extension also question its legitimacy in terms of making claims on behalf of the 'voiceless'.

Deliberative Democracy

Building on the work of Habermas (1987, 1991, 1996), Rawls (1993, 1997a, 1997b) and Cohen (1997), the second strand of democratic deepening espouses the idea of deliberative democracy as a tool to deepen it, and attempts to create discursive public spheres which seek to take the focus away from "bargaining, interest aggregation, and power, to the common reason of equal citizens as a dominant force in democratic life" (Cohen and Fung, 2004: 24). It fundamentally "affirms the need to justify decisions made by citizens and their representatives. Both are expected to justify the laws they would impose on one another" (Gutmann and Thompson, 2004: 3). With a focus on public debate, civil society is reimagined as a public sphere where such discursive practices can take place. The problematic of *who* participates in the debate is addressed by laying a focus on "processes of recruitment which seek to avoid capture by organised groups and special interests, rather than on mobilising and supporting such groups to demand inclusion in public processes" (Gaventa, 2006: 18).[36]

This deliberative approach which privileges the importance of reasoned public debate on issues central to the lives of ordinary citizens has been critiqued on several counts. To begin with, the notion of what is 'reasonable' may vary across cultures and contexts and may

[36] A detailed discussion of elements of this approach which find resonance in the RTI experience in India through the practice of *jan sunwais* (public hearings) are discussed in detail in Chapter 4.

therefore not result in the formation of any consensus (Holt, 1993; Manin et al, 1987). Further, as this approach focuses on building consensus and mitigating conflict, this diminishes the importance of difference and how it may actually enrich the discursive process (Young, 2001). In addition, the notion of the public sphere and who inhabits it continues to be an area of concern in this formulation, attention being paid to recruitment notwithstanding (Dryzek, 2001; Goodin, 2000; Parkinson, 2006).

Participatory Democracy

The third broad approach which has attracted much attention in the recent past has been the development of participatory processes to deepen democracy (Chambers, 1994a, 1994b, 1997; Manor, 2004; Narayan et al, 2000; UNDP, 2002; World Bank, 2000). With a considerable overlap with the thesis of 'civil society as a democratising force', the underlying principle which informs this approach is that the citizenry, through its varied associational avatars, works *with* the state instead of acting in opposition to it. The state of course has to create the enabling framework within which such activities can take place, and where the governance space is shared with citizens. Activities within this framework could include participatory planning processes, the establishment of monitoring groups, and the creation of structures that allow the joint management of public resources. Although these forms of deepening the intensity of citizenship are more action oriented than those proposed by the civil society approach, it is state intervention which allows the creation of these spaces of 'co-governance' (Ackerman, 2004). Whether these spaces are created by the state as a result of a top-down approach or as a response to demands from below is a different discussion – the desired end result in this participatory approach to democracy is the greater involvement of citizens in decision-making processes, by engaging with institutionalised processes and

spaces. In this, the approach can also trace its lineage to the larger good governance agenda with its attendant focus on decentralisation and subsidiarity in the institutions of governance.

In some ways, then, the difference between the civil society approach and the participatory one are twofold. First, in the civil society strand, there are at least some elements of contestation and opposition in the relationship between the state and citizens, premised on consistent claims that civil society is inherently separate from the state and the market. In the participatory democracy strand, even if opposition exists, it is negotiated through state-sanctioned (or at the very least recognised) institutions (which could well be institutions considered to be a part of civil society). By extension, the second difference lies in the aims of the two types of processes. While the civil society argument is premised on exercising a countervailing influence over the power of the state, the participatory strand is given more towards shaping and directing the state and its constitutive institutions so that it reflects the 'will of the people' more substantially.

However, criticisms similar to those made with regard to the civil society approach have been articulated for this approach as well. Even when spaces of participation are created, the preconditions for entering these spaces, and who is able to participate in them is dependent on existing power relations, and the risk of elite capture is rife (Houtzager et al, 2003; Lavalle et al, 2005). The implication is that the same structural problems of exclusion and low degree of citizenship which require the development of these spaces to ensure participatory processes of governance in the first instance are replicated in these spaces (Cooke and Kothari, 2001; Cornwall and Coelho, 2007; Webb, 2010a; Zittel and Fuchs, 2007). In addition, a different kind of tension has also developed in recent years. Even as the idea of participation has seen a confluence with ideas of democratic deepening, the concurrent shrinking of the state at the

expense of the market in many countries has meant that the political value of participation is being slowly enervated (Dagnino, 2005). If there is no state to participate in, then what is the point of participation?

Accountability

In most formulations, the deepening democracy literature displays a direct bidirectional relationship with accountability, especially within the framework of democratic decentralisation and increasing the intensity of citizenship through participatory mechanisms. Essentially, the problem of accountability can be traced to the principal-agent problem. "When decision-making power is transferred from a principal (e.g. the citizens) to an agent (e.g. government), there must be a mechanism in place for holding the agent to account for their decisions and if necessary for imposing sanctions, ultimately by removing the agent from power" (Lindberg, 2009: 1).[37] Variations of this basic theoretical conception of accountability can be traced to at least three distinct traditions found in democratic theory, political science and public administration literatures (Goetz and Jenkins, 2005; Schedler, 1999). Even as the meanings of the state, the distinctions between the political and the administrative, and the meaning of civil society have undergone substantial recalibrations, the evolution of accountability as a critical constitutive element of these categories and the relationships between them has also seen much debate in the recent past.

Classical democratic theory, particularly informed by a focus on procedural aspects of democracies, has laid emphasis on the accountability of elected representatives to the citizenry, which is typically exercised through the process of elections (Dahl, 1971; Mulgan,

[37] Although the burgeoning literature on accountability seems to be taking the direction of 'democracy with adjectives' (Collier and Levitsky, 1997). Lindberg (2009: 2) has identified over 100 sub-types of 'accountability' in the relevant literature.

2000: 556). Thus, it concerns itself primarily with the answerability aspect of accountability – that elected representatives must be answerable to their constituencies, and this answerability is instrumentalised through regular elections, which in turn remains one of the cornerstones of liberal democracy. The election process, of course, remains a central constitutive element of what has come to be known as vertical accountability – through which citizens exercise political control over their governments. In this sense, accountability intersects with human rights literature as a 'first generation' civil-political right which is premised on a citizen's relationship with the state.

In the political science tradition, questions of accountability tend to be framed in terms of the power relations that inform the normative notions of accountability, as well as its practice. If answerability is a central aspect of accountability, how, by whom and at what sites is it enforced become important questions (Cornwall and Coelho, 2004; Fox and Brown, 1998, Newell and Bellour, 2002: 11). This literature also attempts to analyse in greater detail the overlaps and differentiation between vertical and horizontal accountabilities (Goetz and Jenkins, 2001). Can vertical accountability be exercised only through elections? When an elected representative questions the government on behalf of her constituency, does that constitute vertical or horizontal accountability? Even as issues around the distinctions between the two are debated, a related strand which engages with the role of non-state actors in accountability relationships with the state has emerged. Civil society groups, which are not individual citizens, just as they are not entities of the state, which "use voice rather than the vote" (Jayal, 2008: 106) in seeking accountability from the state, are instances of neither vertical not horizontal forms of accountability (Bovens, 2010; Goetz and Jenkins, 2005). The exploration of such forms of accountability is thus deeply linked to the framework of bringing forth the voices of the poor and the marginalised, especially within the participatory

monitoring and evaluation approach within the broader rubric of participatory approaches to democracy (as discussed above).

Traditionally, public administration literature has engaged with accountability in somewhat different terms. This literature has mostly focused on internal governmental mechanisms of accountability, such as audits, evaluation, institutionalised intra-government sanctioning powers – the proverbial checks and balances (Barton, 2006; Friedrich, 1940; Finer, 1941; O'Loughlin, 1990; Normanton, 1966). Broadly, most of these preoccupations could be understood within the term horizontal accountability where constitutionally, politically and institutionally mandated entities within a governmental structure exercise control over other elements within the same structure in ensuring that the overall functioning of the government is being carried out within the legal and procedural norms of the day (Caiden, 1988; Day and Klein, 1987; Romzek and Dubnick, 1987).

However, the accountability conundrum has become more complex as actors apart from the state have been brought into this conceptual arena. How can individual citizens hold grassroots organisations, social movements, NGOs, intergovernmental organisations, international financial institutions, donor governments or multinational corporations to account (Newell and Wheeler, 2006)? In an attempt to provide a coherent framework that potentially includes all types of actors, Lindberg (2009) has developed a useful matrix premised upon three constitutive characteristics of any accountability relationship – the source of the relationship, the degree of control that the principal has over the agent, and the spatial direction of the relationship. Based on the interactions between these three, twelve sub-types of accountability relations emerge.

Table 1.1: Sub-types of accountability

Source of Control	Strength of Control	Vertical		Horizontal
		Upward	Downward	
Internal	High	*Business*	*Bureaucratic*	*Audit*
	Low	*Client-Patron*	*Patron-Client*	*Peer Professional*
External	High	*Representative*	*Fiscal*	*Legal*
	Low	*Societal*	*Political*	*Reputational*

Source: Lindberg, 2009:12

While analysing each of these sub-types is beyond the scope of this chapter, what can be stated is that 'accountability', like 'democracy', has quite rapidly acquired the characteristics of an 'essentially contested concept' (Gallie, 1956), and in this sense, the debates surrounding it are not likely to abate in the near future.

Good Governance and New Public Management

In many ways, the conceptual and policy-orientated spaces where the debates highlighted above, viz. democratic deepening, participation and accountability converged were good governance and its close cousin, new public management. "Since the early 1980s, 'governance' and increasingly 'good governance' have permeated development discourse and especially research agendas and other activities funded by public and private banks and bilateral donors" (Weiss, 2000: 796).[38] Scholars have pointed out that the change in geopolitical realities after the end of the Cold War introduced a fundamental shift in the way the role of international aid was being imagined and managed (Doornbos, 2001; Jenkins,

[38] For key documents on this theme arising from within the international aid community, see World Bank (1992) and UNDP (1997).

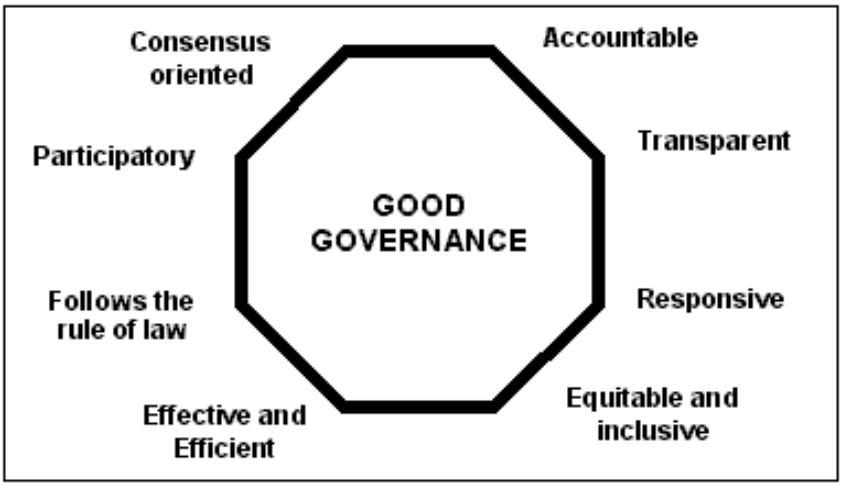
2002; Kiely, 1998; Weiss, 2000). If few questions were being asked earlier about how aid money was being spent so that countries could be kept 'in the fold', this changed dramatically with the fall of the Berlin Wall. What ensued was the development of new kinds of conditionalities attached to aid. These were no longer subtle (and not so subtle) pressures restricted to the domain of foreign policy while maintaining a strict 'non-interference in internal affairs' – the long-term staple of international foreign policy. These pressures had morphed into more aggressive conditionalities which sought to affect the internal political and institutional structures of countries which received aid (Barya, 1993; Burnell, 1997; Santiso 2001; Tjønneland, 1998). Now that the geopolitical compulsions of the Cold War had changed, attention could shift to exercise greater control over the inner workings of post-colonial and authoritarian states to incorporate them into the logic of the liberal democratic way.

'Good governance' thus provided a convenient conceptual framework and argument from which this project of reforming in-country political and administrative structures could be launched from. Needless to say, as the victor of the Cold War, liberal democracy was the dominant narrative within which good governance was located. In addition, as the concept was launched from within the international aid discourse, it was circumscribed within the context of the global south.[39] The north, it was presumed, already had a large (to use a Cold War term) stockpile of good governance. The attractiveness of good governance also arose from the inherent vagueness of the term. It could be made to mean different things such as "particular policies or policy outcomes – stable macroeconomic policy, reduction of poverty, openness to trade, decentralisation, or efficient revenue collection, for example – or particular institutional forms and processes – democracy, widespread participation in development

[39] Although Mkandawire (2007) has argued that the conceptual framing of 'good governance' in the African context arose from *within* the African scholarly community and was promoted by the World Bank only later.

decision-making, or strong legislatures, for example" (Grindle, 2007: 555). The types of changes thus being proposed varied from the public administration to the political domains. Governance, in that sense, provided the action-oriented as well as conceptual space for donor agencies as well as academics to negotiate the terrain between and across the administrative and the political, all in the service of the good and noble cause of the democratic ideal, which by now had acquired singular moral authority (Kiely, 1998; Santiso, 2001; UNDP, 1997; World Bank, 1992, 1997, 2002). One representative example of the conceptualisation of this term is given below.

Figure 1.2: Characteristics of good governance



Source: UNESCAP (undated)

However, governance mechanisms in the north began to see widespread changes as well, but more through the lens of civil service and public sector reforms, a bundle of ideas which came to be known as 'new public management' (NPM). In brief, these included cutting costs and reducing the size of government, disaggregating bureaucratic organisations into smaller agencies (at times outsourcing functions to quasi-government agencies), privatisation of non-core areas of government, decentralising authority within agencies, introducing business

principles in management, bringing in performance targets for employees, moving from permanent employment to contractual arrangements, and increasing the emphasis on the provision of 'quality' services (Hood, 1991; Pollitt, 1995). The efficiency principle informed these policy changes, with business practices providing the template for government to aspire to. As the ideas of NPM gained traction across the OECD countries, these principles were interwoven within the good governance agenda that was being introduced in the global south, not least through the logic of structural adjustment (Das, 1998; Hirschmann, 1999; Kaul, 1997; Sundaram, 2004). In this context, NPM was held as an important element of the democratic deepening project, as it would address the problem of democratic deficits through the "running together of agendas for public service reforms, the decentralisation and devolution of government activities and budgets, and participatory development" (Corbridge et al, 2005: 1).

The Indian Context

India as an Unlikely Democracy

Literature on democratic theory has commented regularly on the case of India as an unlikely democracy as it does not seem to fulfil many of the preconditions necessary for the establishment and eventual deepening of democracy (Dahl, 1989; Diamond et al, 1989; Lipset, 1959; Przeworski et al, 2000). "India is not an industrialized, developed economy; Indian businessmen and middle classes do not fully control the country's politics; India is anything but ethnically homogenous; and India would probably rank low on a number of attributes of "civic culture"" (Kohli, 2002a: 1). Deep fissures exist at a social level, particularly with respect to caste identities. Linguistic, religious and geographical diversities

on a continental scale and large variations in economic and social structures across regions only add to the litany of negatives which would be typically considered to hamper the establishment and evolution of a unified country within a democratic polity. Finally, the democratisation project post-independence did not follow the democratic elitism path of the West. Universal adult suffrage, regardless of economic, educational, gender or social status, was accorded to all adult citizens immediately upon the adoption of the Constitution in 1950.

Given this, it is unsurprising that immediately after independence and until the early 1990s, scenarios heralding an imminent death of democracy in India continued to be written regularly. With wars being fought with Pakistan and China, violent secessionist movements taking place in several parts of the country, tensions around linguistic, religious or caste identities taking the form of frequent and often lethal riots, and an interregnum when Emergency was declared (1975-1977) suspending democratic processes and civil liberties, sceptics had enough reasons to suggest that India would disintegrate into several smaller countries, or see the establishment of a military regime, or worse, slide into a long-drawn out civil war which could continue for decades.

None of this has happened. Since 1947, the year of independence, elections have been held regularly to elect representatives to the Parliament and state legislatures (with voting generally staying around the 60% mark for the parliamentary elections), the transfer of power to successive governments has been smooth, the military has throughout been under civilian control, and while secessionist movements exist even now (the most strident one being in the state of Jammu and Kashmir), many have either died down, or at the very least, their intensity has lowered. On the political front as well, the Congress party, which for several decades enjoyed complete control over the Parliament as well as most state legislatures, can no longer

claim to be the sole representative of the will of the people as expressed through election results. Other national and regional parties have grown in strength, with the Congress becoming practically a political non-entity in many states. Along with this, the media in India is quite independent and vocal, and freedoms of association and assembly are guaranteed, enabling significant political spaces for dissent and contestation against the state. In sum then, it does seem that in the six decades since independence, democracy, at least in the procedural sense, has been institutionalised and has taken root in India – a condition that is unlikely to change or be challenged in the foreseeable future.[40]

This consolidation of a robust democratic framework has been duly noted in the media. When "the world's largest democracy" goes to the polls, it is followed with avid interest globally. For the last national elections in the country in 2009, the global media descended in full force, despite the fact that the process was staggered over almost a month. A well-known media house hired a train to travel the length and breadth of the country covering the elections.[41] Celebratory pieces appeared with unerring regularity in newspapers across the world, at times in awe of the sheer logistical exercise in holding free and fair elections across a vast geography, involving an electorate that would be the third largest population of the world if it was taken as a separate country.[42] Innovations in the technologies of conducting elections are also being carried out, with electronic voting machines developed indigenously (with talks of these being exported) and deployed nationwide in 2009 to make the election process quicker, cheaper and cleaner.

[40] Although the continued actions and influence of Maoist groups across large swathes of the country remain a matter of concern for the mainstream political and economic establishment.
[41] The "Indian Election Express" was train hired by the British Broadcasting Corporation which travelled around the country for 18 days covering 6,000 kilometres. See http://news.bbc.co.uk/2/hi/south_asia/8000645.stm. Accessed 20 August 2010.
[42] The total electorate for the 2009 general election in India was 716,985,101 as per data from the Election Commission of India. This is more than the combined population of the United States and countries of the European Union. See http://eci.nic.in/eci_main/archiveofge2009/Stats/VOLI/05_StateWiseNumberOfElectors.pdf. Accessed 12 August 2010.

Academic literature, which has for long attempted to grapple with the anomaly of the Indian democratic experience in contrast with most other countries of the global south, is no longer debating whether or not democracy will survive in India. This existential question has now been replaced by two broad thematic trends in the study of Indian democracy. The first attempts to understand the reasons behind the consolidation of procedural democracy in India, both at the national and subnational levels, and the second engages with questions related to substantive aspects of democratic practice in India, primarily engaging with questions of democratic deepening.[43] Even as there is a broad consensus on the idea that formal democratic institutions have now established deep roots in India, there is perhaps an even greater consensus (and concern) on the limitations of the practice of democracy in India, especially with respect to the forms and sites within which the masses engage (or are *unable* to do so) with democratic principles, structures, processes and outcomes more substantially.

While dwelling in detail on the reasons behind the consolidation of *procedural* democracy in India is beyond the remit of this thesis, what I will attempt to do next is to provide a brief overview of the key events related to more substantive aspects of the same – the cherished vision of democratic deepening in India. This is important not only because it is a more current debate, but more so given the context of this thesis – where the evolution and usage of the RTI Act has been located squarely within the discourse of democratic deepening.

[43] To mention a few key authors, the work of Paul Brass (1990), Rajni Kothari (1970), Rudolph and Rudolph (1987), and Myron Weiner (1989) has largely focused on the former, while that of Pradeep Chhibber (1999), Stuart Corbridge (2000, 2002 and 2005), John Harriss (2000, 2006 and 2007), Barbara Harriss-White (2003), Atul Kohli (2002b, 2006a, 2006b and 2012) and Ashutosh Varshney (1998, 2000 and 2004) on the latter.

Democratic Deepening in India

In many ways, the deepening of democracy in India is not a recent project. While the Constitution adopted in 1950 provides the bedrock of democratic polity in the country, it is also one of the most amended constitutions in the world. If nothing else, this does suggest that democracy in India continues to be work in progress. This has been commented upon in great detail in literature, and much of the analysis has also pointed to the accommodative nature of Indian politics which has contributed in no insignificant terms to keep the country together while extending the roots of democratic norms in the country (Brass, 1990; Lijphart, 1996). Although universal suffrage was granted to all adult citizens in 1950 itself, the "idea of political equality and of democratic rights was rather alien amidst the age-old inequalities of a hierarchical rural society" (Kohli, 2002a: 14).[44] In this sense, most literature suggests that social and political power in its more obvious forms remained the exclusive domain of the elite in the initial years post independence (Moore, 1966; Weiner, 1967; Kothari, 1970). The Congress dominated the political landscape, both at the centre and in the states, largely through widespread links with rural elites. Political 'mobilisation' in the early decades after independence broadly consisted of this typically high caste landed elite ensuring that those within their sphere of influence, the vast multitudes of the masses, voted for the Congress. The masses were themselves largely caught up in a patron-client relationship with the landed elite, which meant that acquiescence to the political direction given by traditional elites in village society was the norm. However, "the spread of commerce and the repeated practice of democracy... eroded the dependencies of social "inferiors" on their "superiors", releasing numerous new actors for political mobilization" (Kohli, 2002a: 14). This form of democratic

[44] It is instructive to note that Switzerland, the poster boy of decentralised democracy, granted franchise at the federal level to its women only in 1971. One of its cantons, Appenzell Innerrhoden, was forced by a Swiss Supreme Court judgement to do so as recently as 1990.

deepening premised on greater and regular participation in electoral processes led to a greater autonomy in political participation particularly for the rural low caste poor.

The realisation of the political possibilities of appealing to vast numbers of the rural poor in part led to the emergence of political parties in opposition to the Congress in the 1960s, which, among others, led to a change in the political rhetoric which gained currency during and after that period. From Nehru's appeals to nation building and a planned transition to modernity, the language of popular politics changed to address the concerns of the poor and the marginalised more directly. For example, Indira Gandhi's recognition of the changing nature of the politicisation of the masses took the form of a call to eradicate poverty (*garibi hatao*) in the 1970s. In addition, affirmative action policies, which took the form of reservations in educational institutions, government jobs, and competitive electoral politics, began to incorporate the traditionally poor and marginalised low and middle caste groups into social and political arenas which had so far been out of bounds for them. Democratic deepening, in the sense of greater political consciousness and civic participation amongst the traditionally marginalised had begun to occur. The rise of regional, occupational and caste-based parties from the 1970s through to the 1990s can in part be attributed to this growing politicisation of the masses.

Democratic deepening in urban spaces has also evolved concurrently, albeit in different forms, particularly through organised labour and elected student associations, both of which are typically aligned along party lines. Cause-based groupings have also grown tremendously in the past decades, especially those related to women's issues, environmental concerns, and

dalit and tribal movements.[45] The engagement of most of these groups with the state largely remains within the democratic framework, with protests, contestation, rallies and sit-ins being the more typical forms of claim-making.

It should be noted however, that (as would be expected in the context of India) democratic deepening is varied both in terms of the forms it takes and the degree of success in different states of the country for a great number of reasons. If Kerala is held up as arguably having the highest degree of democratic deepening (as well as social development indicators) in the country, this is attributed to a specific set of historical, institutional and political factors which allowed this to take place, particularly the wide and long term mobilisation of civil society (Heller, 2000). If the nature of democratic deepening in Bihar and Uttar Pradesh is premised primarily on the politics of caste and dignity, the explanations are specific to the political and social history of those areas. The narratives and status of democratic deepening in all the other states lie somewhere in between these extremities, and are hugely diverse and variegated.

An important aspect of democratic deepening at the political level has been another, more structured and constitutionally sanctioned, process of decentralisation which has been taking place in India for the last several decades (in some evaluations going back to the late 19th century) culminating in the 73rd and 74th Amendments to the Constitution which granted a constitutional status to *panchayati raj* institutions (PRIs) at the district, block and village levels, as well as to municipal bodies.[46] The roots of this evolving democratic decentralisation in the post-independence context can be traced to Gandhi's vision of *gram*

[45] *Dalit* refers to members of the lowest castes (or 'outcastes') within the complex and varied caste system as traditionally practiced across South Asia.
[46] Lord Ripon's resolution of May, 1882 on the subject of local self-government covering the structure and establishment of local bodies, their functions, finances and powers, continues to have consequences on the urban governance infrastructure of India.

swaraj (village republics). "Every village will be a republic or *panchayat* having full powers" which would not "exclude dependence on and willing help from neighbours or the world" leading to "ever widening, never ascending circles." (Gandhi, 1946: 8-10). However, the village *panchayat* as an integral part of the architecture of the Indian polity was omitted from the draft of the Constitution which was tabled on 4 November 1948. This led to vociferous protests by some leading members of the Constituent Assembly leading to a debate on the issue. Part of the reason for the omission in the first place was Nehru's own ambiguous perspective on structures of governance that the newly formed nation should adopt, given the wide variations in political, social, cultural and economic landscapes across the country. He "preferred to maintain silence during this heated debate. Steeped in the history of India that he himself had authored, he seemed trapped between the ambiguities of western modernity, and the prospects embedded in a rich civilisational heritage" (Mukherji, 2007: 32). Eventually, a resolution was passed which added Article 31-A to the draft constitution, stating "The State shall take steps to organise village *panchayats* and endow them with such powers and authority as may be necessary to enable them to function as units of self-government" (Lok Sabha Secretariat, 1989: 520).

However, this clause remained relegated to the directive principles of state policy within the Constitution, which were not justiciable.[47] Despite this, Nehru's interest in evolving some manner of local-self government structures remained. Several commissions were formed by successive governments under his leadership to make recommendations which would define and operationalise a decentralised governance structure in the spirit of the clause above. The Balwant Rai Mehta Commission was set up in 1957, which was followed by the K.

[47] The directive principles of state policy in the Constitution of India are merely guidelines for the centre and state governments urging them to keep these in mind when developing any new law or policy. While these are not enforceable in court, they provide, in a sense, the moral underpinnings of the vision of the Constituent Assembly.

Santhanam Committee in 1963 (both during Nehru's leadership). As a result, by the mid-1960s, "all the States had passed the panchayat acts and... panchayats were established throughout India... (However) local administration resisted devolution of functions and powers, and regular elections were not taking place" (Kaushik, 2005: 80-81).

Indira Gandhi was not quite a votary of decentralised governance, and hence there was a period of hiatus on this issue during her time at the helm of the central government.[48] The late 1970s saw the resurrection of the idea and again several Commissions were set up to improve local-self government structures. These included the Ashoka Mehta Committee (1978), the G.V.K. Rao Committee (1985) and the L.M. Singhvi Committee (1986), all of which proposed administrative and legislative changes to strengthen PRIs and their functioning. Finally, in 1993, the 73rd Amendment to the Constitution granted a constitutional status to PRIs at the district, block and village levels, and the *gram sabha* was recognised as a formal democratic body at the village level. Similar recognition was also extended to municipal bodies through the 74th Amendment.

Much literature has emerged on the implementation and implications of the 73rd and 74th Amendments to the Constitution since then (Chaudhuri, 2006; Johnson, 2003; Kaushik, 2005; Mitra, 2002; Mohanty, 1995). While the jury is still out on the extent to which democratic deepening has taken place (both in procedural and substantive terms) as a result of these amendments, what cannot be denied is that these two amendments constitute perhaps the single most important focused legislative attempt since independence towards democratic decentralisation and deepening of the Indian polity. However, there is also a broad consensus

[48] In fact, one of her first acts after assuming charge as Prime Minister in 1966 was to disband the Ministry of Community Development, Panchayati Raj and Cooperation. The functions of that ministry were delegated to the Ministry of Food, Agriculture and Irrigation.

that political decentralisation has been implemented to a greater degree than the decentralisation of fiscal and administrative functions of the state.

Even as this process has been unfolding at the legislative level, various central government schemes have over the years attempted to institutionalise a deeper participation of beneficiaries and target communities in their implementation. Two well-known examples have been the establishment of village education committees (VEC) and joint forest management (JFM) mechanisms. In both of these cases, local communities have been mandated to be formally involved in the management of the educational infrastructure and forest resources respectively at the village level. Reporting lines and administrative hierarchies have been reformulated, with a professed goal to shift power relations in the direction of communities rather than government functionaries. While the degree of success of these attempts has been widely contested, these experiences have nevertheless highlighted deeper political issues of social hierarchy and control within a given community, and how these interact with the introduction of formal mechanisms of governance and resource management which are premised upon conceptualisations of empowerment and equity.[49]

In sum, several attempts have been made since independence to deepen the practice of democracy in the country. But "it is important to underline both its incomplete and complex nature" (Kohli, 2002a: 14). Forms, spaces, and sites for dissent, negotiation and accommodation have increased, and there is much greater participation in such processes by those at the bottom of the social and economic hierarchies. Political mobilisation and participation has moved downwards significantly resulting in the establishment of inclusive politics as a *sine qua non*. In this sense, democratic deepening has indeed occurred across the

[49] For an assessment of VECs, see Banerji et al (2008) and for assessments of JFM, see Corbridge and Kumar (2002) and Sundar (2000).

political, legislative and administrative realms, and many of the changes which can be seen in the socio-political landscape in the country over the last decades can be directly attributed to some of these efforts. However, despite the gains made in deepening democracy by expanding the spaces where democratic practice, particularly in its formal and procedural sense, is carried out, most political commentators agree that on many substantive aspects, much greater distance needs to be covered if Indian democracy is to be seen as being truly meaningful (Corbridge et al, 2005). The distance between the state and citizens continues to be large, an increase in political participation has not resulted in any significant redistribution of resources, high levels of social, political and economic inequity prevail (and may in fact be increasing), political participation remains limited in many instances to infrequent (if regular) events such as elections, local elections are extremely prone to elite capture, vertical accountability mechanisms remain patchy, and the voices of the poor and the vulnerable are heard usually in forms and at moments which are politically expedient, and that too, through mediators, and rarely directly. As a result, a 'million mutinies' continue to take place every day.

It is in such a context that the Right to Information Act, to which we will turn next, came into force in 2005.

Right to Information in India and Democratic Deepening

As mentioned at the beginning of this chapter, the Right to Information Act brings into sharp relief issues around civil society, deliberative democracy, participation, voice and accountability within the larger discourse of democratic deepening in India. A cursory glance at the opening statement of the Act itself is revealing. It states:

> "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." (Government of India, 2005: 1-2, emphasis added)

It is worth noting here that the primary rationale for the Act is phrased in terms of democracy and the achievement of its ideals. Thus the opening statement itself sets up the RTI Act squarely within the discourse of democracy and its deepening (the "democratic ideal").[50] In the popular and academic discourses around the RTI in India, the Act, its production, and its usage consistently invoke democracy almost in a virtual conflation of the two. Sample the following:

"In the space of less than a decade, the burgeoning movement for the right to information in India has significantly sought to expand democratic space." (Mander and Joshi, 1999: 1); "The demand (for an RTI Act) was not to do away with democracy but to create opportunities for more meaningful and appropriate democratic practice." (Roy and Dey, 2002: 5); "It is being recognized globally that public participation in the democratic and governmental process is at its meaningful best when citizens have adequate access to official information." (Rajya Sabha Secretariat, 2005: 1); "The key to the successful functioning of any democratic polity is the ability of a citizen to observe and evaluate the functioning of elected

[50] Interestingly, the word 'democracy' does *not* appear in the Constitution of India, and the word 'democratic' appears only once - in the Preamble. In comparison, we have three references to these words in the RTI Act 2005.

representative [*sic*] and make an informed judgment of their performance. This evaluation is predicated on the easy availability of the necessary information for a citizen to arrive at an assessment."[51]; "Right to information has been seen as the key to strengthening participatory democracy and ushering in people centred governance." (Government of India, 2006: 1); "A working democracy demands public participation in decision-making. Greater transparency is not only necessary as a check on corruption, but essential for planning programmes that respond to people's concerns" (Baviskar, 2007: 9). In addition, virtually no media report (of which there are plenty) speaks of the RTI without speaking about democracy. "A major tool of democracy is the right to information. It is a means of generating public participation in governance, which is at the heart of democracy. Elections are a means of doing it but democracy itself means public participation in governance. Once the elections are over and we get a government in power, then what do we do? Sit at home? No, we have to participate. How does one do that? We have the Right to Information Act."[52]

If we were to revisit the typology of democratic deficits discussed earlier in this chapter, the current popular discourse suggests that the RTI Act seems to cut across all four of them.[53] By providing a legal mechanism for individuals to seek any information from the government, it provides a site where citizenship can be exercised on a daily basis, thus engaging directly with the notion of hollow citizenship. When a citizen seeks information about government decisions, the vertical accountability dimension of the relationship is, in principle, strengthened in her favour. Appellate mechanisms which have been devised as a part of the implementation architecture of the Act (such as Information Commissions) strengthen

[51] From the Prime Minister's intervention during the debate in the Lok Sabha on the RTI Act, 11 May 2005. From http://www.rtiindia.org/forum/85-prime-minister-lok-sabha-speech-right-information-bill.html. Accessed 20 August 2010.
[52] Then Chief Information Commissioner Wajahat Habibullah in an interview to *Frontline* magazine, Volume 27 - Issue 18, August 28-September 10, 2010.
[53] To reiterate, the four are hollow citizenship, lack of vertical accountability, weak horizontal accountability, and international accountability dilemmas.

horizontal accountability mechanisms, and the possibility of seeking information related to the agreements between the government and international organisations provide a (limited) measure of citizen control over transnational governance mechanisms. In addition, it is consistently suggested that almost all the forms of democratic deepening mentioned earlier, viz. civil society democracy, participatory democracy, deliberative democracy, intensification of citizenship, and of course, expanding the sites and increasing the instances of the exercise of accountability – are positively reinforced by the RTI Act. Thus the centrality of the RTI Act to the democratic deepening project is amply evident, at the very least in the discourse that it is produced and bounded by.

Central to this thesis, however, is the dominant narrative of the process of production of the RTI, which suggests that it emanated from a grassroots struggle, moved upward and led to the growth of a national umbrella coalition which promoted and articulated what had by then become a popular demand for a national legislation, creating sufficient pressure for major political parties to take this on board their political agendas, which eventually led to the enactment of a strong legislation when a new government came to power in 2004. In the articulation of this narrative, then, the process is as important as its outcome, since the RTI Act was produced through a process which arose from below; which articulated the demand of vast multitudes of people who saw the link between access to information and their individual well-being; which was intrinsically and by design democratic and inclusive; which successfully staved off strong resistance from deeply established and powerful interest groups by sheer dint of the nature and depth of the demand; and which therefore must be seen as a great victory for democratic deepening in India.

If this is indeed so, then we could safely say that the RTI Act, both in its production, as well as its outcome, is deeply emblematic of large shifts taking place in the Indian polity. It is this contention that this thesis will investigate in the succeeding pages. The structure of the thesis is as follows. The next chapter provides the details of the methodology that informs this research effort, even as it highlights how the research experience itself points to key issues that in turn impact the larger research. The third chapter reviews the dominant narrative that explains the process that led to the enactment of the RTI Act in India. It then defines three major silences that seem to emerge *prima facie* within this narrative, which are individually discussed in chapters 4, 5 and 6. Although the larger theoretical terrain within which this thesis is located has been reviewed in this chapter, relevant theoretical debates are invoked and examined throughout these chapters. Finally, the concluding chapter weaves together the various strands arising in this thesis on both the empirical and theoretical planes, and proposes some directions for future research.

Chapter 2

A Question of Method

"Ya tho jack *ho, ya* cheque *ho..."* (Roy and Dey, 2002: 79). This is a phrase that is used commonly amongst the rural poor in Rajasthan. Loosely translated, it means that to achieve anything beyond the usual pale, one must have either connections (someone to push you up, much like a vehicle is 'jacked' up) or money. It is a pithy insight which speaks volumes about the ways in which power is exercised and experienced in rural Rajasthan.

I discovered a striking resonance with this statement in a radically different setting. Sitting across a large and imposing table (strangely devoid of any files or papers) in the office of the Director General of Police of one of the largest provinces of India, I described my research to him and his deputy. After having patiently heard a long-winded description of my interest in examining how and why 'progressive' legislations such as the RTI Act are made, the deputy, a tad wearily, remarked, "You know, there are two principles that make the world what it is. Might is right, and blood is thicker than water. *Everything* flows from a combination of these."[54] Clearly, his conception of the 'world' included decision-making in government, the role of different actors in the process, as well as larger questions around the practice of democracy.

In essence, the deputy chief of police and the rural Rajasthani propose a similar world view. Strength flows from the possession of material resources, even as social links, networks and kinship are essential to access varied degrees and manifestations of power. Both, independently and in tandem, constitute what could be termed as the foundational

[54] Field notes, 16 March 2009. Emphasis in expression.

characteristics of power - the power to make policy decisions on the one hand, as well as the ability to obtain, for example, a certificate proving one's poverty on the other. Coming as they do from experiences that are rather distant from each other on the social spectrum - one from a senior functionary of the most obvious manifestation of the power of the state, the other from a humble peasant - the conflation of ideas is rather striking.

Tantalisingly attractive in its simplicity and applicability as this 'grand theory' may be, I will not essentialise the argument of this thesis to it. However, what I *will* do at this stage is to provide details of the methodology and process that framed this research, the experience of which overlaps significantly with the worldview propounded above. In this chapter, I will carry out a reflexive analysis of the data collection process, and propose that the experience of the research process itself provides important insights when attempting to gain a more sophisticated understanding of the processes that led to the enactment of the RTI Act in India in 2005. The chapter will also raise some questions about the nature and theory of method in social science research, particularly of the inter-disciplinary kind. It is for these reasons that an exposition of the methodology and process of this research is being presented here.

I am aware that dwelling on a first person account of the research process that constitutes this thesis can be fraught with risks. The primary danger is the shifting of focus, if temporarily, from the research to the researcher. Second, in describing details of the individual, personal experience of the process, some amount of sheen is ostensibly taken away from the much vaunted and desired 'objectivity' of the process. Identifying and locating the researcher in the research process could also result in a significant reduction of the distance between the observer and the phenomenon being observed.

However, when studying any individual, group or process, locating the point of observation can be critical in that *where* one looks from defines *what* one sees. When the specificity of the researcher's perspective is clearly identified at the outset, the ensuing research makes a greater claim to *a* 'truth' - by expressly focusing attention on the limitations of any intellectual exercise that claims to establish *the* 'truth'. Thus the exercise of identifying the researcher's position in the research process performs at least two important functions. First, it provides a caveat to the research by identifying the unique contours of the perspective that intrinsically informs the research. Second, it reaffirms the philosophical limitation of any research of this kind - that absolute objectivity and neutrality can only exist in the Platonic realm. In the case of this thesis, as we will see, it also performs a third function - that of providing critical theoretical insights that this thesis will continue to engage with throughout the succeeding chapters.

As an embarkation point for such a reflexive analysis, my motivation to conduct this research is articulated below.

Research on the RTI Act: Not *Only* an Intellectual Curiosity

On 13 September 2010, the fifth national RTI convention was held in New Delhi. Organised by the Central Information Commission of the Government of India, the theme of the convention was "RTI: Challenges and Opportunities". This annual convention aims to bring together Information Commissioners, as well as NGO representatives, activists, researchers, academics, and the media from across the country to debate and discuss various aspects

related to the RTI Act.[55] It is the largest and most high-profile RTI-related public event regularly organised by the government.

The keynote address at this convention was given by Gopal Krishna Gandhi, who was until recently the Governor of the state of West Bengal.[56] He is a former Indian Administrative Service (IAS) officer,[57] and a batchmate[58] of both Aruna Roy[59] and Wajahat Habibullah, the first Chief Information Commissioner (now the Chairperson of the National Commission for Minorities) of the Government of India. Gandhi served as India's ambassador to several countries, an oddity for an officer belonging to the IAS. He is also an alumnus of St. Stephen's College, which is affiliated to Delhi University.[60] In the event that such a 'pedigree' was to be considered insufficient, he is also the grandson of Mahatma Gandhi on his paternal side, and of C. Rajagopalachari on his mother's.[61] In his address he said, "*RTI mein ek bare aandolan kii fateh hui hai. Aur uskaa shreya sabse pahle jaataa hai Aruna Roy ko, jinhone Rajasthan mein RTI kii zaruurat mahsuus karii aur phir uske liye aandolan*

[55] Information Commissioners are the final appellate authority for matters related to the RTI Act. They exist at two parallel levels - at the state government level and the central government level with jurisdictions defined along the line ministries and departments at those levels.
[56] The Governor's position in a state is akin to the post of the President of the republic at the central government level. It is largely ceremonial, although instances of an incumbent recommending the dissolution of a state legislative assembly to impose direct rule by the Centre have occurred on numerous occasions in the past.
[57] Tracing its genesis to the colonial Indian Civil Service, the IAS is the elite higher civil service of India. A detailed analysis of the IAS, the cultural and political implications of being in that service, and the impact this had on the process of the enactment of the RTI Act is provided in Chapters 4 and 5.
[58] The notion of a 'batchmate' is a critical one in IAS circles. In point of fact, it means that batchmates join the service in the same year and therefore spend a year together in training at the Lal Bahadur Shastri National Academy of Administration (LBSNAA) in Mussoorie. It also suggests close associations and deep knowledge of each others' personal and professional histories. At the same time, there is also a relatively higher element of competition amongst batchmates as the number of years in service forms an important element in getting promoted in the service. Thus tremendous support arising from close associations, as well as a high degree of competitiveness, are both part of this complex relationship.
[59] Aruna Roy has been widely credited as one of the main forces behind the enactment of the RTI Act. The role of the commonly accepted leadership of the 'movement' is examined in detail in Chapters 3 and 4.
[60] St. Stephen's College is the preferred institution of higher education in the liberal arts amongst a specific elite, most notably senior civil servant families.
[61] C. Rajagopalachari was a hugely respected leader of the Indian National Congress and through that the freedom movement, and was the last Governor General of India before the country became a republic in 1950. He hailed from the southern state of Tamil Nadu, which, interestingly, was the state cadre allotted to Gopal Krishna Gandhi while he was in the IAS. Adding to this heady mix, one should also point out that Aruna Roy is Tamil by lineage.

shuruu kiyaa, aur uske liye logon kaa samarthan praapt kiyaa (In the context of the RTI, it is the victory of a movement. The credit for this goes primarily to Aruna Roy, who felt the need for the RTI in Rajasthan and started a movement for it, and gained the support of the people for it.)".[62]

For anyone attempting to investigate or enter the RTI space in India, it is impossible to not countenance certain names. As mentioned by the speaker above, and in line with the well-established mainstream narrative of the evolution of the RTI Act, Aruna Roy is considered to be one of the main forces behind its enactment, representing the leadership of the grassroots-based activist aspect of the 'RTI movement'. The urbane, intellectual and research-oriented leadership of the 'movement' is located mainly in the person of Shekhar Singh. In a profile of the 'RTI movement', *The Guardian* newspaper described him thus: "He opens a bottle of Australian wine and sinks back into the sofa, just below a poster of Van Gogh's Sunflowers in a Vase. Shekhar Singh is a bearded philosopher with a deep voice... [He] is something of an emblem and a great help in understanding the current upheaval in Indian society. A retired university teacher, he is a typical committed intellectual, campaigning for a wide range of causes, tirelessly attending forums. He is the kind of awareness-raiser Indian universities excel at producing, to the despair of political and business leaders, driven crazy by hordes of hair-splitters."[63] For any journalist or researcher (Delhi-based or visiting), Singh is often the first point of contact for anyone with an interest in the RTI Act. Singh and Roy were both founder-members of the National Campaign for People's Right to Information (NCPRI), an umbrella coalition that came into being in 1996 to advocate for an RTI Act.

[62] See http://www.cic.gov.in/convention-2010/Speeches/GKGandhi.pdf. Accessed 22 January 2011.
[63] From "Indian campaigners gain 'right to know'", *The Guardian* newspaper, 11 December 2009.

My own interest in the RTI Act in India stemmed from following the work of both these individuals over a period of time. However, this interest did not arise *only* from an intellectual curiosity in their work. An important constitutive element of this interest was the fact that I share a social and cultural space with them.[64]Aruna Roy, who is now well-established in the national imagination as one of the preeminent individuals who spearheaded the demand for the RTI Act, was a former colleague of my father. My father had joined the Indian Administrative Service (IAS) in 1966, while Roy joined the same two years later, only to resign after some years to pursue her work at the grassroots. Both of them belonged to what is now called the Arunachal Pradesh, Goa, Mizoram and Union Territories (AGMU) cadre of the IAS.[65]

In its most simple manifestation, the cadre-system allows the professional proximity of IAS officers within the same cadre to be much greater than with those belonging to other state cadres. This proximity also extends to the personal and social, as the recruitment and training process is designed to develop an *esprit de corps* that also results in IAS officers socialising with each other to a great extent. Other structured activities also take place regularly that deepen the personal links between the officers and their families. For example, bodies such as the 'IAS Wives' Association' organise social events on a regular basis in a given city, especially state capitals where the number of officers present are larger.[66] The head of the bureaucracy of a state typically hosts social events on a regular basis where officers and their families are invited. These regular social interactions also mean that most officers know each

[64] Given that this sharing of space also exists with several other key actors, the ensuing discussion may well be extended to them in varying forms and degrees.
[65] All entrants to the elite civil service, the IAS, are assigned state cadres where they are expected to serve for much of their careers, especially in early years in the 'field'. Higher level civil servants who serve at the central government are drawn from various state cadres of the IAS. Thus, there is no dedicated *higher* civil service cadre that exclusively serves the central government.
[66] Even as the nomenclature of this association can be problematic given that several IAS officers are women, it continues. Interestingly, IAS officers themselves cannot legally form any unions or associations.

others' families well. The family links also tend to continue into the next generation as children of such officers are typically enrolled in the same schools.[67] In sum, the density of social interaction within the higher civil service, particularly in-cadre, is quite high.[68]

Aruna Roy's work in rural Rajasthan with the Mazdoor Kisan Shakti Sangathan (MKSS), an organisation she co-founded in 1990, was thus not merely a matter of academic curiosity for me, but also stemmed from my interest in the work of someone with whom a social and cultural space was shared. This interest also included an admiration (and oftentimes provided inspiration) for someone who was doing the kind of development work that 'really mattered' - in the grassroots, living in a rural area, having 'sacrificed' what would otherwise have been a privileged and powerful professional career as a bureaucrat - much in the Gandhian tradition.[69] While intimate family links did not exist, this social overlap was reaffirmed in occasional social meetings and serendipitous encounters in public spaces that were commonly frequented. I would occasionally be in touch with her directly, updating her about my work and evolution first as a documentary filmmaker, and then as a functionary of an international development organisation, even as I followed the work of the MKSS in Rajasthan from a distance. Occasionally, we also met, not only in Delhi (my hometown, and also where Aruna Roy has a base), but also abroad, when we happened to overlap. Direct contact was thus irregular, but news of important events and movements would be shared through mutual friends, and the occasional email or meeting.

[67] An amusing anecdote provides a succinct comment on these relationships. The Sanskriti School was set up in New Delhi by the Civil Services Society in 1998 primarily for the children of officers belonging to the higher civil and defence services. The Chairperson of the school is the spouse of the Cabinet Secretary, the head of the civil service in the country. The anecdote suggests that when two students meet for the first time, their conversation begins with the question, "Which batch?", referring of course, to the batch of their parent(s)!

[68] This is only a very brief background of the social world of the IAS. A detailed description and analysis of the changes that have taken place in this context over the last several decades and its impact on the process leading to the enactment of the RTI Act is provided in Chapter 5.

[69] This idea of 'sacrifice' is explored in detail in Chapter 4.

Although I had known about Shekhar Singh's involvement with the RTI movement, I did not know him directly when I commenced my research. However, I knew that his father had been a civil servant belonging to the IAS, and my father had served under him several decades ago. His family history thus formed a part of my peripheral knowledge embedded within the context of the 'IAS network'. When I met him for the first time at his residence in Delhi in preparation for my fieldwork, these links were quickly established. Early on in the conversation, the fact that I had met him as a child when he had visited a remote part of India where my father had then been serving and hosted him was recounted.

As my ruminations to conduct research into the RTI Act became more concrete, the attractiveness of the subject was informed by several factors. The first was a deeply felt sense of excitement and anticipation arising from the nature of the legislation itself. Breathless media reports aside, the very notion that ordinary citizens could potentially hold the all-powerful state to account in so direct and quotidian a manner appealed deeply to the left-liberal sensibility that one had (typically and predictably) found refuge in. The second factor was that the established leadership of this seemingly momentous national achievement lay in the hands of individuals who were not distant names in newspapers, but were people one had met and interacted with directly, and who inhabited one's immediate social sphere (if a generation removed). This sense of proximity was attractive not just in an abstract sense. Brought down to the practical plane, this had implications on the levels of access one could possibly gain with 'those that mattered' in the 'RTI world', along with the candour one could presume would be forthcoming as a result of our shared social and political worldviews. In addition, given that the RTI Act was located in the context of government functioning, access to relevant government officials would also not be difficult through my family links with the senior bureaucracy, some of whom had been directly involved in the process that led to the

enactment of the RTI Act. 'Studying up' and gaining an authentic and objective 'insider's' view at the ways in which social policies are drafted appeared to be a distinct possibility in this case.[70]

"People's Assessment of the RTI Act": Observing the 'RTI World'

Prior to embarking on my fieldwork, I had reviewed the existing (and dominant) narrative that has attempted to explain the process of the enactment of the RTI Act in India in 2005.[71] Armed with the broad contours of this narrative, the first person from within the established leadership that I made contact with was Shekhar Singh. The timing of my meeting with Singh in July 2008 was fortuitous. He had recently received a grant from the Google Foundation to conduct a nationwide assessment study on the usage and impact of the RTI Act in India. This study had been conceived of as a response to one being carried out by the government ('outsourced' to Price Waterhouse Coopers (PWC), a private consultancy firm, but nevertheless under the aegis of the government). Civil society actors feared that the government study would make recommendations that might lead to a dilution of the Act, and the idea to conduct a parallel 'People's Assessment' had therefore been mooted to counter this possibility.

For the 'People's Assessment' study, a grant of USD 250,000 had been made by the Google Foundation to Shekhar Singh in his individual capacity. No formal entity was set up for the study, and it was being carried out by a loose coalition of individuals and 'field'-based NGOs. The banner under which this study was carried out acquired the name 'RAAG', after "RTI Assessment and Analysis Group". The study was designed and conceived in

[70] After Laura Nader (1974). Although whether this would strictly qualify as part of her conception of 'studying up' is examined later in this chapter.
[71] Details of this narrative are provided in Chapter 3.

consultation with leaders of the MKSS group, including Aruna Roy.[72] The leadership team consisted of Shekhar Singh and a few other individuals, many of whom came from 'civil servant families'. The foot-soldiers - those who would actually conduct the surveys of users of the RTI Act, were rustled up through existing links with NGOs in various states.

The RAAG study was to carry out hundreds of interviews of users of the RTI Act (information seekers) as well as government officials who had been mandated to service the Act (information providers). In addition, the design of the study also included an analysis of secondary data (including media reports and judgements of Information Commissioners), interviewing senior civil servants and Information Commissioners (the final appellate authority within the implementation framework of the Act with separate and parallel structures at the state and central government levels) on policy aspects, as well as senior officials of international organisations such as the World Bank and the United Nations Development Programme.

An important part of my responsibilities within this study was to conduct semi-structured interviews with senior civil servants across ten states in India. The reasons for this were not difficult to discern. Since I came from the family of a civil servant, a great deal of 'insider' knowledge of the higher bureaucracy would serve as an asset. In addition, a certain comfort-level and confidence in interacting with senior civil servants was also presumed - since this had been a part of my 'growing up' experience. Finally, a high level of facility with the

[72] It should be noted here that the overlap between the MKSS and the NCPRI, especially in terms of its membership and ideology, is tremendous. The institutional arrangements and relationships within the 'RTI world' will be discussed in greater detail in later chapters of this thesis.

English language, particularly in its spoken form, would be important, as the preferred working language of the higher civil service remains English.[73]

It should be reiterated here that it is not as if the focus of the RAAG study was only senior bureaucrats. Hundreds of interviews of information seekers were also carried out, whose names were gathered by filing RTI applications seeking contact details of applicants. However, gaining access to 'ordinary' individuals (not surprisingly) is less difficult than interviewing typically inaccessible civil servants. The larger point I wish to highlight here relates to access to power centres and how this is actualised. I will continue to pursue this theme in this and later chapters as it has an important bearing on the process of the enactment of the RTI Act itself.

Access, Access, Access

As this study, along with my fieldwork, progressed, many of these assumptions were borne out in practice, not just on my part, but the manner in which the process evolved. For any researcher, it is notoriously difficult to gain access to senior civil servants. If the researcher happens to be associated with a government entity, the process is easier since requests for appointments and interviews are routed 'through proper channels' - which in practice could mean that introductory letters are sent by relevant government ministries - and are therefore taken seriously. The government-sponsored PWC study followed this path, which included several meetings and workshops organised in the offices of the Department of Personnel and Training of the central government, which is the nodal department in the Government of India for matters related to the RTI Act.

[73] Knowledge and use of the English language continues to be an important factor when defining social class in the Indian context. The politics of this phenomenon and its relationship with the larger puzzle of the enactment of the RTI Act is explored in greater detail in Chapter 4 of this thesis.

Under other circumstances, gaining similar access for a loose coalition such as RAAG would have been well-nigh impossible. However, several factors supported the process of gaining access. Aruna Roy had become a well-known name both through the media, as well as by being a member of the National Advisory Council, a body which was observed closely by those in government circles.[74] In addition, the direct links that Shekhar Singh and Aruna Roy had with the higher bureaucracy of the country also proved to be indispensible. The fact that Aruna Roy was once in the IAS was well-known, and Aruna Roy's 'batchmates' were by now in senior government positions across the country. Shekhar Singh had been part of the faculty at the Indian Institute of Public Administration, which is the apex government body in India that provides in-service training to civil servants. Thus, his former students were scattered across the country in various positions of influence within the state and central bureaucracies. Letters seeking appointments with senior civil servants would be signed by Aruna Roy and Shekhar Singh and these often yielded positive results. If a particular civil servant was unresponsive in the ordinary course of things, a phone call would be made to one of his/her colleagues known to someone in the RAAG team. This officer would then urge his/her otherwise reticent colleague to allow access. Where these strategies did not work, letters seeking appointments on RAAG's behalf were sent by the Chief Information Commissioner (CIC), which provided a quasi-official endorsement to RAAG.[75] Interestingly, the CIC himself was a batchmate of Aruna Roy when she was in the IAS. He was also an alumnus of the same institution in Delhi University, St. Stephen's College, where Shekhar Singh had done his under- and postgraduate studies and had also taught in the past. In the end, over fifty senior bureaucrats of the country (including the *very* inaccessible Home and Foreign Secretaries) were interviewed, no mean feat for an entity which did not even formally exist.

[74] The role of the NAC is analysed in greater detail in Chapters 4 and 5.
[75] The power of a request made on the letterhead of a senior government functionary cannot be underestimated.

Most of these interviews were carried out by three 'senior' members of the team, including myself. *All* of us came from 'civil servant families', though none of us had ever worked directly for the government, and *all* of us had completed our undergraduate degrees at St. Stephen's College in Delhi University.[76] Unsurprisingly, our social spheres had significant overlaps in terms of the people we knew in common, even as we shared a similar cultural sensibility. In some cases where interviews had been granted as a result of phone calls being made by someone from within the MKSS or the NCPRI leadership, the family background of the interviewer was already known to the interviewee. In others, the family background was established during the course of the interview. The purpose of the establishment of these 'credentials', though unstated, was clear - that there was a shared and implicit 'lived' understanding of how the bureaucracy worked, with its privileges, challenges and constraints. Essentially, these markers were displayed to establish trust, as also to signify that the interview was being carried out amongst social equals, and therefore could be conducted without any rancour - indeed it took the form of a 'pleasant chat' more often than a formal interview. As a result, an unusual degree of candour was the dominant tone of many of these interviews.

My involvement with the RAAG study thus proved to be very useful to this research in several ways. First, it allowed me to observe at very close quarters the texture, grammar, and dynamics of the 'RTI world', centred as it is in Delhi. Second, it introduced me to many of the actors (both in leadership positions, as well as the more 'humble' ones), who had been involved with the process prior to the enactment, as well as those involved in the usage and implementation phase after the enactment of the Act. Third, it provided me with significant

[76] By 'civil servant families' I mean that each of us had at least one parent who belonged to one of the All India Services, which include the Indian Foreign Service, the Indian Administrative Service and the Indian Police Service, and which are considered to be the crème-de-la-crème amongst the civil services.

clues towards identifying the dissonant voices that contested the dominant narrative of the history of the RTI Act.

Methodology and Process

Querying the 'Movement'

Entering this 'RTI world' through the RAAG study also fitted well into the research design I had developed prior to commencing my fieldwork. The design took as its point of embarkation the dominant narrative of the history of the RTI Act in India (reviewed in detail in the following chapter). The plan was to systematically interview all the key figures that had found pride of place in the narrative, and follow a snowballing method whereby other names that emerged during this primary set of interviews would be interviewed at a later stage. Critical and silent voices that had been directly involved in the process at various stages, but did not find mention in the dominant narrative were identified through these interviews as well as through the examination of documents sourced from both governmental and non-governmental sources. Once some of these individuals had been identified, a snowballing method was used in this context as well to glean names of other such individuals who could potentially provide alternate perspectives. All interviews were semi-structured, and follow-up interviews were conducted where necessary and possible. The initial line of questioning revolved around the role of the individual (and where applicable, the organisation she represented) in the process of the enactment of the RTI Act. As the research progressed, this broadened to incorporate issues related to networks and alliances, critiques of the dominant narrative (where applicable), and questions on larger national and international

political events that may have influenced the process leading to the enactment of the RTI Act in India.

Concurrently, as the work of the MKSS had been identified in the dominant narrative as a key force in the evolution of the RTI Act, I made several trips to Rajasthan and spent a considerable amount of time with the group observing what it did, and how it was done (including attending a *jan sunwai* conducted by MKSS members), apart from interviewing several of its lesser-known members and associates.[77] Trips were also made to other parts of the country where RTI-related events were held.

Documentary Analysis

In terms of unearthing documentary evidence, my strategy was two-pronged. First, I sought and was given access to the papers related to the evolution of the RTI Act that were in possession of two key figures in the process, Aruna Roy and Shekhar Singh. These primarily related to the work of the MKSS and the NCPRI respectively, although with significant overlaps given that Aruna Roy was herself a founder-member of the NCPRI. In the process, I also discovered that several critical (many of them classified as 'secret') government documents formed a part of these collections. That these had been in the possession of the MKSS and NCPRI leadership *prior* to the enactment of the Act (suggesting that they could have received copies only through their links within the government and not by using the RTI Act) is itself an important indicator of the considerable access that the MKSS and NCPRI leadership had (and continues to have) to higher government circles. Second, I filed applications for information under the RTI Act to the Department of Personnel and Training

[77] *Jan sunwais* (public hearings) were a specific mode of a public investigation of the implementation of government schemes that was developed and used by the MKSS in Rajasthan. Further details are provided in Chapters 3 and 4.

(DoPT) to access all government papers related to the process.[78] Since the number of relevant files was voluminous, I was asked to come and 'inspect' them at the designated departmental office in consonance with the procedures laid out in the RTI Act. This 'inspection' was carried out over several weeks and eventually the copies of the papers that I had identified were provided to me. Interestingly, on the day I came to collect the papers, I discovered that department officials had made an alternate set of the documents that I had requested! Apart from it being quite wasteful, it points to a continued tendency on the part of government officials to protect themselves from any subsequent criticism.

All of these documents, regardless of the source, provided invaluable and rich information about the process, a detailed analysis of which will be undertaken in later chapters of this thesis. The process of accessing these documents itself pointed to the abysmal state of record-keeping across government offices in the country. In several instances, pages in voluminous files were not numbered, and I had to do the numbering (in pencil) myself prior to identifying the specific documents that I needed copies of. Only a semblance of order seemed to exist in the organisation of the papers within each file, with significant levels of duplication. Several documents also appeared to be missing, and given that references to such documents suggested that they were quite 'harmless', this was perhaps due to the limitations in the record-keeping process rather than a conscious act of censorship. Considering that I was seeking documents from a department at the central government, it can be safely assumed that the record-keeping situation would be much worse in state and district level offices, thus pointing to a structural limitation of the effectiveness of the RTI Act itself, at least in the short to medium term.

[78] The DoPT is the nodal department within the central government for all matters related to the RTI Act.

Interviewing Civil Servants

When trawling through the overwhelming reams of papers acquired from the government and other sources, names of certain senior government functionaries cropped up with great regularity. Obtaining the government perspective on the process required that interviews be conducted with some, if not all of them. This would have ordinarily proved to be a significant hurdle, made more complicated by the fact that many of them had either been transferred to other positions, or had retired. This is when my own family links with the bureaucracy played a key role in facilitating access. Many of the relevant civil servants knew my father directly, having been colleagues in the past (my father had retired by this time). However, contacting senior government official implies getting through the gatekeepers - the support staff - who control access to the official, as well as to information about them. While telephone numbers of senior officials are available in the public domain, actual access is controlled through a well-established code. Typically, a call made to the office of a senior servant is responded to by his/her Private Secretary. Requests to be put through to the official concerned are not entertained, unless the caller's credentials are established. These credentials take the form of the name and institutional affiliation, but these may not be considered sufficient. For example, a call from X, a researcher at the LSE, would ordinarily require further qualification. The typical question seeking clarification would be a version of "What is this regarding?". After providing a background, the caller would immediately be told that the official was not available at the moment ("Sir/madam is in a meeting" being the preferred reason), and to leave a contact number. Alternately, the caller would be put on hold, and the Private Secretary would then check with the official if s/he would like to speak to the person concerned. In cases where the official would consider the credentials to be important enough, the caller would be put through. In most cases, the Private Secretary would come back on the

line to suggest that the caller leave a contact number since the official was 'busy'. In such cases, rarely, if ever, would the call be returned.

A more effective strategy to gain access would be to provide a reference when attempting to make contact. This reference would typically be another senior government official, or someone known directly to the official being contacted. However, in both cases, merely providing a name would ordinarily not be enough. The 'referee' should ideally have spoken to the official concerned (or his/her support staff) before hand, priming him/her for the call that would come later. In such an event, the call would be accepted, and if required, an appointment granted.

If, however, the caller had any direct links (current or former) with the government, then the entire process, including the attitude of the support staff, would be quite different. For example, if a call was made by a former Secretary to the government, no further 'vetting' would be required. Questions would *not* be asked regarding the purpose of the call, as protocol dictates that support staff must not question a senior officer, retired as s/he may be. The caller would then be put on hold while the Private Secretary would inform the official about the call. In most cases, the official would accept the call. In case the official was not available at the time the call was made, the Private Secretary would take down the contact details of the caller, and the official would typically respond to the call later. Often enough, the caller could also press upon the Private Secretary to provide the mobile phone number of the official concerned, and if the credentials were sufficiently weighty, this would be given. The caller would then be able to contact the official directly without having to go through any gatekeepers. Whether seeking appointments, or tracing government officials who may have retired or been transferred, an effective strategy would broadly follow a similar pattern.

This is not to say that senior government officials *never* entertain calls from unknown entities. However, instances of this occurring are few and far between, and require tremendous amounts of perseverance and tenacity on the part of the person seeking contact. Contact could, of course, also be sought by physically going to the offices of a civil servant. However, there is an inverse relationship between the seniority of the officer and the possibility of gaining an audience simply by visiting the office.

In my case, that my father had himself been a senior civil servant meant that getting access to, or information about relevant government officials was not very difficult, and a few calls later, contact would be established and a rendezvous arranged. The 'IAS network' kicked in, much in the way it had in the context of the RAAG study, and for similar reasons, access and candour were assured in most of the cases. At the risk of repetition, the importance of such access cannot be emphasised enough. The tales of frustrated researchers running from pillar to post to finally obtain an interview with senior bureaucrats, only to face hostility, obfuscation or opacity are too numerous to be recounted here.

Respondents: Who, How Many, When?

Following the strategy outlined above, I conducted a total of 59 interviews (including one over email, indicated where quoted) with 49 individuals (in some instances, I conducted several interviews with the same individual) between September 2008 and July 2012. These individuals spanned several functional spaces, including the leadership of the NCPRI and the MKSS, civil society activists who were directly or indirectly involved with these organisations, 'foot soldiers' within the RTI movement space, NGO and INGO professionals, civil servants (both serving and retired), journalists, lawyers, former judges, academics, and

politicians. Needless to say, some of the respondents could be classified as belonging to more than one such category. Interviews were recorded where possible. Where this was not, I took detailed notes during and immediately after the interview.

In most instances, the anonymity of the respondent had to be assured. For reasons of confidentiality (for example, civil servants who would otherwise not have spoken freely), or the political dynamics of the activist and NGO worlds, most respondents (unless otherwise stated) have therefore been assigned random numbers when quoted in this thesis.[79] In addition, I have typically not indicated the functional space that an anonymous respondent inhabited when quoting her. The Delhi- and Rajasthan-based 'RTI world' is quite small, which means that in some cases, despite the absence of a name, an individual could be identified by such clues. For example, if a person identified merely as a *rural* activist was to be quoted about a specific event related to the enactment of the RTI Act, they could be identified by those 'in the know'. I have chosen to err on the side of caution and in such cases, no information on the respondent apart from the assigned random number and the date of the interview has been provided. Politics, it appears, does not seem to intrinsically support a fearless and open articulation of the 'truth', even in the context of transparency. In the instances where anonymity had not been requested, the name, date and place of interview, and other relevant details of the respondent have been indicated.

'Studying Up'? [80]

Almost four decades ago, Laura Nader "appealed for a critical repatriated anthropology that would, in studying the cultures of the powerful as well as the powerless, throw new light on

[79] Where necessary, quotes have been translated into English without giving details of the language the interview was originally held in to further protect identities.
[80] After Nader (1974).

processes of domination" (Gusterson, 1997: 114). Following on from this, several methodological challenges were identified in the study of elites, which included the inverted power relationship between the researcher and the subject(s) of the study, the problems of access, and the larger philosophical conundrum of ensuring that the process of research would not result in the strengthening of an already dominant perspective, given that a defining characteristic of elites is their ability to define the contours of a given discourse (Hertz and Imber, 1993; Ostrander 1993; Rice, 2010), even as the power dynamic is reversed, in that the researcher is likely to be subservient to the respondent (McDowell, 1998; Richards, 1996).[81]

In the case of this research, I remain uncertain whether it falls within the tradition of 'studying up' or not. Given that this research involved the examination of the process underlying a specific national legislation, it necessarily involved (amongst others) the study of 'policy elites', which included civil society leaders (albeit belonging to a specific social elite), high-level civil servants, academics, and other 'influential' people. In the nature of its 'subjects', this research therefore does appear to fall within the tradition of 'studying up'. However, in the context of the constraints that such an exercise would typically need to overcome, my experience does not quite fit the mould. For example, access to and the constraints of time of respondents were not hurdles that I faced to any significant degree during this research. As discussed above, this was largely due to the shared social space that exists between the 'subjects' and myself. At the same time, other factors were also at play. First, several of the civil servants who had been directly involved with the enactment process had retired by the time I commenced my interviews. Once a relationship of trust had been

[81] A recent work that exemplifies the challenges and rewards of 'studying up' is Ho (2009) in which the author joined an investment bank to ethnographically examine the workings of 'Wall Street'. To conduct her research, Ho "leveraged [her] socioeconomic background and connections with elite universities - the only sites from which Wall Street banks recruit and hire" (Ho, 2009: 13).

established (which was effected in part though my specific positionality), most of the retired civil servants I interviewed were willing to speak at length and with great candour (Chavez, 2008; Merriam et al, 2001; Mikecz, 2012).

A second factor is related to the relationship between civil society and the researcher. For several sections of civil society, influencing academic research is an important element within their own quest for legitimacy. This is an existential concern due to the very nature of such entities. The more a non-state entity can orient the public discourse (which includes academic research), the more relevant, influential and effective it can be in conducting its activities on a daily basis. This of course does not mean that all researchers would therefore be able to gain equal access to high-profile leaders of social movements. Social profiles and institutional affiliations of researchers also play an important part in defining who will be 'allowed in' and to what extent. However, the larger point remains. In the context of studying 'policy elites', civil society leaders need the researcher as much as the researcher needs her 'subjects'. In this specific sense, the limitations of 'studying up' perhaps do not need to be as intractable as they may seem at first.

In the case of this study, it could thus be proposed that although the subject of the study does lie within a broad framework of 'studying up' (in the sense of focusing on elites rather than the masses), the specificities of the positionalities of the respondents as well as the researcher meant that the relationship was more 'sideways' than vertical (Plesner, 2011). However, as the researcher in this process, I still needed to confront a singular challenge - that of ensuring that the study would not result in merely reinforcing the dominant narrative.

The Problem of Circularity

Given that my entry point into the research was the established leadership of the 'movement' for an RTI Act in India, which was, at least in part, responsible for the production of the popular narrative as the dominant one, there was a very strong possibility of my research itself reinforcing that narrative - a risk particularly associated with 'studying up' (Harvey, 2011; Mikecz, 2012; Moyser and Wagstaffe, 1987). In the context of qualitative research, proximity and access to those in leadership positions is indeed a double-edged sword. On the one hand, these could simply serve to reinforce preeminent voices. On the other, these could also result in greater candour in expression in interviews and interactions. As my research progressed, there were several strategies I adopted in terms of mitigating the potential bias that the former could have engendered.

There was of course, the primary 'problem' of identifying individuals who may have played a role in the process leading up to the enactment, but do not find mention in the dominant narrative due to a variety of reasons (not least because they raised dissonant notes). This was overcome by seeking clues through the primary interviews, by seeking out and interviewing many of the foot-soldiers in the larger 'RTI world', identifying critical voices in RTI-related conventions and meetings, as well as by scouring the documents that I had gained access to through the approach outlined above. Several individuals who did not necessarily reinforce the dominant narrative were thus identified, many of whom were subsequently interviewed. During these interviews, other critical voices were identified and subsequently interviewed (the snowballing method, in this case in the context of dissonant or absent voices). Several of these documents and interviews provided information that in some cases allowed me to triangulate the dominate narrative, and in others provided alternative perspectives to the

same. In this context, parsing relevant government documents was of critical importance to this research as they provided a perspective that had hitherto been all but ignored in the dominant narrative.

An important factor that played a key role in the strategies mentioned above was the predominance of a singular narrative in the first instance.[82] The sheer absence of any significant publicly available alternate narratives meant that once this dominant narrative had been reviewed, data and data sources could largely be classified as belonging to this category or not. In this context, I have examined the data that falls *outside* of the category of the dominant narrative with greater attention throughout the thesis. This is not to question the factual veracity of the dominant narrative itself (unless pointed out as such), but to proffer a more nuanced analysis than the one proposed within it. In any event, as I made progress with the research, establishing the authenticity of the dominant narrative was gradually relegated to the background, even as questions related to power, networks, and the political reasons underlying the production and predominance of such a narrative began to take on a life of their own.

At the same time, a peculiar situation emerged as the research progressed. In some instances, respondents that could typically be classified as one of the 'authors of the dominant narrative' provided perspectives that *contradicted* the same narrative that they had participated in the production of. Some individuals at least, appeared to have taken one position in the public articulations that constituted the dominant narrative, and a contradictory one in private interviews where their anonymity was guaranteed. Although I did not confront any respondent with these incongruities, in my assessment they can be explained by two factors.

[82] This is reviewed in the following chapter.

The first pertains to the direct relationship between anonymity and candour, thus pointing to the political compulsions that have a bearing on actors of all hues within this space. By extension, this also lends credence to the assertion that the production of any narrative is an inherently political act as it privileges certain perspectives over others. The second reason, at least in some instances, could also have been that the perspective of respondents may have changed with the benefit of hindsight. However, as I analysed the details of such contradictory positions, it appears that the second factor was at play only in very few cases. Needless to say, I have *not* pointed out such cases of contradictions between public articulations and private conversations in this thesis to maintain the anonymity of respondents.

The Research Experience as Data

The characteristics and dynamics of the 'RTI world', along with the process of data collection, brings us back to the Rajasthani peasant's pithy homily mentioned at the beginning of this chapter - knowing people in high places helps. This is hardly an original notion. However, when one looks at the social profiles of the people at the apex of the 'RTI world', an astonishing degree of homogeneity begins to appear.[83] Practically all those in leadership positions have either direct or family links with the government at the higher levels, particularly through the civil service, and many of them have had a certain kind of education, as represented by an association with a specific higher education institution. As experienced at the personal level while conducting my research, as well as through the RAAG study, possessing such a profile tremendously facilitates access to centres of bureaucratic (and in some instances, political) power, at least in the context of carrying out

[83] This is examined in detail in Chapter 4.

'neutral' research. Could this experience perhaps be extended to look at the process of enactment of the RTI Act afresh, possibly through the lens of 'elite networks' and the vocabulary of their engagement with spaces where the power of the state resides? If so, what are the precise contours of these 'elite networks'? Who inhabits them? Who *can* inhabit them? Is the involvement of such 'elite networks' a necessary and sufficient condition for the development of social policies, and by extension, democratic deepening?

Of course, it could be plausibly argued that since the RTI Act has been imagined as a key instrument of governance reform, routed as it is through the concepts of transparency and accountability, it is to be expected that the process of its evolution *would* involve those associated with the higher echelons of government or those close to it. In addition, it has also been observed that processes of social change are often led by the elite, or at least by a specific fraction of it. However, making such an argument in this case poses its own set of questions. If indeed a particular elite invested and linked in with the state apparatus came to occupy a position of immense influence over changes to national policy, then why and how did *this* particular elite succeed, and at the time that it did? At any given moment in time, there are several ideas and elite fractions that represent them jostling for supremacy in the political and social arenas. How did it come to be that one particular (admittedly 'powerful') group 'won' even as others, therefore lost? Did the constituting characteristics of the 'RTI world' play a definitive role in this victory? Or were other political processes at work, both nationally as well as globally, that privileged some ideas and individuals (part of an elite as they may have been) over others?

Even as these questions will be taken up for study in the latter part of the thesis, it may be of some value to briefly articulate some reflexive concerns on the method followed during my

fieldwork experience. As has been mentioned earlier, the significant sharing of the social and the cultural spheres with several key informants and other interviewees allowed me a privileged and unique perspective on the Delhi-centred 'RTI world' in India. In other words, in the ethnographic universe, I was researching 'my own' within 'my own'. To put it anachronistically (or in a 'charmingly' old-fashioned way), I was studying my own tribe. This clearly had its advantages. I could instinctively 'decode' clues (language, accents, clothes, expressions, objects, spaces et al) that would have been meaningless artefacts to someone from without. Greater candour in the interactions was also presumed. At the same time, this also meant that the nature of interactions, including the interviews, was impacted not just by the proximity inherited from the social, but also by the presumption of continued professional and social engagement in the future, along with its own set of dilemmas (Labaree, 2002; Taylor, 2011).

In this context, whether a researcher from 'outside' would have had a similar experience, or gathered the same data, or interpreted it in the same way is a moot question, just as whether a greater claim to truth can be made by someone from the 'inside' or the 'outside' also remains unresolved (Labaree, 2002; Merriam et al, 2001; Oriola and Haggerty, 2012).[84] What *can* be claimed however, is that the research process, regardless of perspective, even as it is limited by it, can perhaps provide a version of the truth, which hopefully will be questioned, debated and contested, and through this process, offer a richer, more layered, more complex, and more nuanced version of the truth. With some luck, this continued layering of meaning will remain an unending process.

[84] Labaree captures this succinctly by suggesting (after Griffith, 1998) that "the researcher's social location and knowledges are 'always located somewhere', yet continuously moving back and forth between the positional boundaries of insiderness and outsiderness" (2002: 102).

Chapter 3

The Dominant Narrative

"Just the place for a Snark!" the Bellman cried,
As he landed his crew with care;
Supporting each man on the top of the tide
By a finger entwined in his hair.

"Just the place for a Snark! I have said it twice:
That alone should encourage the crew.
Just the place for a Snark! I have said it thrice:
What I tell you three times is true."

- From "The Hunting of the Snark: An Agony in Eight Fits" by Lewis Carroll

"When you repeat what you consider to be the truth, then it ceases to be the truth... Repetition has no value; it merely dulls the mind, and you can only repeat a lie. You cannot repeat truth, because truth is never constant. Truth is a state of experiencing, and what you can repeat is a static state; therefore it is not the truth."

- Jiddu Krishnamurti, 10th public talk, 14 March 1948, Bombay

Admittedly, there is some incongruity in juxtaposing the assertion of a fictional character of a classic piece of 'nonsense verse' with the ruminations of a renowned thinker and philosopher on how 'truth' is made.[85] However, the two diametrically opposite positions quoted above mark out the boundaries of the space within which this chapter specifically, and this research generally, is located. The Bellman's position on truth-making resonates with the flattened (arising not least from repetition) nature of the dominant narrative that explains the evolution of the RTI Act in India. On the other hand, this research attempts to examine this narrative in a more nuanced manner, and in that proposes a different experiencing of the 'truth' of the evolution of the RTI Act.[86]

[85] Interestingly, the two are temporally quite proximate. Carroll's poem (and therefore the birth of the Bellman) was first published in 1876 and Krishnamurti was born just under two decades later in 1895.

[86] Continuing with Krishnamurti's perspective, this research does not pretend to provide *the* truth about the RTI Act, but merely attempts to enlarge existing perspectives on it. What this research seeks to achieve is discussed in greater detail in the concluding chapter.

In this chapter, I focus on the Bellman's perspective on truth-making by reviewing the existing dominant narrative on the enactment of the RTI Act in India in 2005. Explanations for the enactment of the RTI Act have been proffered by researchers, academics, activists, NGO representatives, journalists, and a plethora of internet-based sources. However, despite the fact that noisy and often acrimonious public debates surround almost all development-related issues in India (not least giving further credence to Amartya Sen's vision of 'the argumentative Indian'), these explanations seem to run along a highly consistent and mutually reinforcing course. The history of the evolution of the RTI Act in India thus appears to have an overwhelmingly singular narrative. This chapter reviews this narrative and identifies three conspicuous silences within it. In subsequent chapters of this thesis, these silences are explored as spaces from within which other (more 'Krishnamurtian') 'truths' emerge.

At this point, it may be necessary to point out that the aim of this chapter is not to question whether or not the narrative of the evolution of the RTI Act in India as produced in the public (including academic) domain is a 'truthful' one or not. What is being emphasised here (as was mentioned in the opening chapter as well), is that there appears to be a *flattening* of the discourse that explains the evolution of the RTI Act in India. It is this aspect of flattening that will be explored further in this thesis, even as it will be argued that this has a critical relationship with its organising questions that relate to the politics of the processes that led to the enactment of the RTI Act in 2005.

What Constitutes the Dominant Narrative?

As this chapter is primarily concerned with delineating the contours of the existing dominant narrative, it becomes critical to identify the sources for conducting this exercise.[87] In terms of published scholarly work (in established peer-reviewed journals or edited volumes), the number is not vast. Jenkins and Goetz (1999), Goetz and Jenkins (2005), Jenkins (2006), Baviskar (2007), Singh (2007 and 2011), Srivastava (2009), Webb (2010b) and Roberts (2010) form the core of this body. If one were to include academic and quasi-academic journals and publications which are not necessarily peer-reviewed (including the important, especially in the academic context related to social science research on India, *Economic and Political Weekly*), this number swells appreciably. Priya (1996), Roy (1996) and (1997b), Dogra (1997), Bakshi (1998), Noronha (2001), Roy and Dey (2002), Bhaduri (2005), Niranjan (2005), Kulkarni (2008), and Saxena (2009) focus on different aspects of the RTI Act in India, each referring at least in part to its evolution. In addition, an issue of the journal *Seminar* titled "Speaking Truth to Power: A Symposium on People's Right to Information" was published in July 2005 that comprised of several articles, primarily authored by the better known advocates of the Act. A special issue of the *Indian Journal of Public Administration* titled "Right to Information: Present Status and Issues" was also published in September 2009.[88] Each of these maintains the contours of the established narrative.

In the context of grey literature, including those published by international organisations, or papers presented at international conferences, a plethora of works that contribute substantially to the establishment of the dominant narrative exist. Within these, Mander and Joshi (1999), Mazdoor Kisan Shakti Sangathan (2001), Goetz and Jenkins (2001 and 2002), Mishra (2003),

[87] By 'dominant narrative', I mean the repetitive threads that reappear (and are reinforced) consistently through *all* the public artefacts that speak of the RTI 'story' in India.
[88] See Goel (2009).

Sharma (2004), Kidambi (2008) and Puddephatt (2009) could be considered as key in this category of literature for two reasons. First, these have been cited numerously in the relevant literature, and second, these have been published by relatively influential and well-known organisations including the World Bank and UNDP. Another major source that I have accessed for reviewing the dominant narrative has been reportage in the mainstream English-language national newspapers published in India. These include, but are not limited to *The Indian Express*, *The Hindu* and *The Times of India*.[89] The basic contours of the narrative that underpin all of the above have been reproduced widely on the internet as well.[90] The corpus of resources mentioned above consistently refers to the role played by a well-defined set of principal actors within the dominant narrative.[91] Interviews that I conducted with these actors form the sixth type of material in the review of this narrative, which typically reinforce the dominant narrative while adding richness of detail to the same.

The Genesis and Evolution of the RTI Act in India: The Dominant Narrative[92]

When attempting to trace the history of the demand for citizens to have a legally enforceable right to access government-held information in India, three major strands emerge in the dominant narrative.[93] The first highlights progressive judgements made by the Supreme Court of India in this context; the second finds its roots in the environmental movement in India,

[89] For example, see "A tale of two movements", *Times of India* newspaper, 6 September 2011.
[90] An emblematic example being the "History and Background" of the RTI Act in India on the website of the Commonwealth Human Rights Initiative (CHRI), an international NGO working on the RTI Act in India. See http://www.humanrightsinitiative.org/programs/ai/rti/india/history.htm. Accessed 10 May 2011.
[91] Although these are present only superficially in the dominant narrative, I have weaved in biographical details of the principal actors as they appear within it. The implications of their profiles on the process will be discussed in later chapters.
[92] This subheading borrows heavily from the title of Singh (2011), "The genesis and evolution of the Right to Information Regime in India". This is by design, as in many ways the paper is an emblematic example of the existing dominant narrative.
[93] These themes, with a significant bias towards the third, are common to almost all of the sources mentioned in the chapter above. However, Mander and Joshi (1999) also provide a detailed account of the development of constitutional and administrative law in support of an RTI Act. Although a few key judgements of the Supreme Court in this context do find mention in all the sources that produce the dominant narrative, these are typically mentioned only briefly.

particularly around the issue of hazardous industries in urban areas, with the judicial strand intertwined within it; and the third is the grassroots movement in rural Rajasthan which began as a struggle to force the government to grant minimum wages to labourers working on government schemes in accordance with its own rules.

Judicial Pronouncements

Perhaps the first clearly articulated comment on the issue of right of the people to know about the functioning of the government from a senior functionary of the state was made by Justice K.K. Mathew in his Supreme Court ruling in the case of *State of UP vs Raj Narain* in 1975 where he said, "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." (Quoted in Mander and Joshi, 1999). The Supreme Court reinforced the idea of freedom of information through another judgement in 1982 which related to the matter of transfer of judges. In this case, *S.P. Gupta & others vs The President of India & others,* it held that "The concept of open government is the direct emanation from the right to know which seems implicit in the right of free speech and expression guaranteed under Article 19(1)(a). Therefore, disclosures of information in regard to the functioning of government must be the rule, and secrecy an exception justified only where the strictest requirements of public interest so demands."[94]

[94] State of U.P. vs. Raj Narain, (1975) (4) SCC 428, 24 January 1975.

Apart from this judgement, the 1980s could be seen as the period when the idea of freedom of information as a right began to take an embryonic form as a result of other events that were taking place in the socio-political sphere, most notably, in the field of environmental activism.[95] In 1984, after the horrific gas leak from the Union Carbide factory in Bhopal caused the death of thousands of people, a spate of public interest litigations came out of dormancy.[96] The case filed against the Sriram Food and Fertiliser Industry by lawyer M.C. Mehta some years previously was one such case. Mehta argued that this company dealt with hazardous chemicals and was located in a very densely populated part of Delhi which posed a grave human risk, and hence the industry must be shut down. Even as the case moved from the High to the Supreme Court, gas actually leaked from this plant in the first week of December 1985. While the impact of the leaks did not cause any deaths, this resulted in the Supreme Court bringing the case up for a quicker hearing during which it was discovered that an internal government study had been undertaken several months earlier, the results of which were not made known either to the company in question or to the public at large. This led the then Chief Justice of India, who was heading the bench that was hearing the case, to remark that he wished that someone would take up the issue of 'Right to Know'. In response to this, Kalpavriksh, an NGO that had been working on environmental issues and was also involved with the case, filed an affidavit seeking the Court's intervention to pronounce the Right to Know as a fundamental right, albeit in the context of the location of hazardous industries in densely populated areas. The affidavit was filed "for the limited purpose of

[95] Much of these details were gleaned over a series of interviews with key informants, particularly Shekhar Singh in the context of the environmental movement.

[96] Public interest litigation in the Indian context "originated in the late 1970s when the judiciary, aiming to recapture popular support after its complicity in Indira Gandhi's declaration of emergency rule, encouraged litigation concerning the interests of the poor and marginalized, and to do so loosened rules and traditions related to standing, case filing, the adversarial process, and judicial remedies" (Gauri, 2009: 71-72).

bringing on record and submitting the various facts and issues concerning the Right to Know" by Shekhar Singh (on behalf of Kalpavriksh), who was at that time a faculty member at the Indian Institute of Public Administration, New Delhi.[97]

Born into a civil servant family in 1950 (his father was in the IAS), Singh is an academic who had done his graduate and postgraduate studies at St. Stephen's College, Delhi with English literature and Philosophy as subjects. He then went on to teach there for some years before moving to the then newly established North Eastern Hill University in Shillong (capital of the north-eastern state of Meghalaya) in 1974 where he spent seven years. From 1980 to 2002, he was faculty at the Indian Institute of Public Administration (IIPA), the apex government institution for in-service training of civil servants, where he set up the Environmental Studies Division.[98] During his time at the IIPA, he also served in several government positions and committees, including Advisor (for Environment and Forests) to the Planning Commission of the Government of India in 1990-91. In 2002, he took voluntary retirement from the IIPA and then set up an NGO, Centre for Equity Studies. Since then, he has also been an independent consultant primarily in the areas of environment and access to information, and has worked for various international organisations such as the World Bank, the Global Environment Facility (funded by the World Bank), International Development Research Centre (IDRC), Canada, UNDP and FAO. He is regularly invited to all manner of national and international conferences on access to information and transparency (amongst other themes), and is also regularly consulted by government officials (including Information Commissioners) and NGOs on the RTI Act. Widely considered to be an authority on the Indian RTI Act, his name

[97] While the Supreme Court did not pass any specific orders regarding this intervention, it did highlight some of these issues in the comments it made during the hearing and the eventual judgement.
[98] Many of the research staff working in the Environmental Studies Division of the IIPA were also core group members of Kalpavriksh.

also did the rounds in government circles for the position of Chief Information Commissioner (CIC) of the Government of India upon the retirement of the then incumbent.[99]

The second landmark case within the environmental strand was a writ petition filed by the Bombay Environmental Action Group (BEAG) in the then Bombay High Court in 1986. BEAG had requested the Poona (now Pune) Cantonment Board to inspect relevant building plans and documents as it was interested in finding out if some construction activity was being carried out in violation of existing building bylaws. With no information forthcoming, BEAG filed a writ petition in the High Court seeking an inspection of these documents. The High Court upheld its claim and granted it access to the same. Eventually, the Supreme Court, while rejecting the writ petition, opined that "any person residing within the area of a local authority or any social action group shall be entitled to take inspection of any sanction granted, or plan approved, by any such local authority in construction of buildings along with the related papers and documents, if such individual or social action group or interest group or pressure group wishes to take such inspection, except of course in cases where in the interest of security, such inspections cannot be permitted".[100]

Struggle at the Grassroots: The MKSS, Social Audits and the Right to Information

Meanwhile, in rural Rajasthan, the first stirrings of a grassroots-based struggle around the issues of land redistribution and minimum wages were beginning to take shape in the late

[99] "PM to meet Advani, Moily on Friday, to finalise new CIC", *The Indian Express* newspaper, 19 November 2009. Eventually, he was not appointed as the CIC, and the position was filled by the Information Commissioner who was next in line in terms of seniority.
[100] Order of the Supreme Court, October 11, 1986, as quoted in the BEAG booklet on the case, *Bombay Environmental Action Group v. Pune Cantonment Board*, SLP (Civil) No. 11291 of 1986.

1980s.[101] The genesis of the process in this part of the country lay in the coming together of three individuals, Aruna Roy, Nikhil Dey and Shankar Singh, who met at the Social Work Research Centre (SWRC), an NGO based in Tilonia in the Ajmer district of Rajasthan, in the mid-1980s.

Aruna Roy née Jayaram was a former bureaucrat, and had been born in 1946 into a Brahmin family from the southern state of Tamil Nadu. Her grandparents on both sides were highly-educated and included a magistrate, an engineer, and a lawyer who had studied law in England. Her father's family included several social activists, and he himself had participated in the independence movement. Eventually, he became a civil servant and retired as the legal adviser to the Council of Scientific and Industrial Research. Roy was educated in Chennai (then Madras), Pondicherry and Delhi in progressive schools with a primarily upper-middle class clientele and character, and then at the University of Delhi where she did graduate and post-graduate studies in English literature. She joined the Indian Administrative Service (IAS) in 1968, one of ten women in a batch of one hundred in that year. In 1970, she married Sanjit Roy (better known as Bunker Roy), who was a contemporary during her post-graduate student days.[102] In 1974, Roy resigned from the IAS and joined her husband Bunker in Tilonia, where he had started SWRC in 1972.

Nikhil Dey was born in the southern city of Bangalore in 1963. His father was an officer in the Indian Air Force, and over the years the family had had to move around India since it was

[101] Much of the details in this section come from a series of interviews with members of the MKSS, including Aruna Roy, Nikhil Dey, Shankar Singh and Lal Singh.

[102] A schoolmate of former Prime Minister Rajiv Gandhi at Doon School, Bunker Roy had studied at St. Stephen's College in Delhi. Both of his grandfathers had been in the Indian Civil Service (ICS), the British-era progenitor of the IAS, and one of them had been the Director General of the Food and Agriculture Organization. In addition, an uncle of his had been the first Indian Chief of Air Staff of the Indian Air Force.

a transferable job.[103] Dey was therefore sent to an elite boarding school in the south of India, The Lawrence School in Lovedale, close to Udhagamandalam (Ooty) in Tamil Nadu.[104] With a deep interest in politics from a very young age, Dey closely followed the events around the declaration of Emergency by Indira Gandhi in 1975. Related on his father's side to George Fernandes, a well-known socialist leader, he was able to observe the post-Emergency high-level political landscape from very close quarters. He also received tremendous exposure to the trade union movement through Fernandes. It was around this time that Dey's father was transferred to the United States as the Air Attaché in the Indian Embassy and the family moved to Washington DC. Soon after, Dey enrolled for a BA at the George Mason University. However, he became restive with the consumerist aspects of life in the United States within a couple of years, and returned to India without completing his degree.[105] Over the next years, Dey visited several sites of local struggles in Bihar, Madhya Pradesh, and Rajasthan, and observed that in some cases movements had become 'NGO-ised' and in others, the leaders of ostensibly local movements came from elite backgrounds and their behaviour maintained the elite-underclass relationship. He had met Aruna Roy and Shankar Singh in Tilonia briefly during his travels, and they had both left an impression on him, but the SWRC-style of work had not seemed attractive. However, the three met often in this period, and "by early 1984, we had become close friends, and the idea that we could work together began to be formed."[106]

[103] Dey's father retired as Vice Chief of Air Staff.
[104] Dey referred to it as an "elitist school". Interview with Nikhil Dey, 22 February 2009, Devdoongri, Rajasthan.
[105] Many years later he completed BA and Law degrees in India through distance learning.
[106] Interview with Nikhil Dey, 22 February 2009, Devdoongri, Rajasthan.

Shankar Singh was born into an OBC family in 1955 in a village around 250 kilometres from Jaipur, the capital of Rajasthan.[107] He studied at the local village school until the age of 14, when his father died. An only child, he then migrated to Ajmer, a town close by, to look for a salaried job. Ajmer was well-known in the region for poultry farms, and he found a job in one of them, but only after he pretended to have had studied less than he actually had. Seeking a better life, he completed a BA degree from a private college during the time he spent at the poultry farm doing odd jobs.[108] "There is no point in even talking about the kind of education we had. There is no link between labour and education. I worked in a factory making savoury snacks, sold street food, did 16-17 labour type of jobs."[109] Soon after, he left the poultry farm to find a better job, and subsequently found a job as a volunteer with the National Service Scheme, a government programme under which volunteers visited various villages to raise awareness about development issues. "But the money was so little that I couldn't even eat and I got tired of this."[110] Singh then heard about SWRC from an acquaintance, and also that it was looking to hire people. "I asked, what does it do, and the answer was 'social service'. I asked what that was, and the answer was that you go to villages and do meetings, and you get paid for it. I thought that was great - go to villages, do meetings, get paid, even the food is given in the mess. This was a good job."[111] Singh then joined SWRC and eventually became a social communicator, where his talents lay in ample measure. Singh worked in the rural communication unit at SWRC for several years, until the idea of working with Roy and Dey

[107] 'OBC' implies Other Backward Classes, which "are those castes/communities that are notified as socially and educationally Backward Classes by the State Governments or those that may be notified as such by the Central Government from time to time" (from http://socialjustice.nic.in/aboutdivision4.php, the official website of the Ministry of Social Justice and Empowerment; Accessed 10 May 2012) but do not include communities listed as Scheduled Castes and Scheduled Tribes as defined by articles 341 and 342 respectively of the Constitution of India.
[108] A private college is one which is not necessarily affiliated to any major university, and in this context means a virtually unknown and academically hollow institution.
[109] Interview with Shankar Singh, 22 February 2009, Devdoongri, Rajasthan.
[110] Ibid.
[111] Ibid.

began to take shape. In the intervening years, Singh had also gotten married, and had had three children.

Roy, Dey and Singh had met at SWRC, and through discussions and conversations, a commonality was discovered, which included a desire to experiment with notions of social change different from the framework within which SWRC functioned, which required institutional donor funds. To understand the problems of peasants and farmers in this inhospitable and demanding geography, the three of them (along with Singh's wife and children) decided to live in a village as 'villagers' (of the three, only Shankar Singh had a rural background). Serendipitously, one of Shankar Singh's relatives had some household land to spare in a village called Devdoongri, which was a couple of hours by road from Tilonia, and 8 kilometres from the highway town of Bhim, the largest town in the area. In 1987, the group moved to Devdoongri, a small hamlet with houses dispersed over a relatively large area, which then became a crucible for processes of social change that this group wanted to experiment with.

Perhaps the first struggle that this group participated in which accessing government-held information played a key, if understated role, was one over land belonging to the village commons in the village of Sohangarh, 12 kilometres from Bhim, much of which was controlled by a powerful land owner of the area. With the help of a sympathetic *patwari* (the local revenue official), the group managed to access the official land records of the area, mobilised local inhabitants, and petitioned the Sub-Divisional Magistrate to intervene. Eventually, the land owner had to cede control over a 60-acre piece of common land. Around the same time, the group launched a parallel struggle over the payment of minimum wages in

Dadi Rapat, which was a worksite of the state irrigation department,[112] and on May Day 1990, the group formed their organisation, the Mazdoor Kisan Shakti Sangathan (MKSS) as a "non-party political organisation".

Over the next couple of years, a few villagers from the area joined the MKSS and subsequent experiences provided it with insights into how the pilfering of state funds worked. Local officials would bill the state for works done, and muster rolls would be filled with ghost entries showing that wages had been paid to local villagers for labour.[113] In some cases, no works were carried out at all, existing only on paper. It was in this period that the importance of accessing government records began to dawn on the group. Each time a demand was made to get their entitlement, workers would be stonewalled by the authorities who claimed that their names were not on the muster rolls. If a demand was made to have a look at the same, this would be refused citing that they were secret government records.[114] Soon enough, the MKSS group began to deliberate on the idea of instituting a *jan sunwai* (public hearing) as a mode to bring such blatantly illegal activities into the public domain.

Jan Sunwais

Over the next years, the MKSS developed and fine-tuned *jan sunwais* as an critical tool in its arsenal of holding local officials to account. MKSS activists, supporters and people from the area would petition the local government official (typically the BDO) to issue an order which would give them the right to inspect (and in some cases, get copies of) government records dealing with development works in a particular area. Where successful, these records would

[112] For more details, see Mishra (2003).
[113] "A "muster roll" is essentially a labour attendance register, pertaining to a particular worksite and a particular period (e.g. two weeks). It is also used as a receipt, to claim funds from the [government] for the payment of wages" (Dreze et al, 2007:1).
[114] For details, see Mishra, 2003: 8-9.

be read out at a *jan sunwai*, after which the statements of people who testified against what the documents said would be recorded, and an FIR would be lodged as per the findings of the process.[115] Typically, such meetings would be presided over by a well-known and disinterested party (such as a popular poet, or an NGO worker) which would ensure that a modicum of neutrality was established and maintained throughout the process.

As resistance to releasing information related to development works amongst the local officialdom grew, a mass meeting was organised by MKSS activists in Beawar, a town in the region with over 100,000 people, on 25 September 1995. More than 2,000 people were mobilised to attend the meeting from all over the state, and the extensive links that the leaders of the MKSS had with urban intelligentsia (not limited to Rajasthan) played an important role as representatives of the media, doctors, intellectuals, trade unionists, sympathetic bureaucrats and elected representatives participated and spoke at the meeting.

Linking the Local with the National

The links that the MKSS, especially Aruna Roy, had with the government and intelligentsia of the country were playing themselves out in other forms and other locations at the same time. In October 1995, a workshop on the Right to Information was organised at the Lal Bahadur Shastri National Academy of Administration (LBSNAA) in Mussoorie "where for the first time the principles of the RTI Act were enunciated... All the major actors of the whole thing were there."[116] The meeting had been organised by Naresh Chandra Saxena, who was then the Director of the LBSNAA. Born in 1942, Saxena had joined the IAS in 1964 and was assigned the Uttar Pradesh cadre. After working for eight years in the state, he became

[115] A First Information Report (FIR) is the first step in the initiation of criminal proceedings in the Indian legal-administrative system.
[116] Interview with Shekhar Singh, 13 January 2009, New Delhi.

the Deputy Director of the LBSNAA in Mussoorie. Over the next decades, he mostly served at the federal level, and also completed a doctorate from the University of Oxford. In 1993, he returned to Mussoorie as the Director of the LBSNAA. He was also the Secretary to the Ministry of Rural Development, and finally retired as the Secretary to the Planning Commission, Government of India. During his career as a civil servant, as well as after retiring, he has worked or consulted for practically all the 'big name' international development organisations, including the World Bank, the British Department for International Development (DfID), the Danish, Swedish and Canadian International Development Agencies (DANIDA, SIDA and CIDA), UNDP, UNICEF, and the ADB. In addition, he continues to serve on several high-powered committees of the Government of India.

The Deputy Director of the LBSNAA at the time of this meeting was Harsh Mander, whose involvement in the enactment of the RTI Act peppers the dominant narrative consistently.[117] Mander was born in 1956 in Shillong, in the north-eastern state of Meghalaya. His father was in the Indian Administrative Service (IAS). An alumnus of St. Stephen's College, Delhi, he himself joined the IAS in 1980 and was allotted the Madhya Pradesh cadre. Later, he was moved to the Chhatisgarh cadre when the new state was carved out of Madhya Pradesh in 2000. He left the IAS in 2002 "after he visited Gujarat and saw the unprecedented violence, the inexcusable apathy and bias on the part of the police and administration."[118] While he was still a serving civil servant, "Mander's most important intervention was as Commissioner of

[117] In a different account, Mander is credited to having organised this seminal gathering. "In 1993, Mander spent the winter with MKSS and saw their social audit work at first hand... At that time, Mander was posted at the Lal Bahadur Shastri National Academy of Administration in Mussoorie, the premier training institute of the government. Encouraged by Dr N. C. Saxena, the then Director, Mander organized a national workshop on the right to information at the Academy, bringing Aruna Roy and others together with government officials, which was a key step in the decision to draft a national law and form the NCPRI for that purpose." (Baviskar, 2007: 14).

[118] Interview with Harsh Mander in the *Outlook* Magazine, 15 April 2002.

Bilaspur division in MP in 1996. As with the Public Distribution System in Delhi, Bilaspur too had a flourishing black market in foodgrains, with subsidized rice supplied to the ration shops being diverted to the open market, denying the intended beneficiaries their due. Mander passed the first set of orders around the RTI, making it mandatory for the administration to provide copies of the 'distribution registers' recording the allotments made to each ration shop" (Baviskar, 2007: 14).

Rajasthan: The Government Responds

Meanwhile in Rajasthan, on 6 April 1996, the MKSS began an indefinite *dharna* in Beawar demanding legislation on the Right to Information. The government responded quickly and issued an order that allowed citizens to inspect the records related to development works of the *panchayat* bodies in the state. However, the order stopped short at the inspection level itself - it did not give permission to citizens to have photocopies made. With the experience of the *jan sunwais* behind them, MKSS activists knew that this was only a pyrrhic victory - without copies of the records, the authenticity of public exposure would be suspect. Hence, the *dharna* continued. With senior journalists from other parts of the country being invited to visit the *dharna* site, the demands being made started to find mention in the national press. The issue began to catch the imagination of people, especially in the context that the middle classes too saw their own interests being met through the demands of the agitation. With money laundering scams fresh in public memory, an agitation, even if being held in a nondescript part of the country, resonated with the privileged classes in big cities, for corruption was an issue that had touched most people.

A month after the *dharna* was launched, a parallel one was initiated outside the state government secretariat in Jaipur, the state capital. With public pressure mounting, the government finally announced the setting up of the Arun Kumar Committee to make recommendations on the issue. With this announcement, the *dharna* was lifted on 16 May 1996, 40 days after its launch in Beawar. The committee submitted its report to the government on 31 August 1996, but ironically, the report was kept secret. However, MKSS activists managed to get a copy of the report, the contents of which were very supportive of the demands that had been made during the agitation.

The Birth of the National Campaign for People's Right to Information (NCPRI)

Even as the MKSS carried out their agitations in Beawar and then Jaipur, a different kind of organisational activity was beginning to take shape at the national level. As a result of effective networking on the part of MKSS activists, particularly Aruna Roy, the Press Council of India (PCI) got involved in the process. The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the objective of preserving the freedom of the press and of maintaining and improving the standards of the press in India. It is a statutory, quasi-judicial body which acts as a watchdog of the press and adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press respectively. The then Chairman of the Council was Justice P.B. Sawant, a former judge of the Supreme Court. Some weeks after the Beawar and Jaipur *dharnas*, the MKSS built on the attention received in the national press to jointly organise, along with the PCI, a meeting in Jaipur over 20-21 July 1996. The meeting was organised to discuss conceptual and operational issues related to putting in place a Right to Information regime. Representatives of NGOs, independent professionals and the

government, including the Chief Minister, participated in this meeting. The first day saw some acrimonious and confrontational exchanges take place between the government representatives and the activist groups. Day two was devoted to discussing the details of the draft which had been developed by the group which had met at the LBSNAA in Mussoorie the previous year. The objective was to improve the draft and submit it to the government at the centre for legislation on the Right to Information to be enacted.

An immediate follow up to this meeting was provided by the Press Council organising a larger gathering in Delhi over 31 July and 1 August 1996. This meeting had a much higher profile, with the participation of former Prime Ministers V.P. Singh and Chandrashekhar, then Union Minister George Fernandes, as well as many Members of Parliament. The then leader of the opposition, Atal Behari Vajpayee, also sent a letter in support of the demand to enact a Right to Information law. It should be noted that the government of the day had recently been sworn in on 1 June 1996, after the electorate had delivered a deeply fractured verdict resulting in a government being formed by the United Front coalition led by the Janata Dal with support of the Congress and the Communist Party of India (Marxist) (CPI(M)) from outside. This minority government, which was headed by H.D. Deve Gowda, had announced that it would introduce a freedom of information bill in the Parliament as a part of its common minimum programme.

Towards the end of August, another meeting was organised under the aegis of the World Wide Fund for Nature (WWF), India at the Gandhi Peace Foundation in New Delhi. It was at this meeting - where several intellectuals, academics, journalists, activists, and professionals had foregathered - that the National Campaign for People's Right to Information (NCPRI) was formed. The objective of the NCPRI at that point was to develop a draft legislation, as

well as lobby the government to enact a Right to Information Act. Its founding members were Ajit Bhattacharjea, Prashant Bhushan, Nikhil Dey, Bharat Dogra, Prabhash Joshi, K.G. Kannabiran, Renuka Mishra, M.P. Parameswaran, Aruna Roy, S.R. Sankaran and Shekhar Singh, brief profiles of whom are provided in the table below (excluding those already profiled above).

Table 3.1: Brief profiles of founding members of the NCPRI

Name	**Profile**
Ajit Bhattacharjea	English language Journalist; Alumnus of St. Stephen's College, Delhi; Served as correspondent in leading Indian English language dailies in India and the US; Edited *Everyman*, Ram Nath Goenka's newspaper brought out in support of Jai Prakash Narain; Former editor of *Indian Express* and *The Times of India*; Former Director of the Press Institute of India.
Prashant Bhushan	Leading civil rights lawyer at the Supreme Court; Grandfather was a public prosecutor in the Allahabad High Court; Father is Shanti Bhushan, leading lawyer of the Supreme Court and former Minister for Law and Justice in the Morarji Desai government;[119] Studied at the Indian Institute of Technology, Chennai, and Princeton and Allahabad Universities; Been involved in the Bhopal gas leak and Narmada Bachao Andolan cases.
Bharat Dogra	Independent journalist
Prabhash Joshi	One of the most respected figures of Hindi journalism in India; Former editor of *Prajaniti*, the Hindi version of *Everyman*; Founder editor of *Jansatta*, a leading Hindi language daily of the Indian Express Group; Known to be highly connected to the political class.
K.G. Kannabiran	Lawyer and Human Rights Activist; Former President of the People's Union for Civil Liberties (PUCL).
Renuka Mishra	Activist; Wife of R.K. Mishra, former Editor of *The Patriot*, a now defunct newspaper then funded by the Ambanis and known to be a mouthpiece of the Congress party.[120]
M.P. Parameswaran	Former civil servant - Scientist at the Bhabha Atomic Research Centre; Involved with the Kerala Sahitya Shastra Parishad (KSSP) for several decades; Was part of the CPI(M).
S.R. Sankaran	Former civil servant belonging to the IAS; Mentor of Aruna Roy while she was still in government service; Former Secretary, Ministry of Rural Development, Government of India.

[119] Shanti Bhushan had gained fame by representing Raj Narain in his case against the State of Uttar Pradesh in the Allahabad High Court, the judgement on which rendered Indira Gandhi's election null and void, eventually leading to the proclamation of Emergency in the country in 1975.

[120] The Ambanis are the leading business family of India. Founded by Dhirubhai Ambani, the Reliance Group split into Reliance Industries and Reliance Anil Dhirubhai Ambani Group after his death. To give a sense of the financial clout of the companies, just the former had revenues of USD 58.8 billion in 2010.

The NCPRI and the Press Council submitted a draft legislation to the government by the end of the year. In response, the government constituted a "Working Group on Right to Information and Promotion of Open and Transparent Government" on 2 January 1997. H.D. Shourie, a renowned consumer rights activist was nominated as the Chairman of the working group, which eventually submitted its report on 31 May 1997.

Rajasthan: The Struggle Continues

Meanwhile, in Rajasthan, despite the recommendations of the Arun Kumar Committee (which remained secret), no signs of implementation were to be seen. Despite assurances given in different fora by the Chief Minister that orders which catered to the demands of the agitators would soon be passed, no such thing happened. The MKSS decided to launch a fresh agitation to continue to put pressure on the government to yield to the demand of providing a framework within which citizens could get copies of government records. This time, the state capital Jaipur was chosen as the venue. On 26 May 1997, another *dharna* was launched, which eventually turned out to be the longest one lasting 53 days. The NCPRI made representations to the state government representatives in Delhi in tandem with the *dharna* to keep up the pressure in various quarters and to mobilise public opinion at the centre. The end of the *dharna* came amidst high drama. On 14 July 1997, the Deputy Chief Minister of Rajasthan pulled out a copy of the *Rajasthan Gazette* dated 30 December 1996 at a press conference. It notified the Panchayati Raj Act rules which gave citizens the right to inspect and get copies of government records dealing with development works implemented by Panchayati Raj Institutions. As a gazette notification, its legal sanctity was greater than if

it had been an executive order of the government.[121] The inexplicable nature of this event - that even while the government had notified these new rules six months before, no one seemed to know about them, provided the backdrop against which a major victory had been won. With this Gazette notification being made public, the *dharna* was duly called off.

With this notification in place, the character of the *jan sunwais* subsequently organised by MKSS changed significantly. Armed now with the right to access government records, a necessary precondition of holding a successful *jan sunwai*, MKSS activists could be more self-assured. Meanwhile, awareness about accessing government records and changes in the Panchayati Raj rules had increased, resulting in greater participation of people in *jan sunwais*. The panel of observers took on a higher profile, including former Prime Minister V.P. Singh, serving senior bureaucrats of the Indian Administrative Service, lawyers at the Rajasthan High Court, District Collectors and Superintendents of Police. *Sarpanches* (heads of *panchayats*) and officials being obliged to participate as respondents in these hearings was another key difference in comparison to the earlier phase of public hearings.

High Drama

A dramatic event with far-reaching consequences took place in the last quarter of 1998, which brought the debate back to the fore. In his address at the "National Seminar on Safer Cities" held in New Delhi on 5 October 1998, Ram Jethmalani, the then Minister for Urban Affairs and Employment in the coalition government led by the BJP, announced his intention to introduce a system in his ministry through which the general public would be able to pay a

[121] The Government of Rajasthan eventually passed a state level RTI Act on 11 May 2000, which came into force on 26 January 2001. Interestingly, nine states had state-level RTI laws in place before the national Right to Information Act, 2005 was enacted. While it is beyond the remit of this thesis to investigate the genesis of state-level laws, a brief background is provided in Annexure II.

fee and get access to government records.[122] Jethmalani followed this up with an office memorandum detailing the process to be followed to facilitate file inspection and photocopying. File notings were not to be exempt from requests, and applicants were to be provided copies within seven days.[123] The minister gave instructions that the memorandum was to be issued immediately and released to the public. However, the senior bureaucracy in the ministry engaged the support of the Cabinet Secretariat to stonewall his directions. The workings of the top bureaucracy on the Prime Minister had its effect and within a week a communiqué from the Cabinet Secretary closed the matter for the moment. "The matter regarding the ambit and scope of items where supply of information shall be mandatory, and the areas of items in respect of which a citizen would have the right to seek and get information, is presently under consideration of the Group of Ministers constituted to consider the proposed legislation on Freedom of Information. It is, therefore, necessary that the implications of the instructions dated 10th October, 1998 of Minister for UA&E are first carefully considered by the GOM. Prime Minister has therefore, directed **not** to give effect to the instructions dated 10th October, 1998 issued by the Minister for UA&E and to refer the matter to the GOM for consideration."[124]

As an immediate outcome of this episode, the Centre for Public Interest Litigation (through its Secretary Ashok Panda), the NCPRI (through its Convenor, Ajit Bhattacharjea) and *Manushi* (through its editor Madhu Kishwar) filed a writ petition in the Supreme Court. The counsel for the petitioners, Prashant Bhushan, had been involved with the NCPRI for several

[122] The I.K. Gujral government fell on 28 November 1997. The new government was formed by the National Democratic Alliance (NDA) led by the Bharatiya Janata Party (BJP), with Atal Behari Vajpayee being sworn in as the Prime Minister on 19 March 1998.

[123] Office memorandum dated 10 October 1998, Ministry of Urban Affairs and Employment. In the context of government papers, 'file notings' refer to that section of a government file on which the executive records its opinions and the rationale for the same.

[124] D.O.No.681/1/6/98-CA.III dated 16 October 1998 from Prabhat Kumar, Cabinet Secretary to S.S. Chattopadhyay, Special Secretary, Ministry of Urban Affairs and Employment. Emphasis in original. GOM implies Group of Ministers.

years. The petitioners pegged their writ on a request made to the Ministry of Urban Affairs and Employment through which they had sought copies of documents related to the contract of appointment of a consultant for the Metro Rail Project in Delhi, and the other related to documents pertaining to the entire office memorandum controversy. Even as the petition was filed, the Group of Ministers met several times and finally agreed to recommend to the Cabinet that a Freedom of Information bill be passed. A draft bill, modelled on the Shourie Committee Report, was sent to the Department-Related Parliamentary Standing Committee on Home Affairs. The Committee sought depositions from civil society actors, including the MKSS and the Commonwealth Human Rights Initiative (CHRI) on the draft, and finally submitted its report to the government in July 2001. The Bill was subsequently passed by the Parliament and received the assent of the President on 6 January 2003 as the Freedom of Information Act 2002. However, the date of the operationalisation of the Act was *not* defined in the official gazette, with the result that it did not come into force. In effect, even as the first national law related to access to information had been enacted by the Parliament, there still remained a procedural loophole which prevented it from being implemented and used by citizens.

From Freedom of Information to Right to Information

On the civil society front, this prompted a period of intense activity even as the issue had been granted a huge fillip as a result of Aruna Roy receiving the Magsaysay Award for 2000 for Community Leadership. The media reported this announcement with great gusto, and in the process the issue of access to information also received tremendous publicity at the national level. Meanwhile, Parliamentary elections took place in the country in 2004, with no single party emerging as a clear winner. A post-poll grouping, the United Progressive

Alliance (UPA), came to power in 2004. The alliance was led by the Congress, with the Left parties providing it critical support from outside the government. High drama was witnessed with the leader of the Congress, Sonia Gandhi, declining to become the Prime Minister, and instead nominating Manmohan Singh, a Member of Parliament from the upper house, as the Prime Minister of the new government, who was duly sworn in on 13 May 2004. NCPRI members meanwhile had continued to be in touch with Congress leaders in the period leading up to the elections. They had been particularly active in their interactions with the Congress, almost providing tacit support to the party in the areas where they worked, particularly Rajasthan, within a larger context of preventing the BJP-led NDA from coming back to power as a response to the incidents in Godhra in Gujarat in 2002.[125] Aruna Roy was contacted by representatives of the Congress in the period leading up to the development of their party manifesto seeking input on the issue of access to information. Possibly as a result of these interactions, the Congress party manifesto made a specific reference to the Right to Information. It stated that "The Right to Information Act at the centre will be made more progressive, meaningful and useful to the public. The monitoring and implementation of the Act will be made more participatory and the penalty clauses regarding delays, illegal denials and other inadequacies relating to the supply of information to the public will be operationalised soon. Protection will be extended to all "whistleblowers" through statutory means, if necessary".[126] Once the UPA came to power, the Congress along with its allies developed a Common Minimum Programme (CMP) document that reflected the party manifesto in stating that "The Right to Information Act will be made more progressive, participatory and meaningful". It is interesting to note that in both the party manifesto as well as the CMP document, the concept was formulated in terms of a *Right to* Information as

[125] On 27 February 2002, a train in Godhra, Gujarat "was attacked by a Muslim mob killing 59 people, mainly Hindu pilgrims… The attack led to some of the worst riots seen in India and left more than 1,000 people, mainly Muslims, dead" (*BBC News*, 22 February 2011). The Chief Minister of the BJP-ruled state, Narendra Modi, was accused of abusing the state machinery in allowing this violence against Muslims to take place.
[126] Congress Party manifesto 2004.

opposed to *Freedom of* Information, as referred to in the Act already passed by the former government. This particular terminology was to play a key role in all subsequent lobbying efforts of civil society, as well as communications within the government regarding the issue.

Wild Card: The National Advisory Council

Within a few months, an event of critical importance took place that was to play a defining role in the eventual enactment of the RTI Act in 2005. On 31 May 2004, within a few weeks of the new government headed by Manmohan Singh being in place, the government announced the establishment of the National Advisory Council (NAC) with Sonia Gandhi as its Chairperson. Its mandate was "a) To monitor the progress of implementation of the Common Minimum Programme; b) To provide inputs into the formulation of policy by the Government and to provide support to the government in its legislative business".[127] Serviced by the Prime Minister's Office (PMO), the NAC would "engage services of such experts and academics, as required, to assist in its work. The Council may invites [*sic*] such person or persons, as it may deem fit, to participate in its deliberations".[128]

The Council was a peculiar entity with no constitutional precedence, and was critiqued as being a body created to accommodate Sonia Gandhi so that she could have a say in government policy. Critically, members appointed to the NAC included Aruna Roy, Jean Dreze and N.C. Saxena, all of whom had been involved with the Right to Information movement and campaign in varying degrees (one of them being a founding member of the NCPRI, and another deeply involved with the process through the meeting at the LBSNAA in Mussoorie). Suddenly, civil society representatives appeared to be in a position of

[127] Cabinet Secretariat Order No. 631/2/1/2004-Cab, dated 31 May 2004.
[128] Ibid.

unprecedented power when it came to affecting policy. Sonia Gandhi being the Chairperson and the undisputed leader of the Congress party which was now in power lent the NAC a stature that could not be ignored. "That a number of activists and scholars of the highest calibre were members of the NAC did not dilute the identity of the council as Sonia Gandhi's body" (Editorial, 2008b: 7). As a result, it was a body that was perceived in government circles as being all-powerful. Given this background, the NAC came to acquire immense clout, and the fact that key figures of the Right to Information movement were members of the Council, and therefore 'had her ear', played no small role in ensuring that the RTI Act was placed high on the government agenda.

On 16 August 2004, Sonia Gandhi, as the Chairperson of the NAC, dispatched a letter on the Right to Information to the government urging it to introduce an amended Freedom of Information Act in the Parliament at the earliest. The NAC had already sent "A copy of the draft amendment [*sic*], a tabulation of the original Act and proposed amendments and a Note on the proposed amendments... to the Government".[129] All of these drafts, tabulated comparisons, and notes had been prepared by NCPRI members, who were of course, privy to the discussions within the NAC through the presence of their own members there. The momentum was building. Not only were recommendations being made to the government by the NAC, but separate communications were also being initiated by the Chairperson of the NAC to the Prime Minister. The importance being attached to the issue by Sonia Gandhi could not be ignored.

[129] Letter from Sonia Gandhi, Chairperson, NAC, to the Prime Minister, dated 16 August 2009.

Strategies and Counter Strategies

Despite Sonia Gandhi's obvious interest in the RTI legislation, sources in the government informed NCPRI members that resistance within the bureaucracy was mounting, and that the government might not table the bill in Parliament that year. Owing to the Parliament being in session, civil society groups were unable to meet with the Prime Minister to discuss the issue. Following an appeal to V.P. Singh by NCPRI members, a meeting with the Prime Minister was arranged on 5 December 2004, a Sunday, and attended by V.P. Singh, accompanied by Aruna Roy, Shekhar Singh, Jean Dreze and Prabhat Patnaik (the latter two to discuss the Employment Guarantee Act). Although several of them had met the Prime Minister on other occasions, this, as it turned out, was going to be a critical meeting. "Aruna and I had gone to talk about the RTI, of course both of us also talked about the NREGA, but basically we had gone to talk about the RTI. Towards the end of the meeting, he [Manmohan Singh] said that I am under great pressure, so it will be introduced in Parliament this time... We thanked V.P. Singh profusely, and came back very cheerful, that he has committed so it will go to Parliament. And on the 18th [of December 2004] the bill was introduced."[130]

However, even as the process began to move towards it final dénouement, further twists began to develop in the story. NCPRI members discovered that the bill sent by the NAC to the government had been altered before being tabled in the Parliament to the effect that the Act, if passed, would be applicable only to the central government and not to any of the state governments. Four members of the NAC, Aruna Roy, Jean Dreze, N.C. Saxena and A.K. Shiva Kumar sent a letter to Sonia Gandhi protesting against this.[131] The larger NCPRI network, comprising by now of hundreds of people, was mobilised through email, urging

[130] Interview with Shekhar Singh, 13 January 2009, New Delhi.
[131] "4 NAC members send protest to Sonia: Info Bill keeps states out", *The Indian Express* newspaper, dated 25 December 2004.

them to write to the Prime Minister protesting this move. The government argued that the Right to Information came under general administration, which was a state matter, and therefore the centre could not legislate on it. In response, the NCPRI requested Shanti Bhushan, former law minister, to give a legal opinion on it, wherein he suggested that the Right to Information was a residual subject, which meant that both the state and the centre could legislate on it. This opinion suited the aims of NCPRI activists, as it would achieve both their goals, namely to have a central legislation that covered both the states and the centre, as well as maintain the sanctity of legislation that had already been passed in several states.

Even as this debate was underway, the bill was sent to the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice to deliberate on and provide recommendations. NCPRI members continued to lobby the members of the Committee, including its Chairperson, E. Sudarsana Natchiappan. "Nikhil [Dey] and I went and we had a long chat with him and explained all our concerns to him, and then we formally appeared before the committee [and] put down the whole thing in writing."[132] The other notable civil society group that was invited to depose before the Parliamentary Standing Committee was the CHRI. The Parliamentary Standing Committee submitted its report to the government, which was largely in favour of the arguments made by the NCPRI. The bill, along with the recommendations of the Standing Committee, was then sent to a Group of Ministers which was chaired by Sharad Pawar, Minister for Food and Agriculture, whose Nationalist Congress Party was part of the UPA government.

[132] Interview with Shekhar Singh, 13 January 2009, New Delhi.

NCPRI activists who had links in various ministries got wind that the Group of Ministers was not inclined to extend the law to all states. A meeting with Sonia Gandhi was requested by NCPRI members, and granted, and "Aruna, Nikhil, Jean and I went to see Mrs. Gandhi. I didn't go in [to the room], only Aruna and Jean went in, I think. I and Nikhil sat outside, at her home itself, and they then briefed her, and they came out and they were slightly depressed because Mrs. Gandhi also seemed a little troubled, that what should I do, if the Group of Ministers also gives a negative report then what can I do?"[133] The matter was of some concern for if the Group of Ministers rejected the idea of applicability to the states it would be very difficult to convince the Parliament to think otherwise. Further, NCPRI members were convinced that a law that did not extend to the states would be meaningless, since the concerns of a common citizen are located more in the subjects that state governments deal with, such as education, public distribution systems, etc, than those dealt with by the centre.

Having exhausted all lobbying possibilities, NCPRI members were a dejected lot. However, a final twist in the tale was yet to play itself out. "Rumour has it that she [Sonia Gandhi] did something unprecedented. She said that [she] would like to meet the Group of Ministers. Why unprecedented? Because she was not in the Government, and in fact the Chair of the Group of Ministers was not even in the Congress. Something happened between our meeting and the next day, because the Group of Ministers' report which came out was totally favourable and supportive."[134] Once the potential hurdle from the Group of Ministers had been surmounted, the bill largely sailed through since the UPA had the numbers in the Parliament. Finally, on 10 May 2005, the RTI Amendment Bill 2005 was tabled in the Lok Sabha, the lower house of Parliament. The Bill was passed very quickly - it was approved by the Lok Sabha on 11 May 2005 and by the Rajya Sabha on 12 May. On 15 June 2005, the

[133] Ibid.
[134] Ibid.

President gave his assent to the national Right to Information Act 2005. The Central and State Governments were given 120 days to implement the provisions of the Bill in its entirety and the Act came into force formally on 12 October 2005.

In Conclusion

The dominant narrative of the evolution of the process that led to the enactment of the RTI Act suggests that it came about as a result of a specific concatenation of events. Limited references to early judicial interventions, particularly in the context of the environmental movement are made in this narrative, with the Supreme Court interpreting the Constitution in a way that linked transparency to democracy. However, the primary explanatory framework that the narrative privileges is premised on the thesis of the state responding to pressures from below. The work of the MKSS in Rajasthan had successfully forged the link between issues of livelihood and basic survival needs in rural areas to access government-held information. The narrative also suggests that this pressure from below gained weight as it was strengthened through a particularly inclusive process, which included building alliances with the intelligentsia, the media, sympathetic bureaucrats, NGOs, and grassroots organisations of all hues. With urban, national media giving it considerable publicity, support for the idea grew in urban centres as well, not least because of the nature of the RTI Act itself, as it conflated the interests of different socio-economic and geographical dichotomies - urban-rural, middle class-working class, elite-masses, and so on.

The dominant narrative also highlights the intense resistance that the movement for an RTI Act had to overcome, particularly from an entrenched bureaucracy which was loath to be subjected to public scrutiny. Success in overcoming such strong resistance was ensured

through effective lobbying that resulted in high-level political support. This support was extended partly due to the specific political configuration that existed at that time and the change in government in 2004 had presented a window of opportunity. The new UPA government needed to prove its pro-poor agenda, which was being promoted in opposition to the previous NDA government's "India Shining" campaign which was widely perceived to have an urban middle class bias. The critical mechanism that allowed these changes to be pushed through was the establishment of the National Advisory Council, and the presence and participation of leading RTI activists in it. As a key respondent summed it, "The most important things, if [they] have to be identified, were Aruna Roy's influence with Sonia Gandhi, and Sonia Gandhi's support for [the RTI Act]".[135]

In terms of the outcomes and implications of this process, the narrative claims that the enactment of the RTI Act can be seen as a hard-won victory of ordinary people over a trenchant state. This is particularly valuable, as an important defining aspect of the process was the articulation of the demand by the rural poor, which led to the Act itself being more pro-poor and inclusive in its contours. The narrative also celebrates the outcome of this process, the actual Act itself, by highlighting its potential to fundamentally alter the citizen-state relationship in favour of the former.

Theoretically speaking, Jenkins and Goetz (1999) provide perhaps the most clearly articulated statement on the implications of the movement for an RTI Act in India. They suggest that this experience contributes primarily to three concurrent debates within the larger framework of governance - that of human rights, participatory development and anti-corruption. In the context of the first, they suggest that the RTI movement in India has

[135] Interview with YDS558, 9 October 2011.

brought attention to the fact that "the nature and utility of rights are linked to the process by which they are obtained, and that the meaning of established democratic concepts can be transformed through political practice" (Jenkins and Goetz, 1999: 610). In the context of participatory development, they suggest that current thinking on this issue is largely apolitical, and the mode of resistance that the MKSS pioneered in the context of the demand for an RTI Act, the *jan sunwai*, brings politics back into the theory and practice of participatory development. Finally, in the context of anti-corruption, the authors suggest that the "the genuinely grassroots foundations and character" of the movement challenges the literature on anti-corruption which is largely limited to "(1) an overemphasis on the state as cause and remedy; (2) a failure to recognise the role of social movements in highlighting the existence of different forms of corruption; and (3) a limited conception of the relationship between information and accountability" (Jenkins and Goetz, 1999: 615-616). The dominant narrative thus largely celebrates the process as well as the outcome of the movement for an RTI Act in India, and the message that comes through in very clear terms is that a momentous opportunity has been created - to make citizenship more meaningful, and through that, to deepen democracy substantially.

However, even as the facts of this narrative (the theoretical implications will be taken up for discussion later in the thesis) cannot be doubted, three conspicuous silences emerge in it. First, the narrative does not discuss in any detail the impact the social profiles of the principal actors - the leadership of the movement - had on the process and the outcome. This is important to highlight as the presence of well-placed individuals in the leadership of the movement appears to be inordinately high, especially for a process that is defined within a vocabulary of grassroots movements. As a related concern, social profile also has defining implications on the range of ideas, actions and strategies available for actors engaging in an

oppositional and confrontational duel with the state, and in this sense, a more nuanced understanding of the process seems necessary. This silence begs further examination.

The second silence that emerges in this narrative is related to the role of the state in the process. The narrative appears to suggest that the role of the state at various stages in the process was relegated either to sporadic and uncoordinated actions of individual functionaries in support of the idea of a right to information, or a coordinated and intense resistance to the demand for an RTI Act as it gained momentum. In either case, the role of the state in the process is not examined or discussed with much sophistication in the narrative. This is particularly odd as at any given moment in time, the state in India is subject to a spectacularly diverse set of demands being made on it. Why was it that the demand for an RTI Act found acceptability and success at the cost of other, more basic and longer-standing demands related to food security, education, livelihoods, ownership over natural resources, and land reforms? Exploring questions such as these could also bring forth deeper insights into the nature of the state, a line of inquiry that cannot be ignored when examining any process that claims to substantially alter the citizen-state relationship.

The third silence in the narrative is the striking absence of the international context. As mentioned in Chapter 1, the Indian RTI Act falls squarely within a larger global process that has seen a spectacular upsurge in freedom of information legislation across the world. That this context is mentioned only cursorily (at best to define the Indian experience as being separate, different and unrelated) begs further examination, both in terms of the claimed lack of impact of global processes, as well the reasons behind this unexplained silence.

In the following chapters of this thesis, I will attempt to fill these silences by examining the evidence that lies outside the pale of the dominant narrative reviewed above. In doing so, it is hoped that the Bellman's model of truth-making will be sufficiently problematised, even as no other 'absolute truth' will be proposed as a substitute to the existing one. Truth, in this sense, will hopefully be unshackled from the tyranny of repetition by expanding the perspectives that produce it.

Chapter 4

Digging Up the Grassroots

"Truth is like a globe. One person will never get the full perspective."
- Former RTI advocate, now social worker who occasionally uses the RTI Act[136]

In Sanskrit, the word for 'sound' is *naad*. The word possesses connotations of violence, for sound can be produced only when a degree of violence, however infinitesimal, is carried out. The laws of physics bear out this philosophical insight. Even the 'sound' of a feather floating through air is produced only due to the existence of friction between the two. The equilibrium that existed during the state of silence must be violated if any sound is to be produced. Violence, in this sense, becomes a necessary prerequisite for silence to be *broken*.

In Chapter 3, three primary silences were identified in the dominant narrative around the RTI Act in India: the nature of the leadership of the 'movement', the role of the state in the process, and the influence of international forces on the same. If these silences are to be filled even partially, then it becomes necessary to cause some degree of violence, which in much gentler academic parlance could be termed as 'problematising' the dominant narrative. In this and the following two chapters, I will attempt to jolt the equilibrium of the dominant narrative primarily by prising out elements of the undocumented history of the RTI Act as seen through dissenting voices (including both former and existing collaborators of the individuals and entities that form the commonly accepted leadership of the RTI movement), as well as other individuals, who, while being deeply involved in different ways, are absent (either out of disinterest or inability) in the same discursive spaces that have produced the narrative of the enactment of the RTI Act. These voices span several social, functional and

[136] Interview with FMD382, 1 November 2009.

geographical categories, including senior civil servants, Delhi-based intelligentsia, NGO workers, officials in international organisations, activists (both rural and urban), academics, journalists, and lawyers - all of whom are or were directly related to the enactment process of the RTI Act in one way or the other. While most of the names have been changed to codes the reasons for which were discussed in Chapter 2, an insightful comment made by a key informant helps illustrate the point further. "It takes a lot of guts to oppose powerful people like Aruna [Roy] and Nikhil [Dey], especially because nobody doubts their credentials, and nobody doubts their sincerity. [But] there are also wounded people in this movement, who don't speak out, people who feel that they played a much larger role than they are being acknowledged for."[137] The perspectives of several of these 'wounded people' will hopefully enrich this thesis significantly.

This exercise of bringing forth alternate voices to the dominant narrative will perform two functions. First, it will provide greater dimensionality to the flattened mainstream narrative of the history of the RTI Act and therefore prevent this research from merely reasserting a largely self-reinforcing discourse. Second, it will allow this research to engage with larger analytical frameworks of truth-making, their relationship to power structures, and their implications on processes of social change in a democratic context. Throughout this chapter (and the following ones), I will lay emphasis on 'process' as a central organising principle. This will provide structural continuity and coherence with respect to the claims made by the dominant narrative as well as the silences embedded therein, as highlighted in Chapter 3.

In this chapter, I will take up the first major silence identified in Chapter 3, viz. the social profile of the leadership of the movement for an RTI Act in India as defined in the dominant

[137] Interview with YDS558, 13 January 2009. By "oppose", the respondent does not necessarily mean confrontation. S/he is suggesting that truth-making is an inherently political process in which local and contextualised power dynamics play a definitive role.

narrative, and its relationship with the process leading to the passage of the Act. The key concerns that emerge, primarily from the testimonies of otherwise silent voices, question the centrality of a 'grassroots' movement in the process, and in doing so re-examine the claims that the process was premised upon a popular demand, and was widespread, inclusive, participatory and an emblematic example of the state responding positively to pressures from below. This alternate version of events locates its concerns primarily around the social background of the established leadership of the movement and critically examines the implications this had on the process. Critical voices suggest that the contribution of the grassroots has been exaggerated, but this may have been done for strategic reasons. These concerns also call into question the implications this has for democratic processes in India. If processes that are ostensibly premised on democratic principles reinforce existing social hierarchies, then to what extent can successful democratic deepening be claimed by such processes?

I realise that any discussion on social background must inevitably lead to an engagement with the conceptual categories of 'class', 'elite', and other related terminology. In the first instance however, the chapter will use these terms in a loose and ambiguous fashion, following its usage by several respondents. While these definitions could have been articulated more precisely at this stage itself, this would have created a tension between the evidence (especially in the form of interviews) and the process of analysis of the same. The chapter will therefore take an inductive approach and engage with relevant theoretical approaches *after* revisiting the process through dissonant perspectives. It will propose the usage of a specific definition of the social class of the leadership, and examine its implications in the production and consumption of the demand for an RTI Act. The chapter will then widen the discussion to question the nature of political action seeking social change, and propose that

the experience of the RTI Act propels us to redefine the categorisation of civil and political societies by focusing on the nature of the demands being made, rather than on the process and composition of political events.

The 'Grassroots' in the Process

The established narrative of the RTI Act in India consistently invokes the centrality of the contribution of the Rajasthan-based grassroots movement in the process leading to its enactment. Sample the following: "The MKSS is a grassroots organisation based in Rajasthan's centrally located Rajsamand district... The MKSS's interest in the right to information arose from its work in the late 1980s and early 1990s on livelihood issues (Jenkins and Goetz, 1999: 603-604); "What accounts for the remarkable success of a campaign that started barely fifteen years ago in a cluster of villages in rural Rajasthan and managed to bring about a major piece of legislation at the national level?" (Baviskar, 2007: 15); "Perhaps the most critical component of the Indian journey toward operationalizing people's right to information has been the grassroots struggles for transparency" (Singh, 2006: 24). In other instances, the titles of the articles themselves reinforce a similar idea. "People's Knowledge, People's Power: Campaign for Citizens' Right to Information" (Priya, 1996); "Right to Information: Profile of a Grass Roots Struggle" (Roy, 1996); "Where Does All the Money Go? People's Struggle for Information" (Roy, 1997a); and "Grassroots Anti-Corruption Initiatives and the Right to Information Movement in India" (Goetz and Jenkins, 2002) are emblematic examples.

However, the preponderance of this perspective is deeply contested in conversations with the "wounded people". Taking issue with the consistent invocation of the 'grassroots' in the

process, dissonant voices frequently juxtapose the social profile of the leadership of the RTI movement, as represented by the founding members of the NCPRI as well as the leadership of the MKSS, against the claimed centrality of the participation of 'the people' in the process.[138] The concerns raised primarily revolve around the fact that the leadership of the movement is embedded in a specific elite fraction of the larger social structure, which gave it 'natural' (and unparalleled) access to the necessary resources, tools, knowledge, and spaces of influence and power, for it to be able to be as effective as it was.[139] The strategies that the 'movement' therefore used belong to the domain of privilege rather than penury. The role of 'the people' or the 'grassroots' in the process was at best limited, and has been exaggerated for strategic and instrumental reasons. In some cases, this critique goes on to question whether there was any 'movement' for an RTI Act at all. These 'alternate' versions of events give rise to a tension between the claim of the RTI movement being a grassroots struggle, and the 'truth' of it being led by an urban, upper-caste, upper-class leadership that is highly networked with the ruling elite. This tension is further extended to the larger concern around the nature of the democratic process in India, especially within the discourse of democratic deepening, routed through the RTI Act in this context. At the same time, these contestations are complex, and a grudging appreciation of the contribution of this leadership does come through, although circumscribed by the larger concerns mentioned above.

In distilling the critiques articulated by the dissonant voices, the main theme to emerge revolves around the resources that the established leadership possessed *prior* to the launch of the 'struggle', and the impact this had on the process. Resources, in this context, include both the material as well as the non-material, such as an inherent set of skills and competences,

[138] Aruna Roy and Nikhil Dey of the MKSS were also founder members of the NCPRI, indicating important overlaps between the two.
[139] I will discuss the definitional characteristics of this elite fraction later in the chapter.

and the intricately woven networked access the leadership had to the ruling elite. I will take up each of these for discussion next.

Material Resources

Local Support Versus the 'Foreign Hand': Financing a 'People's' Movement

An issue that arose consistently in the critiques of the mainstream narrative of the RTI movement is the resources needed to finance such campaigns.[140] The stated position of the MKSS on funds and their usage revolves around the two principles of not accepting any funds from any institutional sources, foreign or Indian, and providing full-time members (and *not* employees) with only the statutory minimum wage.[141] The MKSS also differentiates itself from NGOs and other non-state development actors by referring to itself as a "People's Organisation and part of the growing non-party political process in India" (MKSS, 2010: 1). The underlying principles of this approach highlight two concerns - first, that any campaign for social legislation must be financed by 'the people' themselves to ensure complete independence, and second, those involved directly in the process must live with the same resource constraints as the people they mean to serve. In the context of the NCPRI, the approach to funding is similar. Conceived as a membership-based organisation (as the name suggests, it is a "campaign"), the NCPRI is funded through individual contributions and also does not accept institutional funding. Employees are minimal in number and are paid a wage commensurate with similar professional positions in Delhi.

[140] Some scholars who have investigated the issue of the financing of social movements include Jenkins (1983), Tarrow (1994) and Tilly and Tarrow (2007), albeit in the larger context of the different types of resources required by social movements.
[141] See MKSS (2010: 5-6).

Critics acknowledge the importance of these principles and constraints, but also point to a discrepancy between these stated principles and the real-world daily practices of the MKSS and the NCPRI. One particular discomfort (with special reference to the former) arises from the perceived relationship between the MKSS and the Social Work Research Centre (SWRC) in Tilonia, Rajasthan. The MKSS-SWRC relationship is a complex and multi-layered one. SWRC was set up in Tilonia by Aruna Roy's husband Bunker Roy in the early 1970s. Aruna Roy began her grassroots work after she moved there; Shankar Singh was an employee of SWRC prior to forming the MKSS with Dey and Roy; and Dey himself met Singh and Roy at SWRC. Although SWRC and the MKSS are physically, institutionally and financially separate from each other, material and other support (for example, logistics) does indeed flow from the former to the latter. "Resources become a very big impediment. You might say MKSS does not have resources, but MKSS derives so much support from [SWRC] Tilonia. If a jeep has to bring them to Delhi, and then take them around Delhi, it's nothing. It may not be acknowledged, but even now during the Bhilwara campaign, I personally know that the Tilonia network's resources were being dipped into and developed, because it is a command performance and it has to be done. There is a very large invisible subsidising force over there which has to be reckoned with, which none of these others have."[142] "We don't take foreign funds will be the constant refrain. You take a Magsaysay Award, you take this indirect assistance from [SWRC] Tilonia, where does this money come from?"[143]

[142] Interview with JQT839, 16 October 2009. The Bhilwara campaign was organised in early October 2009 by the MKSS and the *Rozgar Evum Suchna ka Adhikar Abhiyan* (Campaign for Right to Work and Information, a group with large overlaps with the MKSS). During the campaign, "135 teams of social auditors went to 1,000 villages in 381 panchayats to find out how NREGA was being implemented" (*Civil Society* magazine, November 2009). By "others", the respondent means lesser known rural groups with leaders from modest and local backgrounds. In his/her taxonomy, these constitute 'real' grassroots groups.

[143] Ibid. The Magsaysay Award has a cash component of approximately USD 50,000. Zindabad Trust, set up by author Arundhati Roy with her Booker Prize award money, was also pointed out as another source of 'foreign' funds. A major tranche of funds to the tune of INR 2 million (~USD 40,000) was given by Arundhati Roy to the MKSS in 2004 towards the setting up of a "School for Democracy".

SWRC is managed like a typical NGO, with a large part of its operating budget coming from foreign donors. Of its 2008-09 annual budget of approximately USD 2.5 million, 54% is from foreign sources, almost 40% from "own sources" and just over 6% from the government.[144] The roots of the setting up of SWRC in Tilonia are also highlighted by critics in this context. "In 1972, forty-five acres of Government land and an abandoned Tuberculosis Sanatorium (consisting of 21 buildings) was leased from the Government at Re.1 a month, to serve as a campus."[145] Bunker Roy's family links with the senior government bureaucracy was central to the leasing (though *not* ownership) of this campus for the purpose of establishing SWRC. "That whole huge thing in Rajasthan they've got, what are the terms from government? It's like a gift... Because of the connections, Bunker Roy knew whoever it was at that time, and he had good ideas, and he [the government official] placed this huge property at his [Bunker's] disposal."[146] Even as Roy has been celebrated as a visionary in the context of development, these historical roots of the establishment of SWRC are well-known in the 'activist-development circles' in Delhi and Rajasthan and do come in for criticism.[147] "The germ itself is patronage."[148] This criticism takes on a sharpness of edge when spoken of in the context of the RTI Act, one of the stated claims of which is to reduce government arbitrariness, which often manifests itself in the distribution of public goods as largesse. In this case however, the 'arbitrary' act of 'patronage' was not carried out for any private gain, but resulted in the creation of a different type of public good. At the same time, social

[144] From the SWRC website. http://www.barefootcollege.org/financial_status.asp. Accessed 12 May 2011.
[145] From the SWRC website. http://www.barefootcollege.org. Accessed 12 May 2011.
[146] Interview with NFZ045, 21 October 2009. This assertion is borne out by other sources. "[Bunker Roy] had found an old tuberculosis hospital that had been built by the British: a series of one-storey buildings with high ceilings and shaded verandas at the end of a road just outside Tilonia. The buildings were owned by the government and used as warehouses. Roy brought to bear the benefits of his upbringing: he spoke to a friend who was now a senior government figure in Delhi who agreed that Roy could rent the warehouses." From "Disrupting poverty: How Barefoot College is empowering women through peer-to-peer learning and technology", *Wired* magazine, April 2011.
[147] Roy was named one of the 100 most influential people in the world in *Time* magazine's issue of 29 April, 2010.
[148] Interview with CVW435, 30 October 2009.

background played a definitive role in the process, for the offering of such a 'gift' would have been very difficult without Roy's connections.

Given this context, the fluidity in the relationship between the MKSS and the SWRC attracts sharp criticism, especially given the strong public stand that the MKSS (and the NCPRI) has taken on the issue of the source of funds. "When CHRI was taking up RTI, they were trying to do a lot of legal advocacy. As I see it, they were qualified to do it because it's a bunch of lawyers. But the way in which they [CHRI] were treated in those meetings [of the NCPRI], it was like [they were] outcastes, all because CHRI has foreign funding."[149] At the same time, "Tilonia is very foreign funded. The whole thing [is] too murky. How do you identify the colour of money, what is foreign and what is domestic? After passing through how many conduits does it become domestic?"[150] The fact that the MKSS and the NCPRI take individual donations from people of all hues, including those working for foreign development (or other) organisations was also commented upon to highlight this ambiguity.

Such critiques essentially point to an important legitimising principle within social movement politics in India - the lesser is the perceived distance between the sources of funds and 'the people', the greater is the moral authority and legitimacy that can be claimed by an entity located within the 'movement' space.[151] The MKSS and the NCPRI have consistently sought part of their legitimacy within this framework (which has been reaffirmed by the dominant narrative), and this is precisely what is being contested by critical voices. In this case, critics

[149] Ibid. CHRI refers to the Commonwealth Human Rights Initiative, "an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth" (from the official website of the CHRI, http://www.humanrightsinitiative.org/index.php?option=com_content&view=article&id=47&Itemid=29, accessed 20 April 2011). The CHRI has been deeply involved with the development and implementation of the RTI Act in India. Details of its role in the process are discussed in Chapter 6.

[150] Interview with CVW435, 30 October 2009.

[151] Expectedly, this also means that the closer a 'movement' is to this ideal, the lesser the resources it is likely to possess - as indirectly pointed out by JQT839 at footnote 142.

are not merely referring to the nature or sources of funding itself, but to the disconnect between a stated position and the ambiguity in practice, especially given instances of strong public positions being taken on this issue. In this version of the 'truth' then, greater legitimacy - to protest, to represent, and to lead - cannot be claimed if public positions are not borne out in practice. Further, this critique is extended to the discourse around the 'grassroots' aspect of the struggle. If raising funds from 'the people' is a foundational principle of a 'people's movement', then critical voices reject this claim of the dominant narrative on this very basis itself.

Whether absolute coherence between public principles and individual action can exist in the world of politics and protest remains open to debate. What cannot be denied however is that the MKSS and the NCPRI were able to access material and logistical support from a wide network of individuals and institutions because of the personal connections of their leadership. This took various forms, for example receiving support from public institutions, which offered its physical infrastructure (halls, hostels etc.) for the hosting of meetings, conventions, workshops and conferences on the RTI.[152] For example, Delhi University gave permission to the NCPRI to "use the Convocation Hall in the Arts Faculty from Octber [*sic*] 8 to 10, 2004 for holding the national convention on the right to information".[153] At the symbolic plane, this performs an important function, as the physical location of a gathering adds a subtle layer of credibility to an event. A convention held within a university campus lends it gravitas that would be absent if the same was to be held, say, in a non-publicly owned

[152] Personal networks played a role in the choice and availability of spaces as well. For example, the Nehru Memorial Museum and Library (NMML) premises in New Delhi was a favourite venue during the term of its previous Director, who was known to be close to several individuals in the leadership of the NCPRI and the MKSS. Since a change in its Directorship in 2011, no meetings organised by the NCPRI or the MKSS have taken place at NMML. This is not to say that there is anything 'irregular' about a public institution providing support for a public cause. However, *which* causes it chooses to support and for what reasons can often be traced to 'connections'.

[153] Email message from Dr. Atindra Sen, Registrar, Delhi University to Jean Dreze, then member of the Working Group of the NCPRI, dated 17 September, 2004. Copy of message in NCPRI files.

space. At the same time, private spaces were also made available and were utilised. For events that required a smaller group to confabulate, private and well-placed individuals extended their support in similar forms.[154] Such support, either at the institutional or the individual level, would typically not have been extended to movements with a humbler leadership. However, it is not as if this support was available in such plentiful measures throughout the history of the MKSS and the NCPRI. Roy being awarded the Magsaysay Award certainly helped in bringing many new and well-connected (in their own right) supporters on board. "These are people who move around with others of their kind, and derive their social capital from this, from being seen with the right activists. Earlier it was Medha ji, then it was Aruna ji. Because it doesn't take much to do these things, when such meetings need to be held, you make available your home or your premises for them."[155] This widening of the orbits, which has also been called "alliance-building", added to the 'bling' around the RTI.

The Currency of 'Sacrifice'

In practically each of the accounts of the 'grassroots struggle for an RTI Act', its leaders are described in an almost ritualised fashion. Typical examples run along the lines of 'Aruna Roy, who quit the IAS to work at the grassroots', or 'Nikhil Dey, a young man who abandoned his studies in the USA in search of meaningful rural social activism'. The notion of *giving up* the comfortable, desirable and the predictable for the want and vagaries of rural

[154] For example, O.P. Jain's Sanskriti Foundation. "Established in 1978, Sanskriti Pratishthan is a non-profit organization, based in New Delhi, India. Sanskriti perceives its role as that of a catalyst, in revitalizing cultural sensitivity in contemporary times." From http://www.sanskritifoundation.org/about_sanskriti.htm. Accessed 10 May 2011. Sanskriti Foundation has a sprawling campus on the outskirts of Delhi, where several RTI-related meetings organised by the NCPRI/MKSS have been held. Interestingly, A.K. Shiva Kumar, who is Roy's fellow-NAC member and N.C Saxena's colleague at UNICEF, New Delhi, is on the Board of Directors of the Foundation.

[155] Interview with CVW435, 30 October 2009. "Medha ji" refers to Medha Patkar, one of the better-known leaders of the Narmada Bachao Andolan.

India perhaps seeks to evoke deferential emotions in the consumers of this discourse, adding greater legitimacy to the cause and its leadership.[156] In public debates, workshops or conferences (which typically take place in metropolitan centres) this also serves as an important element to assert legitimacy. In some quarters though, this hyphenation between the cause and its stated foundations in rural India raises hackles. "MKSS is not interested in the larger picture, their whole thing is that spiel about the rural poor. Imagine, you stand up and say that "I live in rural India". It's not a big deal. It's your desire, you chose to do it, it's your work. Why should it be such a big thing, wearing it on your sleeve the whole time?"[157]

It is not as if the leadership (and membership) of the MKSS is unaware of the tensions that lie within these conceptual categories of privilege, sacrifice and leadership, and the way these are projected in the context of the MKSS. "The world looks at people like us, meaning like Aruna and like me, and they feel that these people left everything and did this. But whether it may be Shankar, Lal Singh ji, Babu, Ram Singh, Mohan ji, Chunni Bhai, for them if they did not earn for a day, what they would eat was a real question...[158] For people like us, it may even be like an indulgence. If I fall ill, 50 people will come and make some arrangements for me. I don't even need the 3000 rupees [that I earn with the MKSS]... For me, lifestyle is important, and how much I spend, that is important... For them earning 3000 is an important issue. If they could earn 5-6000, this would make a big difference... People like us are also more impressed by the people from the middle or richer class [who 'give up'], but I feel that the real giving to a society, and with such great ease, this has come from a class which has

[156] Mahatma Gandhi was of course past master at using this strategy, though he traced its conceptual roots to a pronounced sense of personal morality. The public images of two other individuals related to the RTI movement have also been produced in similar terms. Sonia Gandhi, who gave up her chance of becoming Prime Minister in 2004 (and 2009) and Harsh Mander, who 'quit' the IAS (although there was a controversy over whether he resigned or took voluntary retirement, both of which have very different administrative implications), to work for the vulnerable and the marginalised.
[157] Interview with FMD382, 21 November 2009.
[158] All rural members of the MKSS. At any given time, the MKSS has only had around 15 full-time 'salaried' members.

not been recognised. [Perhaps] recognised in terms of 'the toiling masses have done a lot', but not as individuals."[159] In response, a rural member of the MKSS stated, "We have selfish reasons, the struggle is for us. We are not doing a favour to the village, we are fighting for ourselves. But the world appreciates people like you because you had no problems [in your lives]. The only problem you had was that someone else was unhappy. We are ourselves unhappy, so we have to stand up in any case."[160]

These diverse articulations around the idea of sacrifice are very complex, even as the process they point to is quite peculiar. In this discourse, the act of 'giving up' resources and privileges at the individual level accords the legitimacy (from both above and below one's typical social orbit) for the same credibility and legitimacy to be sought at the institutional (cause-orientated) level. In simpler terms, one must have more to begin with, give it up, and only then could one possibly seek even more (Hirsch, 1986; Jasper, 1997). This raises a difficult conundrum in the context of democratic movements. To what extent can movements be democratic if pre-existing resources and privileges of their leadership become essential prerequisites for their success, not only in material terms, but also at the symbolic plane? If the entry barriers are high, as it appears to be in this particular process, then the cherished value of participation is likely to be irreparably compromised. This also points to a rather obvious, if (and perhaps *therefore*) rarely articulated social phenomenon. 'Downward' access is easier to gain than 'upward' access. The former requires 'giving up', while the latter requires the acquisition of attributes that more often than not takes generations to garner. Gravity it seems, appears to have an inescapable effect on movement politics as well.

[159] Interview with Nikhil Dey, 22 February 2009, Devdoongri, Rajasthan.
[160] Interview with Lal Singh, MKSS member, 22 February 2009, Devdoongri, Rajasthan.

Non-Material Resources

"It's all a game of English."

The critique around resources (arising from the social background) is not relegated only to the world of the material. That much of the leadership was from a specific elite fraction also meant that they could draw upon other non-material resources, such as an impeccable command over English, which is the dominant language of the ruling elite in India, a deep understanding of how the state functions, particularly at the higher levels (for example in terms of knowing who holds what information) of government, and the self-confidence and social skills necessary to interact with and negotiate this landscape.

The "MKSS has been able to elevate [the RTI] to a level of consciousness like no other [organisation]. How? Language, English. This is an English-speaking articulate group that has spearheaded this struggle with tremendous linkages in places that matter, whether it's the media, whether it's the government, whether it's some political elements... Language helps in all of that, doors open very easily to certain kinds of people... When I'm talking about the media, we're talking about the English media, we're not talking about the vernacular. All your policy documents, all the preparatory work, it's all done in English. It calls for a very very high ability in the language... Who are the ones who are visible today in any sphere? It's people who have these privileges, of language, of a secure financial base, of connections, of knowing how to make the system work for them through these connections. This is the group that dominates everywhere. It's a very very incestuous circle. There is mutual back-slapping.

Also the connectivity. Other people are not so connected, or have not used their connections."[161]

Collaborators who do not belong to the same social background are keenly aware of these structures, and the fact that the level and type of participation in such political processes, is at least partly defined by this aspect of identity. "We are called upon when there is a need to show to the world that there is wide participation, but when the important meetings are held in Delhi, we are not the ones who participate. It's all a game of English."[162] 'English', in this sense, becomes a catch-all symbol of the divide that exists between the leadership and others who are collaborators in the service of a cause. This divide, and its implications on who is able to, and allowed to participate in what types of spaces, is premised not upon the usual suspects of caste, religion, gender or geography, but social class (as defined by the possession of certain specific social skills and competences).[163] The political importance of this competence, the knowledge of the language of the ruling elite, is well-understood by the leadership of the movement. Dey recounted that the elite boarding school that he studied in also had a "group [of students] which were Government of India scholars, who were poor but very bright...[164] But they came there without knowing any English, and were very timid. It would take a long time for them to gain confidence in life."[165]

In practice, such 'confidence' is typically manifested by the possession of highly specialised knowledge and a very sophisticated set of skills. These reside almost exclusively within the

[161] Interview with JQT839, 16 October 2009.
[162] Interview with GSD167, 30 November 2009.
[163] However, the relationship between social class, caste and knowledge of the English language has been recognised, an example of which is the efforts of a *dalit* community to build "a temple in Banka village in the northern Indian state of Uttar Pradesh to worship the Goddess of the English language, which they believe will help them climb up the social and economic ladder". BBC News, 15 February 2011. See http://www.bbc.co.uk/news/world-south-asia-12355740. Accessed 10 August 2011.
[164] 'Government of India scholars' in this context means students with a scholarship from the central government.
[165] Interview with Nikhil Dey, 22 February 2009, Devdoongri, Rajasthan.

same elite fraction. One such manifestation is the possession of a thorough understanding of existing laws and the ability to draft a new one. To a large extent, these skills were brought on board by Prashant Bhushan, one of the founder members of the NCPRI. Bhushan's role was not just limited to providing the legal input in the process of drafting the Act. He was also instrumental in the lobbying efforts that the NCPRI made with the political class.[166] When the bill was to be presented in the Parliament, "I got a call from [Suresh] Pachauri, the Minister [of the nodal ministry responsible for presenting the Bill, saying] that we have to present this bill in Parliament, so please brief us, tell us what we should say, what justification we should give, as he also had to introduce the amendments for the states. So Prashant and I went, Prashant as the lawyer, and briefed him in great detail, that what you have to do in Parliament."[167]

Influencing the Public Discourse

The English-Language 'National' Media

English, particularly in the Indian context, is also the language of the national media and academia. That the leadership had this tool in its arsenal also meant that it could conduct a *direct* dialogue with both these constituencies - journalists as well as academics - which are

[166] His father, Shanti Bhushan, also made an important contribution. The NCPRI leadership wanted the Act to be extended to the state governments as well, while ensuring that the national law would not supersede the existing state level laws as some state-level activists were quite content with their state-level laws, and did not want to lose a law that they already had and were comfortable with. "We got Shanti Bhushan to give an opinion, [and he held] that RTI is a residual matter, so it will come under the Centre, so the Centre can legislate on it, but many of the subjects on which it is applicable are state subjects, so the State can also legislate at that level." Interview with Shekhar Singh, 13 January 2009, New Delhi. Shanti Bhushan himself had been the Minister for Law and Justice of the Government of India in the post-Emergency Morarji Desai cabinet. He gained fame by representing Raj Narain in his case against the State of Uttar Pradesh in the Allahabad High Court, the judgement on which rendered Indira Gandhi's election null and void, eventually leading to the proclamation of Emergency in the country in 1975. He is a successful Supreme Court lawyer, representing large corporations in the main. He has also been very active in politics, and has been with the Congress (O), Janata, and Bharatiya Janata parties at different times in the past decades, apart from being a Member of Parliament in the Rajya Sabha between 1977 and 1980.

[167] Interview with Shekhar Singh, 13 January 2009, New Delhi.

central to the production of consensus around any idea. Ajit Bhattacharjea, a senior journalist and founder-member of the NCPRI, first met Aruna Roy "in some meeting or conference" in the early 1990s. "I was then Director of the Press Institute of India, and she suggested that it [the struggle in Rajasthan] was not getting enough national media coverage...[168] I agreed that it was much bigger than a local Rajasthan thing, that it merited national attention. But getting national coverage in a situation when most people are rather cynical about such a process, especially anything starting from the rural areas and not starting in Delhi, is difficult to organise. However, I managed to persuade some interested reporters to come to Beawar... Mostly [from] English language dailies... National coverage now really is English, otherwise it's local. It got a certain amount of coverage, not very much. I don't think editors were very impressed. It takes some time for people to accept this as a live possibility... I wrote about it quite a bit myself, and tried to project it as a grassroots movement unlike any other such [related to RTI] movement ever anywhere... The organisers kept up the pace, and it was covered more widely... The idea caught on."[169]

The ability of the leadership of the MKSS and the NCPRI to garner the support of the media was of tremendous importance in the process. "I think both of them [Roy and Dey] are very good at networking, exceptionally good, which includes networking with the media. I don't think they do it for their personal promotion. Of course it's inevitable that if you're involved, your name will come up, and I don't think it's sensible to even fight it too much, but I think

[168] "Founded in 1963, the Press Institute of India is an independent, non-profit trust, established to create and sustain the high and responsible standards of journalism required by a developing country committed to democratic functioning… The Press Institute has long-standing media-related collaborations with organizations such as the United Nations Educational, Scientific and Cultural Organisation (UNESCO), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), United Nations Children's Fund (UNICEF), Press Foundation of Asia and the Ford Foundation… PII has actively supported the 'Right to Information' campaign' started by the Mazdoor Kisan Shakti Sangathan in Rajasthan by bringing out a publication called 'Transparency'. Subsequently its leader, Aruna Roy, won the Ramon Magasaysay [*sic*] [*recte* Magsaysay] Award, culminating in the enactment of a law on 'Freedom of Journalism' [*sic*] [*recte* Right to Information]." See http://www.pressinstitute.in/profile.html. Accessed 13 May 2011.

[169] Interview with Ajit Bhattacharjea, 27 November 2009, New Delhi.

they've done it well. That really helped in some senses. It was a very important thing, and if MKSS had not come into the RTI movement, this [the networking] would not have happened. And it's difficult to network with the media unless your own credibility is strong. Media is very savvy of being used for promotion of personalities, so they will not respond to your requests, unless they feel reasonably confident that you are not in it for your own publicity."[170] Apart from the media reporting on the movement, the leadership, particularly Roy and Dey, were able to regularly access space in national newspapers to describe the work of the MKSS in Rajasthan, linking it to larger issues of governance and accountability. The media attention was to give a larger-than-life image to both the movement, as well as its leadership in opinion-making circles. "If 50 people are shouting, with media, their sound gets amplified to 500 voices. It may have been happening in one village in Rajasthan, but because it would appear in the national newspapers, an impression gets created that this is a big thing."[171] That Aruna Roy received the Magsaysay Award for Community Leadership in 2000 also gave the movement, associated as it was with her, a great fillip vis-à-vis the media. "The Magsaysay helped as it made her known. At the media level it made a difference."[172] Possibly understanding the implications, Bhattacharjea had supported Roy's nomination for the award. "They write to various people asking for nominations. I promoted her for the Magsaysay, and she was very upset... She refuses to project herself. Even when she got it she said I will not take it personally, but will take it for the entire group... [The RTI Act is a] fantastic achievement of our times, one woman with a small group of people..."[173]

[170] Interview with YDS558, 13 January 2009. It could be argued that the media's interest in Roy and Dey arose only *after* the MKSS and the RTI began to be noticed. Perhaps the best way to understand this process would be that a 'virtuous cycle' emerged from a combination of articulate, passionate and committed individuals, who were advocating an 'attractive' cause, and who had the skills and links to gain (and retain) the attention of the national media. The reasons behind *this* cause becoming more attractive to the media than others will be discussed in later chapters.
[171] Ibid.
[172] Interview with Ajit Bhattacharjea, 27 November 2009, New Delhi.
[173] Ibid.

As echoed in Bhattacharjea's statement, for all practical purposes the MKSS and its efforts for an RTI Act have come to be associated with Roy (and to a lesser extent Dey) in popular perception. The familiar spectre of the social background and language again makes its reappearance. "Why in all the literature will you only see Aruna and Nikhil's name? Why will you not see Shankar Singh's name anywhere? Who is the one who did all the grassroots mobilisation? Who for 25-30 years has been doing all those street plays, the puppet shows, the communication, who's been handling that? That is at the cutting edge of mobilisation. Why is his name not anywhere? He can't speak that language."[174]

Academic Spaces

The leadership of the MKSS and the NCPRI also possessed a formidable command over and access to academic language and spaces. Numerous workshops, conventions and seminars were held in the period leading to the enactment of the RTI Act, often hosted by universities and research institutions (such as the Indian Institute of Public Administration), with senior academics participating and lending support to the cause. Some respondents also commented upon the class composition of such spaces. "There were these typical middle-class kind of processes, of conventions, conferences, workshops, and all that, in which you're there, you're part of the glitterati, part of the talking clubs, and that probably in that section, which was also keen to have [an RTI Act], it created a greater opportunity that this is a good time to push it."[175] As detailed earlier in this chapter, academic journals such as the *Economic and Political Weekly* and *Seminar* also provided substantial space not only to the issue of the RTI Act, but also directly to the leadership of the MKSS and the NCPRI to propose and further their arguments. However, dissonant voices critiqued academia for having bought into this

[174] Interview with JQT839, 16 October 2009.
[175] Interview with WKI942, 1 December 2009.

narrative, falling prey to "the glamour that was brought in by Aruna and her group. I have definitely travelled to far more places, and spent much more time 'out there'. But there was no glamour attached to my work, the glamour which came with Aruna Roy, Prabhash Joshi, Harsh Mander, B.G. Verghese, this lot being associated with a grassroots thing..."[176]

However, a more subtle explanation for the peculiar consistency in the academic literature investigating the RTI story could be that in the larger literature around democratic deepening, there has been tremendous excitement around the possibility of ordinary people devising new modes of exercising accountability on an errant and wilful state, a rubric within which the work of the MKSS and social audits falls very neatly. That the movement was led by urbane, accessible, theoretically inclined and supremely (and possibly refreshingly) articulate individuals may have made the job of an investigating academic much easier. 'Translators', in the widest sense of the term, were not needed in examining *this* project at least. In addition (and this is true particularly of Indians who have written on the subject), academics themselves have significant social overlaps with the leadership, and focusing even tangentially on the subject of power premised on social background in this context could have been an uncomfortable, and potentially self-damaging proposition.[177] But perhaps more substantively, the sheer intellectual pleasure derived from observing (and celebrating) a movement where 'ordinary people' were challenging existing political structures (for example, in the much talked-about *dharnas* and *jan sunwais*) may have meant that the focus remained on the spectacle and its mechanics, rather than on the play of power underlying the process.

[176] Interview with FMD382, 21 November 2009. B.G. Verghese is another senior English language journalist. He was the Editor of *The Hindustan Times* and *The Indian Express* newspapers, and was also a winner of the Magsaysay Award in 1975. The other names mentioned in this quote were profiled in Chapter 3.
[177] For example, see Chibber (2006).

Even as it is all but absent in the established narrative, many respondents spoke at length about the ways in which power is exercised and experienced in processes of claim-making, and how social background affects such processes. In particular, respondents focused on the certain assured degree of protection the leadership had as a result of their links with the ruling elite. "RTI is a movement that puts you straightway in conflict with the local bureaucracy. Most people who work at the grassroots level cannot afford that. That same information, if you sit and eat with the *tehsildar*, drink with him, or generally have good relations with him, you will get it. If you file an RTI, they will make you go around in circles. And most people who genuinely work on the ground know that. Only in very extreme situations must you use the language of rights and confrontation. Otherwise you know the right is there, but you don't ever exercise it. You don't take the litigation route, nor the language of rights, if you have to survive in that area. Your team lives there, your people live there. If they catch you and beat you up in the middle of the road, Aruna Roy will not come to save you. Why did that guy in Jharkhand get bumped off?[178] It's Jharkhand, contractors run the NREGS.[179] Don't you know that if you go there and say something and try to do a social audit they'll come and beat the living daylights out of you?"[180] Things occasionally did get violent in the context of the work that the MKSS carried out at the grassroots in Rajasthan, including *dharnas* and social audits, but no one was ever grievously injured or killed, in part because the leadership belonged to an influential class.[181] "You gather around you the cream of the media, the bureaucrats, you

[178] This is a reference to the killing of Lalit Mehta on the 14th of May 2008 in Daltonganj district, Jharkhand, allegedly by the local mafia involved in siphoning government funds. At the time of his killing, Mehta was involved in accessing expenditure records related to the National Rural Employment Guarantee Act (NREGA) for researchers, including Jean Dreze, for later verification of official records against field data.
[179] NREGS here is a reference to the National Rural Employment Guarantee Scheme, which is often used interchangeably with NREGA.
[180] Interview with CVW435, 30 October 2009.
[181] As recounted by Shankar Singh and other MKSS members in several conversations.

yourself retain your profile as an ex-bureaucrat, and you move in that team, and nothing really happens to you. That's what the other groups said [about the MKSS], "Have they ever been bashed up by the police? Have they ever been locked up in jail? We've even been jailed for the RTI.""[182] The argument was also extended to the efficacy of *jan sunwais* and the RTI Act itself. "Look at the scale of the country. How many MKSSs are you going to require to act as watchdogs, and this [the watchdog role] can happen [effectively] only when you have strong groups like [the MKSS]."[183] Critical voices thus differentiate between 'real' grassroots work, where local actors must constantly temper and negotiate oppositional processes, embedded as they are within a specific social and political geography, and the political practices of a protected external elite that raises Cain premised on a discourse of entitlements and rights without having to take into consideration local politics and social structures to the same degree.

At the same time, local politics is also deeply impacted by which political party is at the helm of affairs at the state level, and the relationship the instigating group has with the same. That the MKSS had a particularly oppositional relationship with the state government when the Bharatiya Janata Party was in power is repeated often, just as there is a clear perception that they have a much better working relationship with the government when the Congress is in power in the state. "That they have the Chief Minister's ear in Rajasthan is undeniable... They have been clearly anti-BJP, and they have therefore assiduously cultivated the Congress, and the Congress has assiduously cultivated them... More or less everyone knows they are Congress-wallahs. Congress and its leaders will keep them happy. They choose to interact with them, because they are one kind of lobby, and it's good to keep them in a certain

[182] Interview with FMD382, 21 November 2009.
[183] Interview with JQT839, 16 October 2009.

humour, and use them as they can. That they have made a contribution to RTI cannot be denied, but it [the RTI space] is not their fiefdom."[184]

However, the larger point still stands - that the state machinery responds differently to groups that are known to be influential (such as through links with the IAS, or for that matter, a well-known entity such as the MKSS or the Social Work Research Centre in Tilonia). A phone call to the right person, or appeal made to the right official, written in English and demonstrating a thorough knowledge of the law and administrative procedures, signed by 'well-known' persons, *does* have an impact on the way the state machinery responds.[185] A similar appeal by an 'ordinary' person, limited by his 'ordinary' language and knowledge, using an 'ordinary' route of communication, *will* be responded to differently.[186] The differential nature of the interaction between the state and those contesting it can be extended to the strategies and mechanisms championed by the MKSS to hold the state to account, especially *jan sunwais*. When a former Prime Minister attends a public social audit, even if in a less accessible rural area, it is unlikely that the state machinery will allow any kind of violent disruption to take place.[187]

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[184] Interview with CVW435, 30 October 2009.

[185] For example, a letter from the MKSS to C.K. Mathew, Secretary to the Chief Minister, Rajasthan, dated 19 March 2003, enclosed an "application addressed to the MKSS" sent by a small NGO working in Chittorgarh district "on the denial of their right to information" and registration of "false cases against those members of the Bhil community who asked for information". The letter urged Mr. Mathew to "issue directions to the Collector to provide the requisite information and ensure that the investigation by the police on the complaints… is fair, and no false cases are registered against the tribals". In response, Mr. Mathew sent a letter on 21 March 2003 to the District Collector, Chittorgarh, urging him to "ensure that the desired information is immediately made available to the applicants. As regards the alleged false cases, you may kindly look into the matter and send your report to the undersigned within a weeks [*sic*] time". Letter reference number PS/SCM-I/2003/17773, Chief Minister's Secretariat, Government of Rajasthan.

[186] The same principles operate in the more prosaic context of seeking interviews with high-level government officials, as discussed in Chapter 2.

[187] Former Prime Minister V.P. Singh attended the *jan sunwai* held at Surajpura, Jawaja, District Ajmer, Rajasthan, organised by the MKSS on 19 January 1998. This is not to say that all *jan sunwais* organised by the MKSS had *such* a high-profile participation. However, the presence of eminent individuals on the panel of observers was an important aspect of the strategy, both for its stated objective of ensuring neutrality, as well as for the perhaps unstated advantages of gaining legitimacy and providing a certain degree of cover against any potential violence. However, to be *able* to successfully solicit the participation of eminent people in such an event is again related to the issue of social profile and access. For example, JQT839 recounted that similar

The established 'truth' that the RTI Act in India was enacted primarily as a result of pressures from below in the form of a grassroots movement in Rajasthan is thus nuanced by critics that point out that the established leadership of the movement belonged to a highly privileged social class with a large reservoir of material and non-material resources to draw from. Further, the tools and strategies that were used are available only to those who are privileged in the first instance. In doing so, these critical voices bring forth a tension between the dominant image of a 'people's movement' in the established narrative, and the reality of both the leadership and the strategies it used not quite belonging to the domain of the 'masses'. This tension is acknowledged by the established leadership, and is explained through the imperatives of realpolitik - a statement that asserts that 'this is the way of the world'. "This is true the world over... It's a well known sociological fact that it is the middle, upper middle class, which provide leadership to social movements by and large. Medha [Patkar] comes from the middle class, Baba Amte, Gandhiji came from the middle class.[188] There are rare occasions when peasantry starts leading the peasantry. By and large the leadership comes from middle classes, because first they have the time, then they have the self-confidence, they've also got honed-in skills. In fact there could be brilliant people in the movements who've come from the lower classes, but will never get the breakthroughs. If someone has to be called for a meeting with the CIC [Chief Information Commissioner], then X of NGO A, or Y in NGO B, might be actually far more brilliant, but they don't have the social graces to be able to... This happens all the time, and in all countries."[189]

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efforts to hold *jan sunwais* by a small NGO that works in Uttarakhand were relatively unsuccessful at least in part because it was unable to attract a similar level of support from 'eminent' individuals.

[188] Medha Patkar is the well-known leader of the Narmada Bachao Andolan (NBA), a social movement against large dams. Although she does come from the middle-class, her 'pedigree' is not quite the same as some of the leaders of the RTI movement. Her mother retired as a Post Master, and her father was a social worker. Baba Amte was a social worker perhaps best known for his work to rehabilitate leprosy patients. Amte definitely came from an elite background. His father was a wealthy landowner and was an official of the British colonial government responsible for the administration of his district. However, Amte is not known as the leader of any specific 'social movement', although he did join the NBA at a later stage.

[189] Interview with YDS558, 25 October 2009. X and Y refer to names of activists who come from a different social background, but have been removed for obvious reasons. NGO A and NGO B are two NGOs working in

The Higher Bureaucracy

Apart from the 'honed-in' skills that the respondent speaks of above, another consistent theme that arose in conversations with respondents was that of the networked access that the leadership of the MKSS and the NCPRI had to the ruling elite (linked as it is to their social and professional backgrounds), and the impact this had on the process. The links that Shekhar Singh had developed with the senior bureaucracy during his time at the IIPA played an important role. "I found IIPA to be a wonderful place... [A] great advantage was that it gave you a very unique access to the bureaucracy. Even today, half the Chief Information Commissioners, Information Commissioners, are trainees of mine whom I taught one thing or the other. And that makes a rapport, gives access, and a much better understanding, because over the years when you've talked to thousands of civil servants, you also get to know some things."[190] Such connections played an important role in the process, especially in terms of providing critical information to the leadership at appropriate moments. Singh brought other former linkages to bear on the process as well. Singh's time at the Planning Commission also brought him in proximity to another bureaucrat who was to later become one of the founding members of the NCPRI, S.R. Sankaran.[191] As the Secretary to the Ministry of Rural Development at that time, Sankaran interacted regularly with senior officials at the Planning Commission. Singh also had old links with another figure who played an important role -

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Delhi. 'Social graces' in this context strongly resonates with Bourdieu's notion of 'cultural capital', which is discussed in greater detail later in this chapter.

[190] Interview with Shekhar Singh, 22 October 2009, New Delhi.

[191] Aruna Roy also credits Sankaran as being one of the few civil servants she had great respect for. "There were, however, two people whom she admired as model civil servants. One was S. R. Shankeran [*sic*] [*recte* Sankaran], a bachelor who was secretary of Rural Development to the Government of India. More than his professionalism, it was his courage to speak out and the simplicity of his lifestyle that Aruna admired. He lived on a modest budget and donated the rest of his salary to children who needed help with their schooling." From Roy's profile on the Magsaysay Award website. See http://www.rmaf.org.ph/Awardees/Biography/BiographyRoyAru.htm. Accessed 10 June 2011.

Harsh Mander - especially during the years leading up to the formation of the NCPRI. Mander and Singh knew each other from St. Stephen's College, Delhi, when Singh taught there. In addition, Mander's father succeeded Singh's father (albeit not immediately) as the Chief Commissioner of the Union Territory of the Andaman and Nicobar islands. Singh, in fact, indirectly traces the origins of the formation of the NCPRI to Mander. "Actually this story [of the NCPRI] goes a little further back than 1996. I don't remember the exact years, but it was around 1993 or 94. Harsh Mander, who was at that time in the civil service, had been transferred to the [Lal Bahadur Shastri National] Academy [of Administration]. He wanted to set up a group which we used to laughingly describe as 'Harsh's friends and admirers'. But essentially he had a wide network of people who thought very well of him - some from the civil services, some from the academia, and activists. He wanted to set up a group which would in some senses intervene into promoting better governance... This group had two or three meetings. The first meeting incidentally was in a village in Andhra Pradesh in Chittoor district, because there was one Narendranath and his wife Uma, they had a farm there, a genuine farm. They came from a big agricultural family. Many people came... Harsh [Mander] was there, N.C. Saxena, Santosh Matthew...[192] Aruna and Nikhil were supposed to come and then something happened, their train got cancelled or something, and they weren't able to turn up."[193] As the Deputy Director at the Lal Bahadur Shastri National Academy of

[192] Santosh Mathew was an IAS officer of the Bihar cadre who was on deputation to the LBSNAA at that time.

[193] Interview with Shekhar Singh, 13 January 2009, New Delhi. Gorrepati Narendranath (along with his wife Uma Shankari) "had dedicated himself to the cause of People's Movements, the quest for alternatives, especially organic farming, promoting biodiversity and organising farm workers for the last 25 years after he resigned his comfortable bank job… Though the son of an IAS officer he chose to live the life of an ordinary farmer in his village Venkataramapuram (Dist. Chittoor)." Excerpt from Narendranath's obituary on the website of the National Alliance for People's Movements (NAPM). http://napm-india.org/node/52. Accessed 13 May 2011. Aruna Roy is a permanent invitee to the National Convening Team of the NAPM. Harsh Mander wrote another obituary of Narendranath who "was in university in Delhi with me, a few years my senior. He joined as an officer in the State Bank of Hyderabad, but was restless from the start. He resigned in five years, and initially worked for *Lokayan* in Delhi in 1980, at half his bank salary." From "What I learnt from Naren", *The Hindu* newspaper, 29 September 2009. Note the recurrence of the IAS / government service and the 'sacrifice' themes above. To further illustrate this web of networks, Rajni Kothari (whose links with V.P. Singh and Shekhar Singh will be detailed later) was involved in the setting up of *Lokayan*; and a US-based philanthropic organisation, AID India, has provided funds to several prominent NGOs and individuals that are a part of the NAPM,

Administration (LBSNAA), Mander was instrumental in organising the 'Mussoorie Meeting' in 1996 - an event that finds pride of place in almost all existing documentation related to the history of the RTI Act in India (as mentioned in Chapter 3).

The Director of the LBSNAA at this time was Naresh Chandra Saxena, who had begun to work more closely with what eventually evolved into the NCPRI leadership in the early 1990s. "It was in 1992-93, when the whole thing had started... I had known [Aruna Roy] and Shekhar Singh who were involved with all this. They were not sure how to deal with these issues, so I said why don't you come to Mussoorie - by that time I'd joined as the Director [of LBSNAA] - and we'll discuss all these issues. One of these issues was *which* information should be given [to citizens]. I told her its simple, whatever information you give to MLAs and MPs, you give to the common person."[194] This clause, which equated the citizen with her elected representative in the context of the RTI Act, is celebrated as an important conceptual breakthrough in the drafting process by the NCPRI leadership.[195] Saxena also promoted the idea through some of his writings. "I wrote a paper on RTI which was published in a journal that Smitu Kothari used to edit".[196] Saxena's support in his capacity as a member of the first NAC also played an important role in pushing the RTI Act through.

Apart from Saxena and Mander, Shekhar Singh's old association with another colleague from St. Stephen's College also played an important, if lesser known role. "My class fellow, a man called Pulok Chatterjee, he is an IAS officer, he's now Secretary to both Manmohan Singh

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including Narendranath. Aid India also funded a lecture tour of MKSS leaders to the USA in 2010. See footnote 196 for further links.

[194] Interview with N.C. Saxena, 15 October 2010, New Delhi. An MLA is a Member of the Legislative Assembly, the lower house at the state level.

[195] Both Aruna Roy and Shekhar Singh mention this intervention in rich detail when speaking of the history of the RTI Act.

[196] Interview with N.C. Saxena, 15 October 2010, New Delhi. The journal was *Lokayan Bulletin*. Interestingly, Smitu Kothari (who died in 2009) was Rajni Kothari's son. His brother Ashish Kothari was one of the founders of Kalpavriksh, the environmental NGO that Shekhar Singh had helped found during his time at the IIPA.

and Sonia Gandhi. He's considered to be the most powerful bureaucrat in India today because he's Secretary to both. I know him reasonably well."[197] Access to a person like Chatterjee allowed the NCPRI leadership to be privy to the thinking within both the government as well as the political leadership at the highest levels, which in turn had a significant impact on the formulation of its strategies.

Access to powerful figures also had important ripple effects in the process, especially in terms of the perceived power of people who possess such access. This played an important, if not an obvious role, especially towards the dénouement of the process leading to the enactment of the RTI. "The information system is fantastic in the bureaucracy. Even before I went to meet Sonia Gandhi, everyone would get to know that Shekhar is coming to meet Sonia Gandhi today. And the moment I'd come and meet her, everyone would know that I've met her, that I spent 43 minutes with her. It was quite amazing, because I'd have people ringing me up whom I hardly knew, and wanted to meet me, so I figured that he's got to know that I'd met Mrs. Gandhi. People therefore assumed that I must be very powerful. Because in India to be able to meet Mrs. Gandhi is a big thing, and to be able to spend 45 minutes with her, not once but 4-5 times, and then Pulok Chatterjee is in attendance... And then people also got to know that he's my class fellow, and they thought that maybe that's the source of my influence."[198]

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[197] Interview with Shekhar Singh, 25 October 2009, New Delhi. A 1974 batch IAS officer of the Uttar Pradesh cadre, Pulok Chatterjee's proximity to the Nehru-Gandhi clan can be traced to his appointment as the District Magistrate of Sultanpur in the 1980s, under which the Gandhi 'family constituency' Amethi falls. "After stints in Rajiv [Gandhi]'s PMO, in the Rajiv Gandhi Foundation and as [Officer on Special Duty] OSD to Sonia Gandhi when she was leader of the Opposition, he is now in the PMO - the link between PM Manmohan Singh and UPA chairperson Sonia Gandhi" (from "Pulok Chatterjee", *Outlook* magazine, 23 April 2007). After a stint at the World Bank as an Executive Director, Chatterjee has recently been elevated as the Principal Secretary to the Prime Minister, and by some accounts, is "India's second most powerful person" (from *The New Indian Express* newspaper, 22 January 2012). Incidentally, Chatterjee is the brother-in-law of Shekhar Dutt, a retired IAS officer of the 1969 batch (Madhya Pradesh cadre), who was formerly the Defence Secretary, and is currently the Governor of Chhatisgarh state.

[198] Interview with Shekhar Singh, 13 January 2009, New Delhi. In this context, Singh stated that his access to Sonia Gandhi was affected through Aruna Roy.

In addition, Aruna Roy's previous avatar as an IAS officer was commented upon specifically and numerously in the context of this 'connectivity'. Roy and her colleagues had access to the higher echelons of the government "because Aruna Roy is an ex-IAS officer, and her batch is at the helm of things right now. All the senior officers in any department are all in the proximity of her batch. I think that is very crucial. The fraternity is very strong, don't underestimate the fraternity. You don't have to know everybody, but it helps to know a good few. It's a very well-networked group. And if they had had any say in moving the government to a revolutionary legislation, it's because of their proximity. [But] I doubt if they really could have been big mind-changers from scratch."[199]

The Political Class

It was not just the understanding of and embedded links with senior civil servants that contributed significantly to the process. Access to influential journalists as well as leaders in various political parties was negotiated by bringing on board key individuals who could mediate such processes. The support of Prabhash Joshi, another senior journalist was enlisted early on, and he was to become a founder-member of the NCPRI.[200] Roy and Dey often recount how Joshi was 'waylaid' into observing part of the forty-day Beawar *dharna* in 1996. He returned to Delhi to write what the established leadership considers to be a seminal piece on the struggle entitled "*Hum janenge, hum jiyenge*" (We will know, we will live) in the widely read Hindi daily *Jansatta*. Joshi soon became a mentor for the leadership of the

[199] Interview with XPR034, 9 November 2009.

[200] Prabhash Joshi is considered to be a towering figure in Hindi language journalism, although he wrote regularly in English language news magazines and newspapers as well. In the 1970s, he met Jayaprakash Narayan, who in turn introduced him to Ramnath Goenka, the then owner of the Indian Express group of publications. Prior to the declaration of the Emergency in 1975, Joshi edited *Prajaniti,* the Hindi version of *Everyman* (which was being edited by Ajit Bhattacharjea, another founder-member of the NCPRI). In 1983 he became the founder-editor of the Hindi daily *Jansatta* (owned by the Indian Express Group) until his retirement in 1995, and was its editorial advisor until 2008. He passed away in 2009.

movement and it was he who encouraged Roy towards dialogue in the political context. "He told me, *ab rajniti mein utrey ho to samvad to karna padega* (Now that you have entered politics, you will have to enter into dialogues)."[201] Not only was Joshi a very well-respected journalist, he also had very high-level links with the political class across party-lines, which were used to great effect in the lobbying efforts of the NCPRI and the MKSS. "Prabhash ji had a very varied personality. He was not only a journalist. What he wrote was noticed... His writing, columns were very widespread... The number of people he influenced was very big... Although he had such a wide range of interests, I can't say he was a consistent supporter...[202] But right to the end, he was very close to Aruna. Every major thing she did, he was involved. He knew a fantastic range of people. People of all kinds, academics, MPs, legislators, ministers... When the legislation was being pushed, he talked to many key people in various parties... He knew people in all the parties... [He was] on good terms with them... He was very useful. There was a list of people to be met before the bill was to be debated in Parliament, and he was key to meeting various people. He met them himself. This was very important, this personal touch he had with varied people. That was his big contribution."[203]

In addition, former Prime Minister V.P. Singh played a key role as a mediator between the NCPRI group and the government in 2004 (as described in Chapter 3). Although Joshi and V.P. Singh knew each other, and this would no doubt have added another layer of credibility to the NCPRI / MKSS leadership vis-à-vis V.P. Singh, Shekhar Singh's stint at the Planning Commission meant that he had interacted closely with V.P. Singh earlier. Shekhar Singh's appointment as Adviser to the Planning Commission came primarily as a result of his past association with Rajni Kothari, one of India's best known political scientists, "who was at

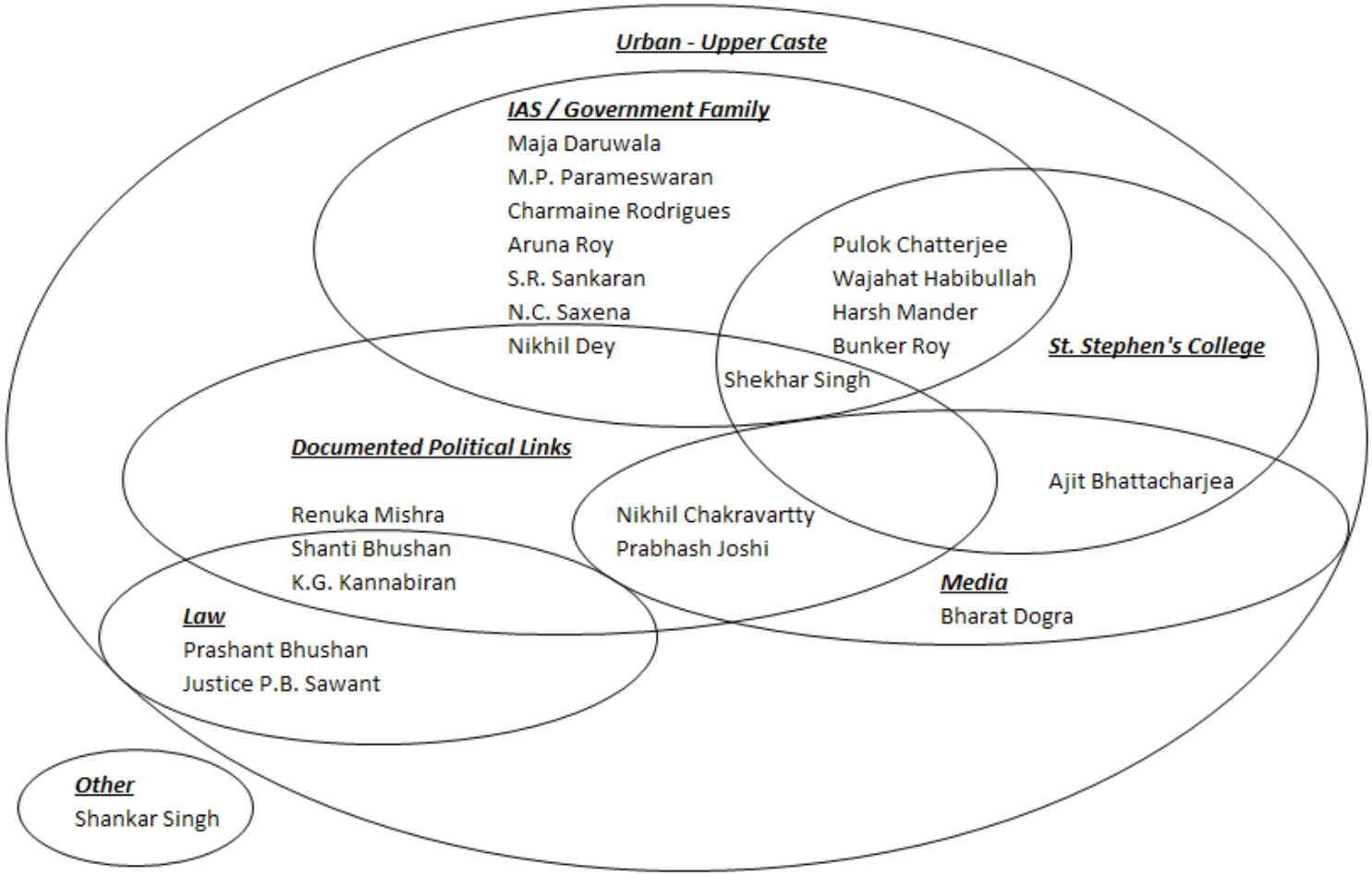
[201] Interview with Aruna Roy, 4 May 2009, Tilonia, Rajasthan.
[202] For example, he was not in favour of Roy joining the NAC. Interview with Aruna Roy, 4 May 2009, Tilonia, Rajasthan.
[203] Interview with Ajit Bhattacharjea, 27 November 2009, New Delhi.

various times associated with powerful political figures from Indira Gandhi to Jayaprakash Narayan".[204] "Before [the 1989 elections], a small group had been formed in which some of us were involved in which there was L.C. Jain, Rajni Kothari, V.P. Singh, [Ramakrishna] Hegde, and we used to have occasional meetings and used to talk about the world in general and the country and so on and so forth. Then these elections happened, and V.P. Singh became the Prime Minister. Rajni Kothari and L.C. Jain were very close to V.P. Singh and they caught me also, and took me to the Planning Commission. At that time, V.P. Singh took that initiative, [which] was also in their manifesto [to bring in an access to information legislation]."[205]

[Figure on next page]

[204] From "Life Is A Telephone Directory", *Outlook* Magazine, 10 June 2002.
[205] Interview with Shekhar Singh, 13 January 2009, New Delhi. L.C. Jain received the Magsaysay Award for Public Service in 1989 and also served as India's High Commissioner to South Africa, a political appointment made by the I.K. Gujral government in 1997-98. Jain was a very vocal supporter of the MKSS and the NCPRI, as well as the RTI.

Figure 4.1: Diagrammatic representation of key individuals associated with the NCPRI and the MKSS[206]



[206] The names in the figure have been ordered alphabetically within each section, and include the founding members of the MKSS and the NCPRI, as well as collaborators / advocates who find pride of place in the dominant narrative. Two names in the figure have not appeared in the thesis so far - Maja Daruwala and Charmaine Rodrigues. Both are / were associated with the CHRI, and their roles will be discussed in greater detail in Chapter 6. In addition, while Daruwala, Habibullah and Rodrigues cannot be considered to be 'upper-caste' within the Hindu tradition, they belong to a similar social milieu as the figure suggests.

A Small, Intimate, Dense Network

Thus, if one was to cast even a cursory glance at the leadership of the MKSS and the NCPRI (as well as their well-known collaborators and supporters), stark patterns seem to emerge. Most of the founding members of the NCPRI and the MKSS have direct links to the higher civil service (manifested emblematically through the IAS), either by having been a part of it, and/or through birth in a 'civil service family'.[207] The ones that do not, have other kinds of high-level government (armed forces, political, judicial) or media lineages. The 'group' also has a privileged urban background, with an education in elite institutions, both in India and abroad.[208] All the founding members of the NCPRI belong to upper castes. This homogeneity is not only limited to the socio-economic and class-based profiles of the 'group' outlined above. The personal, social and professional linkages between them are also intricate and dense. Ajit Bhattacharjea, Shekhar Singh, Harsh Mander, and Bunker Roy are all alumni of St. Stephen's College. Saxena, Mander, Sankaran and Aruna Roy belonged to the same elite government service, the IAS, which is a cadre-oriented service with a high degree of social and professional overlaps (in the case of some of these individuals this meant working directly with each other). Joshi and Bhattacharjea were close associates through the 'JP movement'. Extending these networks to the larger RTI-related world also reveals impressive overlapping orbits. For example, the first Chief Information Commissioner of the Government of India (the office is the highest appellate authority at the federal level within the framework of the RTI Act 2005) was Wajahat Habibullah, who was a batchmate of Aruna Roy in the IAS, as well as an alumnus of St. Stephen's College, Delhi. Then there are the

[207] The importance of being born into such a family is perhaps best expressed by the phrase '*uska baap IAS hai*', which translates into 'his father is an IAS'. This phrase came up often enough in my conversations, and becomes interesting because what is essentially an acronym of a type of civil service is being used almost as an honorific title denoting power, prestige and grandeur.

[208] The *only* exception being Shankar Singh, who incidentally, does not figure as a founder-member of the NCPRI, and for that matter does not have a presence on any government bodies. In fact, he is the *only* 'outlier' in the larger group, on account of his educational profile as well as his modest, rural, OBC background.

acknowledged "friendships" between Ram Jethmalani and Prashant Bhushan[209], and between Justice P.B. Sawant (who, as Chairperson of the Press Council of India, provided strong individual and institutional support to the leadership of the RTI movement) and Ajit Bhattacharjea.[210]

This group also has deep linkages with senior members of the political class. Singh had links with V.P. Singh; Bhushan's father used to be a minister at the federal level; Dey is related to at least one well-known national level political leader; and Joshi had legendary access to politicians of all hues. Even as several other personal overlaps can be documented, the specific social profiles of this 'group' allowed it to have a unique understanding of the ways in which the government functioned, as well as deep links through their social backgrounds to senior government functionaries, legal luminaries, sympathetic politicians, and mainstream national media, each of which played a key role in mobilising public opinion on the issue of Right to Information.[211] Critics are keenly aware of these linkages but grudgingly appreciate their importance in the process.[212] "They've used every platform that one could think of.

[209] Shekhar Singh in fact suggested that Jethmalani may have passed the executive order to give out information related to his Ministry (as described in Chapter 3) at the instigation of Bhushan. "This is the time we had that hotchpotch government, and Ram Jethmalani was the minister for Urban Affairs. Now what inspired him? I suspect that it was Prashant Bhushan as he is his friend." Interview with Shekhar Singh, 13 January 2009, New Delhi.

[210] "There was a meeting at the Press Council. We had a very sympathetic Chairman, Justice Sawant, who is a good friend of mine. He organised a big two-day meeting, and very senior politicians came for the first time, and made it appear that already something was happening. [The politicians came] because of a certain amount of media coverage and a realisation by some of them that something was really happening... And if they backed it, it would be helpful to them." Interview with Ajit Bhattacharjea, 27 November 2009, New Delhi. Bhattacharjea, Sawant and Prabhash Joshi were also members of the Nikhil Chakravartty Memorial Foundation. Incidentally, Nikhil Chakravartty himself lent strong support to the MKSS. "On April 10, 1996, the highly respected journalist Nikhil Chakravarty, or Nikhilda as he was known, travelled from New Delhi to the town of Beawar in central Rajasthan to lend his support to an unusual *dharna* for the people's right to information." From "The Right to No Secrets" by Nikhil Dey and Aruna Roy. *Tehelka* Magazine, Vol 6, Issue 39, October 3, 2009.

[211] As described in the mainstream narrative in Chapter 3.

[212] In interviews conducted with critics, one could discern a strong undercurrent of resentment against the established leadership on this issue. Where critics themselves belonged to the privileged elite, this resentment arose from a sense of 'I have connections too, but have not used them. Where I have, I do not claim otherwise'. In the case where critics belonged to a lower social class, the source of resentment arose from a feeling of 'All they have done is to use their connections, but have taken all the credit. We are the ones who do the 'real' work, but are never given the credit'.

Bureaucracy, media, activism, political clout... Which is good, otherwise this law would not have come in 25 years, in whatever form."[213]

Of Inclusion, Participation and a 'National' Demand

Apart from the focus on the role of the grassroots in the process (that has been questioned above), the dominant narrative also suggests that the demand for such an Act was a national one, even as the process was inclusive and participatory. "Besides state and national-level meetings and conventions, the Campaign organized *yatras* (journeys), a caravan of activists, ordinary villagers and students travelling from place to place with the RTI message, communicated through songs, skits and speeches... The NCPRI built a broad constituency for the Act by approaching groups working in different sectors: education, health, maternal and child welfare, environment, and holding workshops where they would discuss the issues specific to each sector and the particular information needs that were a constraint on effective action in that sector" (Baviskar, 2007: 14-15). Part of this strategy of alliance-building was to invite groups and individuals working in the social sector in other parts of the country to Rajasthan to observe the strategies of the MKSS. However, "some of them returned and said, "What's new, we've been doing this for so long, it's just old wine in new bottles. We've been talking about unearthing facts, and discovering defalcation cases." These groups were using RTI to a certain extent, but they felt that too much was being made of RTI, in the sense that it was held out as this panacea for all ills and problems, which it wasn't and it isn't. Because finally you need people with these same abilities, the language abilities, an understanding of the system, to really take it through. They weren't inspired to either join, or not join, this so-called movement. There was an almost kind of resentful feeling towards a group [the MKSS]

[213] Interview with FMD382, 21 November 2009.

that was basically doing what they'd been doing all along but had already captured a certain space and level of attention in the public."[214]

Other experiences counter the idea of inclusiveness that permeates the narrative around building a wide alliance and constituency to push for a demand for an RTI Act. "In fact, many of these groups consciously didn't want to be a part of NCPRI, which was surprising. [The attempt was] to bring people together, to get things to a critical mass, in any case even if you get something passed due to your own influence, ultimately the more people know about it, the more it is going to get used. But a lot people didn't seem to take to [the NCPRI], because their whole thing was come to *our* meeting, adopt *our* ways, sing *our* praises, and many people did not take to that. Everybody is busy with their own work. Everyone is doing work, and everyone's work has value... One of them [an NCPRI member] said, "You have to be very careful, we should screen people whom we will allow [to join the NCPRI]". First you say let's develop a membership, then you say you will screen, you will make them sign a letter. So this is transparency. What transparency and democracy are you talking about if you're going to screen people to join NCPRI? And who are you anyway? What is it that makes you call yourself 'national'? And they were all Delhi people. There were no national people."[215] "The idea was to interface with a lot of groups. But none of these groups picked it up, no one joined that larger collaboration, the umbrella group. This lot only interacted with other small splinter maverick groups who worked on RTI, they would talk only with each other, and every time a state passed a law, they would jump up and down and say "We did it". This could have been happening for other reasons too. There was just no acknowledgement of that."[216]

[214] Interview with JQT839, 16 October 2009.
[215] Interview with FMD382, 21 November 2009. Emphasis in expression.
[216] Interview with CVW435, 30 October 2009. These 'other reasons' will be examined in later chapters of this thesis.

The 'Grassroots' in the Movement: A Conscious Strategy?

While critics have contested the claim of inclusiveness and participation, the received 'truth' of the 'grassroots' nature of the movement is questioned on matters of scale, geography, type of leadership, and level of participation. "It's very romantic to say that this was a grassroots movement, but I think that's overstated very often because I feel that we didn't have the sort of national or even regional level upheaval that would have affected people in India, in Delhi, like a rally of 200,000 people. There was nothing like that. Because even if you look at the grassroots component, it was in a small part of one state, and to argue that politicians felt that this would become a problem, I don't think so. I'm not saying that it does not contribute anything, but I don't think that it was either a necessary or a sufficient factor [for the enactment of the RTI Act]."[217] However, the experience of the MKSS of 'working at the grassroots', even if at a very small scale, may have played an important role in the larger argument for an RTI Act, both in terms of the added legitimacy, as well as the actual content of the legislation. "It's very important that people like Aruna [Roy] got the stature they got, because that stature then later on could help the RTI movement. They would not have got [this stature if] they did not have the grassroots movement behind them. [In addition,] a certain amount of innovativeness came in. When the law was being drafted, keeping in mind a person in rural Rajasthan actually did make the Act such that it would facilitate the poor person so that he could use it. Because many other countries where the whole movement is based amongst lawyers, or journalists or academics, that perspective does not come through, and then it becomes a self-satisfying prophecy that poor people won't use it."[218]

[217] Interview with YDS558, 13 January 2009.
[218] Ibid.

Further, the regular invocation of the grassroots experience may indeed have been a part of the strategy to strengthen the demand for an RTI Act, and leaders of the movement acknowledge its importance. "In India, and it is as it should be, that you may work as much as you want to, but unless you have a grassroots linkage, you are not going to get the halo that is required. MKSS channelized the energies, and that I think led to a lot of legitimacy. A lot of people of the sorts who might not have gotten enthused if it didn't deal with grassroots issues, got enthused *because* it dealt with grassroots issues. Someone like V.P. Singh for example, if you only spoke from an academic or professional perspective, might not have had that enthusiasm about the RTI movement as he did."[219]

At the same time, a different interpretation of the grassroots mobilisation work of the MKSS also exists. "Theirs is a different kind of grassroots work. They had a unique kind of organising which was organising campaigns; creating a groundswell of public opinion, in which the state also was an actor, and others. You create a groundswell of public opinion, and use that groundswell as a pressure, to be able to extract some concessions from the government. They followed a different brand of organising without much of grassroots work. [They raised] issues that were topical but important at that point of time, like wages during drought. Drought has such a large kind of clientele, you can trigger it up, which one would call a movement, but it's somewhere in that grey area where collective self-interest is not necessarily a movement. But even very wide, large mobilisations, based on collective self-interest, are not sustainable without politicisation. I don't know to what extent they have that kind of politicised mass base. But they have a certain dedicated group of people, maybe 500, who will put aside others tasks, and will come to the gatherings."[220]

[219] Ibid. Emphasis in expression. As the reader will recall, Ajit Bhattacharjea was also highly impressed by the grassroots aspect of the work of the MKSS.
[220] Interview with WKI942, 1 December 2009.

Stronger critiques suggest that the centrality of the 'grassroots' in the narrative is essentially a consciously manufactured myth. "It's not a demand that came from people. It was a demand that was *made* to look like it was coming out of the people and it was articulated on behalf of them. And then came this whole ability to articulate, which was certainly what [these] people were able to do. [They are] well-meaning at some level. The problem comes in projecting it as something it isn't. It is not something that has come out of this large people's movement and demand. This ability to, in a way, make a mountain out of a molehill is actually quite fascinating. The *process* is being made out to be something very very widespread, and bottom up. I think this has been a fantastic exercise in communication."[221] That the MKSS has worked regularly and directly in approximately only 30 villages in Rajasthan appears to bear out this concern around scale.

Even as such criticisms surfaced often, a more nuanced understanding of such strategies was proposed by another respondent. "You have to keep in mind that most of the people who are questioning the existing system and are trying to bring about reform and changes, are facing very very serious opposition, both from legitimate sources, and from vested interests. There are some groups which are opposing them for genuine reasons of concern, at their methods or at the principle itself, whereas there are certain others who are opposing because of either political or financial interest. Inherent in that kind of a conflict situation is strategic response of exaggeration - in the sense that these small institutions have to exaggerate a particular problem or have to take a particularly belligerent line aggressively, sometimes adopt means, which by pure standards can be questionable, just to make an impact on much larger systems that are opposing them. The vested interest system is as large, if not larger, than the formal structures that are functioning legitimately... Therefore, if ultimately public interest is going

[221] Interview with JQT839, 16 October 2009. Emphasis in expression.

to be served by something which is a little questionable, or there could have been a more patient way of dealing with it, or a smoother transitional phase could have been initiated, we have to look at that aspect with a little bit of sympathy."[222]

Examining such strategies used by the leadership in conjunction with the image of vast swathes of humanity pouring into the dusty weather-beaten paths of rural India vociferously demanding a right to see government-held records does appear to cause a significant degree of rupture to one of the foundational aspects of the established narrative. This disjuncture - that a densely networked elite urban group came to represent a publicly proclaimed grassroots struggle - is not lost on the rural collaborators of the established leadership. They are cognisant of the impact of social class on processes of change, and the differentiation in roles between the leadership and the 'led'. In a conversation held with Shankar Singh, he affirmed that this was the larger structural context they worked within. "We all work with it, live with it. We all know that this is the truth." [223] However, he did not have any individual conflict with either Roy or Dey, and as far as he was concerned, they were all equals, and treated each other as such. At the same time he was cognisant that had Roy and Dey not been at the forefront of the movement, it would not have taken on the proportions that it did. The MKSS and the NCPRI were able to ratchet up the demand and take it to the national level "because they already have such potent seeds of power. They're not just nobodies who've become powerful, they are not the Mayawatis of the world. They're already pedigreed. They've used that pedigree for a good thing, and I'm glad it happened."[224]

[222] Interview with NXW937, 20 November 2009.
[223] Field notes, 23 February 2009.
[224] Interview with FMD382, 21 November 2009. Mayawati is the leader of the Bahujan Samaj Party, and is perhaps the best known *dalit* leader in the country. Born into a very humble family (her father was a post office employee), she rose to become the first *dalit* woman Chief Minister of any state (Uttar Pradesh) in India in 1995. Since then, she has been returned to that office on three occasions.

The leadership of the RTI movement as defined in the mainstream and established narrative of the history of the enactment of the RTI Act thus belongs to a very specific elite fraction of urban upper-middle class Indian society. The main characteristics of this fraction are high-levels of education (*not* first generation) received in elite liberal cosmopolitan institutions both in India and abroad, a family background embedded in the higher ranks of government (there is no one from a business family in this group), primarily urban (no landed rural elite either, for that matter), with a bias towards a large number of years spent in Delhi, a tremendous command and facility with the English language, a left-liberal ideology, and intricate social, professional and individual ties with the higher echelons of the civil service, judiciary, mainstream media, academia, and some sections of the political class (who themselves possess a similar socio-economic profile).[225] Layering these characteristics, along with the strategies used upon the dominant narrative thus problematises several of its foundational elements - that the RTI Act was enacted primarily as a result of pressure exercised on the state by a grassroots movement in rural Rajasthan, that the process was an inclusive and participatory one, and that the demand for an RTI Act had a widespread, national character. This 'alternative' narrative summarily rejects these assertions by locating the leadership of the movement in a world not only quite distant from the 'grassroots' periphery, but embedded in the ruling elite at the centre. While gentler versions of the critique acknowledge that the grassroots 'struggle' may have played an important, if exaggerated role in the process, more strident versions reject this altogether, and suggest that the grassroots 'struggle' has been consciously amplified to take on mythical proportions to claim credibility and legitimacy by a precious few - no doubt for the creation of a 'public good' - but which calls into question the credibility and legitimacy of the larger process itself. However, whether or not the process was legitimate and credible, what cannot be denied is

[225] In political terms, this could also be loosely stated as being in greater alignment with the 'Congress scheme of things'. This aspect of the ideology came through in all conversations and interviews I held.

that the outcome was spectacularly successful, and a strong and popular RTI Act did get enacted. It is here that a more difficult question arises. Are elite leadership (whether legitimised within a discourse of 'sacrifice') and the participation (even if in a produced, strategic sense) of the 'grassroots' sufficient conditions to ensure the success of any process that makes claims on the state? This cannot be said to be true. For example, a significant section of the *same* leadership, using similar strategies, has been lobbying for a national legislation on food security for some time now, with little success.[226] What other variables could have been at play that granted the RTI movement such spectacular and widely celebrated success? Perhaps some clues towards answering this question may lie in examining the relevant theoretical landscape.

Looking for *Anhad Naad* in Theory[227]

While there is no doubt that organised protest and claim-making activities did take place during the 1990s and early 2000s in rural Rajasthan, which included the participation of a wide cross-section of local residents, that the process was led and mediated by individuals who belonged to the urban middle-class is also borne out by facts. Therefore, when Jenkins and Goetz state that "the nature and utility of rights are linked to the *process* by which they are obtained, and that the meaning of established democratic concepts can be transformed through political practice" (1999: 610, emphasis added), it becomes important to consider the impact that the social background of the leadership has on the *process*. At this juncture therefore, it becomes necessary to define the nature of the class that the leadership of the

[226] Key actors on this issue include Aruna Roy, N.C. Saxena and Harsh Mander, all of whom are part of the second avatar of the NAC during the current term of the UPA government.

[227] '*Anhad naad'* means the eternal, internal resonance that all beings have with the cosmos. Seeking it in 'theory' is no doubt a difficult task. However, theories often work (or fall) at the plane of resonances, and it is in this sense that I am using this metaphor.

movement belongs to, and by extension the political practices it was able to and did use in the process.

Making a tentative beginning towards this, what cannot be debated is that the leadership of the movement belonged to the middle-class - in that none of them (apart from Shankar Singh) belonged either to the working or the landed or the capitalist classes.[228] While several attempts have been made to define the middle-class in India, ranging from empirical approaches such as income levels, consumption patterns, educational levels, participation in the formal economy, sectoral composition, to sociological categories such as occupational characteristics, caste, and so on, perhaps the definition which resonates the most with this research is the one advocated by Satish Deshpande.[229] In a paper on middle-class activism in Indian cities, John Harriss expands upon this definition, and it is perhaps worth quoting it here in full.

> "The middle class is the class that articulates the hegemony of the ruling bloc - in the senses both of "giving voice to" and of linking or connecting (here especially the relations between the ruling bloc and the rest of society); it is the class that is most dependent on cultural capital; and it is an increasingly differentiated class - its elite fraction specializing in the production of ideologies and its mass fraction engaging in "the exemplary consumption of these ideologies, thus investing them with social legitimacy." In this essay I mean to refer (descriptively) to those disposing of significant cultural capital - which may consist of particular types of identities (in terms of caste, community, or region) and competences (educational, linguistic, or other social skills - usually including a facility in English) - and who have some property or relatively well paid salaried or professional employment, and who are consequently generally somewhat better off than the majority of people in Indian society." (Harriss, 2006: 447)

[228] Here, my definition of the 'leadership' is quite specific - the founder-members of the MKSS and the NCPRI (as well as those present in figure 4.1). Shankar Singh and Shekhar Singh should not be confused with each other. The former is one of the founding members of the MKSS, the only rural collaborator amongst them, while the latter is an academic and one of the founding members of the NCPRI.
[229] For a good review in the context of India, see Sridharan (2004).

Juxtaposing the acknowledged leadership of the movement against this definition is an instructive exercise. In the first instance, the 'linking' function between the ruling bloc and the rest of society was indeed performed by the leadership of the MKSS and the NCPRI. In practically each act of representing the voice of the rural and the marginalised, whether directly in meetings with politicians, parliamentarians, bureaucrats, journalists, legal luminaries and academics, or indirectly by articulating their concerns and lobbying for an RTI Act through the public media, workshops, seminars, and other spaces for public debate, it was this specific leadership that participated - *legitimised by* and *on behalf of* the 'rest of society'.[230] In the process, was this leadership engaged in 'articulating the hegemony of the ruling bloc'? At this juncture this does not appear to be true as one of the central stated aims of the movement was to fundamentally alter the citizen-state relationship through the demand for an enabling legislation such as the RTI Act.[231] In addition, the more celebrated forms of protest and claim-making in the process (such as *dharnas* and especially *jan sunwais*), for all the criticism above, were also deeply oppositional to existing structures of governance and the daily practices of the state. The leadership therefore appears to fall only partially within this aspect of Deshpande's definition of the middle class. While it did indeed perform a linking function, it seemingly did so in the 'upward' direction, rather than a 'downward' one.

That the leadership relied heavily on its 'cultural capital' to achieve its goals is perhaps a more straightforward proposition. The intense individual, social and professional relations that the leadership had not only within itself (which is unsurprising given the large degree of homogeneity observed in the family and social backgrounds of this leadership), but also in influential spaces within the government, the media, and academia, peopled as they are by others of their ilk, has been elaborated in detail earlier in this chapter. Some manifestations of

[230] This also brings to the fore another much debated question - to what extent and in what forms can the 'rest of society' actually speak for itself in spaces of influence. See Spivak (1988) for the classic argument on this issue.
[231] The unquestioned truth of such an assertion will be examined later in the thesis.

the constitutive elements of the 'cultural capital' that the leadership possessed - such as its knowledge of English, its intricate social links with the powerful and the influential, the ingrained abilities to network with them, the ease with which it negotiated what would otherwise have been considered as daunting spaces and interactions, and the self-confidence to be able to do all of the above - point to the embodied (including linguistic) cultural capital that the leadership shared *inter se* as well as with relevant members of the ruling elite.[232] In terms of institutionalised cultural capital, the educational and professional background (such as being alumni of elite educational institutions, or being a part of the IAS) of the leadership again points to a shared (and well-formed) habitus with each other as well as the ruling elite.[233] In this sense then, the leadership falls squarely within Deshpande's definition of the middle class, as many of the actions that were key to the process, as delineated both in Chapter 3 as well as above, could not have been carried out had it not possessed this reservoir of cultural capital to draw upon.

Given that the established leadership was central to the production and public articulation of the demand for an RTI Act, it could also be proposed that it was indeed a part of the 'elite fraction specializing in the production of ideologies' within the differentiated strata of the middle class. The corresponding role of the 'mass fraction' in consuming these ideologies and providing social legitimacy also appears to hold true in this case, particularly in the role that the media played in the process. Mainstream media, especially English-language media, with its primary audience and consumers being the urban middle classes, came out in strong support of the demand, positioning it as an important tool to fight corruption. The leadership and its demands thus gained tremendous social legitimacy amongst the 'mass fraction' of the middle class through this process, which in turn gave it greater leverage in terms of its

[232] After Bourdieu.
[233] The shared cultural capital also extends itself to the social capital of this leadership, especially in terms of the 'mutual back-slapping' and 'incestuous circles' referred to earlier in the chapter.

negotiations with the government. In part, this process also allowed the dominant narrative to be produced, consumed and established within the framework and experience of a grassroots struggle. In many ways, this experience also reinforces the fact that political power essentially resides with that fraction of the social continuum which can, and does produce knowledge.[234]

Deshpande's insight into the defining characteristics of the middle class thus appears to provide a useful framework for the purposes of this thesis. It suggests that the process leading to the enactment of the RTI Act in India was profoundly shaped by an elite fraction of the middle class, and the enactment was not merely the result of the government responding to pressures from below. However, such an observation by itself does not quite whet the intellectual appetite, and at least two obvious questions arise.[235] First, if an elite fraction of the middle class, defined as it is by its function ('linking' and 'giving voice'), its resources ('cultural capital') and its specific typology ('elite' and not 'mass') substantially informs a given political process, what are the implications of this, both on the process, and in this case, on the larger concerns around democratic deepening? Perhaps the most obvious implication is that the range of resources, spaces and actions that are available to and used by an elite fraction of the middle class are *not* the same as those available either to its mass fraction, or to lower classes. For example, the ability to access individuals and spaces of influence was possible for the elite fraction (which in part *makes* it the elite fraction) while this is not possible for a landless peasant in rural Rajasthan. At the same time, the leadership of the movement consistently argued that an RTI Act reduces the arbitrary exercise of power as

[234] This resonates well with Bourdieu's contention that the "theory of knowledge is a dimension of political theory because the specifically symbolic power to impose the principles of the construction of reality - in particular, social reality - is a major dimension of political power" (Bourdieu, 1977: 165).

[235] Perhaps most importantly, these questions also point to the fact that existing analytical approaches do not adequately engage with class analytics as an explanatory framework in the context of social movements specifically, and 'civil society' generally, particularly in the Indian context. This phenomenon has been discussed in detail in Chhibber (2008).

exemplified by the phrase *"Ya tho jack ho, ya cheque ho..."* (Roy and Dey, 2002: 79). The phrase means that to achieve anything beyond the usual pale, one must have either connections (someone to push you up, much like a vehicle is 'jacked' up) or money. Although no critique suggests that the latter was used by the leadership of the RTI 'movement',[236] that they possessed and used 'jack' for pushing for the enactment of the RTI Act has been consistently articulated earlier in this chapter. In a profoundly ironical way then, the strategies employed by the leadership, by virtue of their belonging to an elite fraction, thus appear to strengthen those very structural inequities that the movement purported to subvert. A recent unpublished doctoral thesis also speaks of a similar disjuncture in the context of transparency activism in Delhi. "Activist campaigns to get transparency and accountability legislation passed rely in part on the personal connections to the highest levels of government of activists from India's social elite... Social and cultural capital, space, class and gender distinctions emerge as significant factors in the everyday practice of activism, in turn reproducing existing social hierarchies in activist organisations" (Webb, 2010a: 3). This leads us to another difficult question. Can the use of strategies, spaces and actions available *exclusively* to an elite fraction of society, therefore making the process inherently undemocratic, bring in meaningful democratic deepening? Judging by the responses of the leadership to this vexed question (as mentioned earlier in this chapter), an awareness of this irony exists, even as it is explained by the imperatives of realpolitik and the necessity for strategic action. Had these 'undemocratic' strategies not been adopted, perhaps an RTI Act would not have been enacted at all. To extrapolate from Bourdieu, the 'rules of the game' have to be first understood (and played with) before they can be broken. The instrumental impulse thus appears to have won in the end.

[236] Although their resource constraints were relatively low, as discussed earlier in this chapter.

Second, elites as agents of change is a well-documented social phenomenon. Should the 'discovery' of the involvement of an elite fraction of the middle class in the RTI narrative therefore be considered surprising at all? 'Successful' social movements, both in India and elsewhere, have more often than not been led by middle-class activists, not least because of the access they have to sources of power, but also because they possess the resources, tools and technologies necessary to be heard and influence processes of social change.[237] In this sense, Partha Chatterjee's distinction between civil and political society finds relevance here. Chatterjee proposes that the politics of protest and claim-making in the Indian context displays two distinct forms. Civil society is populated and managed by the privileged. Its members use strategies and actions that exist within the domain of formal institutions and legality, and the language of its discourse is premised upon individual rights and entitlements.[238] Civil society interacts with the state directly, and in turn the state recognises it as a legitimate and legal political actor. In terms of outcomes, it does not (and by its very nature, it cannot) significantly alter existing social patterns. NGOs, associations, lobby groups, all fall within this category. Civil society is thus defined as "those characteristic institutions of modern associational life originating in Western societies that are based on equality, autonomy, freedom of entry and exit, contract, [and] deliberative procedures of decision making" (Chatterjee (1998: 234) quoted in Corbridge et al (2013, forthcoming)). Political society on the other hand, is mainly comprised of the poor, the vulnerable and the marginalised, exists on the peripheries of legality, is confrontational, needs brokers or mediators to represent it to the state, and articulates its demands primarily within the framework of group identity (such as caste, slum dwellers et al). It is this group identity that gives it its strength, even as it defines the strategies and actions available to it.

[237] For specific examples, see Grindle (2007), Harriss (2006) and Chapter 11 in Corbridge et al (2013, forthcoming).

[238] In many ways, and with a special reference to legality as a distinction between the two, Chandhoke's (2003) proposition that the contours of civil society are in the end defined and drawn by the state (and therefore cannot be seen as existentially oppositional to the state), serves as a precursor to Chatterjee's framework.

The mainstream narrative of the enactment of the RTI Act suggests that the process primarily belonged to the latter category. By being in confrontation with the state, by seeking to fundamentally alter the citizen-state relationship, and by using 'popular' forms of protest, the 'grassroots' waged a political struggle and scored a resounding victory over a recalcitrant state. However, the 'alternate' narrative above suggests the converse. The centrality of the involvement of an elite, the recognition (in fact support, through the NAC) accorded by the state to the 'movement',[239] and the legal nature not only of the process, but also the fact that the demand was, after all, for another law - all suggest that the process was as 'civil' as it could possibly be. To add to the Janus-like nature of this example, we could again argue that although the leadership belonged to an elite fraction of the middle class, and thus naturally exuded 'civility', the strategies it used were premised on its own ascriptive identity based on the specificity (and homogeneity) of its social class. In this sense, the leadership displayed a characteristic typically associated with political society - that of finding its strength and support as a direct consequence of its own form of group identity.[240]

In the case of the RTI Act, one could continue to point out instances where civil and political society leach into each other, and this could lead us to debunk Chatterjee's thesis and argue, as several others have done, that the civil and political society distinction is a false one.[241] But perhaps a more challenging question would be why *this* particular movement succeeded, regardless of whether it belonged to the realm of civil or political society. Would a similarly 'powerful' group, with the involvement and support of individuals from similar elite

[239] For example, through the direct participation of the 'movement' in the law-making process, which will be discussed in greater detail in the following chapter.
[240] Of course, the benefits of the demand being made in this case - an RTI Act - seemingly do not accrue only to this group, as would be expected in the case of demands premised on the accepted notion of identity politics. I am commenting here specifically on the fact that it is not as if identity politics do not play a role in 'civil society'; it simply takes on different forms, and exists at a different level of sophistication. In any event, that the RTI Act benefits all of society equally will be reexamined later in the thesis.
[241] See Corbridge et al (2005), Jeffrey (2010), and Lemanski and Lama-Rewal (2012) for some critiques.

backgrounds, and with the support of some (or even large) sections of the grassroots, be as successful in pushing for other, perhaps more contentious demands such as ownership over natural resources? We know from other examples, such as the Narmada Bachao Andolan, that this may not always be the case.[242] Perhaps most damningly, a significant part of the leadership of the RTI movement has also been lobbying for progressive legislation on food security and land acquisition amongst other issues, with much lower levels of success.[243] How can these differences in levels of success be explained? Do these differences arise from the nature of the demand itself? Could it therefore be proposed that the civil and political society distinction is best understood when it is limited to the nature of the demand, and not by focusing on the process, the composition, or the strategies employed?

A pithy insight from a respondent appears to support this direction of thinking. "This [the RTI] is the one Act that [has] captured not just national imagination, but the international imagination, because it is of such a wide and general nature, an all-encompassing nature. Let's say that there is some pro-poor legislation vis-à-vis Special Economic Zones, it's never going to capture the imagination of the general public. NREGA is not there in the consciousness of the average person who reads the newspapers. The media is not really going to chase it the way it has chased RTI."[244] The *idea* of the RTI then is an inherently 'civil' one. It resonates deeply with notions of citizenship, of rights-based approaches and entitlements, of the accountability of the state, and of democratic deepening. It suggests a picture of an accountable, responsive, responsible state - an irresistible image that popular media produces, and is eagerly consumed (and supported) by the middle classes. At the same time, the same degree of acceptability and celebration has not been accorded to legislations such as the NREGA, the proposed Food Security Act, or the laws related to land acquisition by the state.

[242] See Baviskar (1995).
[243] These include Jean Dreze, Aruna Roy, Harsh Mander, and N.C. Saxena, in a large part through the NAC.
[244] Interview with JQT839, 16 October 2009.

Such concerns, especially in comparison with the RTI Act, have been highly contentious and continue to engender acrimonious public debates. In this sense, these could be seen as examples of demands that belong to the realm of 'political' society.

Thus, we could perhaps approach the civil and political society distinction in a more tenable fashion by suggesting that if the nature of a demand seeks to fundamentally alter the location of power, influence and privilege, it could be considered to belong to the realm of political society, regardless of where and in what form the demand is being made. As a consequence, such demands, by definition, would *not* be acceptable to the ruling elite and would therefore be contested vigorously. If however, a demand does *not* seek to reconfigure the status quo, it would be acceptable to many (especially the ruling elite), and therefore any action towards realising such a demand belongs to the realm of civil society.[245] One could extend this by proposing that since civil and political societies cannot be hermetically separate entities, a better distinction to use might be civil and political *ideas* (which may or may not develop into *demands*), rather than societies.[246]

However, if this theoretical proposition was to be applied to the case of the RTI Act, a seemingly intractable conundrum emerges. The RTI Act has been produced and celebrated as a seminal piece of legislation primarily *because* it claims to alter the status quo - by recalibrating the citizen-state relationship. And yet it appears to have gained tremendous acceptability across the social spectrum, including amongst significant sections of the ruling elite. In this case, how can the demand for it belong to both the civil and political realms?

[245] In this sense, this ties in with Deshpande's definition of the elite fraction of the middle class - that it is deeply embedded within the ruling elite and is engaged in the production of ideologies.

[246] Returning to an earlier example for purposes of illustration, *The Indian Express* newspaper supported the NAC and its membership in its first stint while its attention was limited to 'civil' ideas such as the RTI Act. In recent times, as the NAC has begun to deliberate upon more 'political' ideas such as land acquisition, it is being consistently attacked by the same newspaper, which now questions its legality and legitimacy.

Perhaps it is here that a critical clue lies in the development of this research. Could it be that the RTI Act is not as radical, and as questioning of existing power structures as is being claimed? If an idea is accepted (and in some ways even celebrated) by the ruling elite, can it be an existential threat to existing power structures at the same time?

One possible way to examine this mutually exclusive contention would be to take a closer look at the changing nature and composition of the state and the ruling elite in India. It is to this concern that this thesis will turn in the following chapter, using the second major silence identified in the dominant narrative - the role of the state - as its entry point.

Chapter 5

Opening Up the Government

"The days of the so-called mai-baap sarkar *are over."*[247]
- Hamid Ansari, Vice-President of India

"Sonia jiski mummy hai, woh sarkar nikammi hai;
Manmohan jiska tau hai, woh sarkar bikau hai;
Anna sabka baap hai, rishwat lena paap hai!"

(Useless is the government whose mother is Sonia Gandhi;
Up for sale is the government whose uncle is Manmohan Singh;
Anna (Hazare) is father to all, taking bribes is a sin.)[248]

Any observer of politics in India has to lock horns with the word s*arkar* quite expeditiously. The word derives from Persian, and can be broken down to *sar*, which means 'head', and *kār*, which means 'agent' or 'doer'. In the days of the Mughal kings, the word meant 'province' or 'district'. Centuries later, contemporary democratic times have anointed it as the primary Hindi word to denote 'government'. For example, the 'Government of India' is known in Hindi as '*Bharat Sarkar*'. However, the word *sarkar* exudes deeply feudal connotations, carried over perhaps from the Mughal days. Apart from 'government', the word is also used in the sense of 'lord' or 'master', and where greater obsequiousness is required, it may imply 'lord *and* master'. The lead character of a recent eponymous film was a Mumbai-based mafia overlord, a paternal figure of admirable (if illegal) morality, dispensing justice quickly and

[247] In a lecture on 'Governance and Public Service' organised by the Union Public Service Commission, New Delhi, 3 May 2011. From "Days of So-Called 'Mai-Baap Sarkar' are Over: Ansari", *Outlook* magazine, 3 May 2011. *Mai-baap* literally means 'mother-father', and in this instance denotes a paternalistic, intensely controlling state.

[248] Slogans from the Anna Hazare-led movement against corruption in Ramlila Maidan, New Delhi, August 2011. The Hindi word for uncle used in the slogan is *tau,* the eldest brother of the father, which implies being the head of the extended family. Famously, former Deputy Prime Minister and Haryana politician Devi Lal was referred to as *tau* as an honorific.

fairly in support of the oppressed and the vulnerable.[249] In some ways, the choice of *this* word, *sarkar*, to denote 'government', over perhaps more staid and 'classical' alternatives such as s*hasan, prashasan, rajya,* and *tantra* is revealing.[250] 'Government' then, has been reified as an entity that has a deeply paternalistic and feudal relationship with the people it governs. The primary responsibility to 'act', and thus the strongest agency lies with the government, and the citizen is essentially a vassal.

The quotes above also introduce another relational framework into the mix - that of the family. The primacy of the family in the structuring of the Indian social fabric is well-established.[251] Within the family structure, authority figures are well-defined, starting with the parents, particularly the father, and reaching into the extended family structure. When this mode of relationship is extended to the realm of leadership and government then "the ideal leader is a kind of benevolent patriarch who acts in a nurturing way so that his followers either anticipate his wishes or accept them without questioning... [He is] authoritative but not autocratic, sometimes despotic perhaps, but generally benevolent" (Kakar and Kakar, 2007: 16-17, 21).

When the Vice-President says that the days of *mai-baap sarkar* are over, he is suggesting that imagining such a family-based mode of relationship between the government and the

[249] Directed by Ram Gopal Varma, the film *Sarkar* was released in 2005. Its plot and treatment had unmistakable overtones of the classic 1972 film *The Godfather.*

[250] Of these, *shasan* and *prashasan* have been used in the larger context of government, but specifically in the sense of 'administration'. For example, the government of Delhi used to be referred to as Delhi Administration, or *Dilli Prashasan,* when the city was governed directly by the central government. This changed to 'Government of the National Capital Territory of Delhi', or *Dilli Sarkar* once Delhi acquired its legislative assembly in 1991. Democratisation, it would appear, brings in a feudal element into the equation. Further, the Indian Administrative Service (IAS) is known as the *Bharatiya Prashasanik Seva* in Hindi. *Rajya* is the word used for 'state', but more in the sense of a politico-geographical entity, such as the 'state of Punjab'. Perhaps the most complex of these terms is *tantra* which could mean 'system', or 'doctrine', even as it is better known in the context of an esoteric Hindu tradition aimed at achieving liberation.

[251] Not to mention the body-politic as well. Dynastic politics continue to be an important concern in the public discourse related to politicians.

governed is no longer tenable.[252] At the same time, the slogans from the Anna Hazare agitation appear to reinforce the familial trope within this discourse. On the face of it, these two interpretations of a defining characteristic of 'government' appear to be mutually exclusive. However, a closer reading reveals that the two may not be as contradictory as they might seem at first glance. Sonia Gandhi is the mother of the government, *not* of the governed, and Manmohan Singh is the *tau* of the *sarkar*, *not* of the people (and the same government is being given a verbal lashing for being incompetent and corrupt).[253] Anna Hazare meanwhile, is given the mantle of the father figure, much on the lines of the 'father of the nation', Mahatma Gandhi. Between these two examples (the vice-president's assertion and the slogans) it could be proposed that even as the familial relationship between the government and 'the people' lies in tatters, a similar relationship between the political class and the government appears to be blossoming, and a 'popular' non-political leader is anointed as the head of the family, in this case, of 'the people'.

If the nature of society and institutions is to be understood primarily within a framework of relationships, these seemingly unrelated utterances raise some significant questions. What is the nature of the relationship between the government and the governed in contemporary India? Has this relationship changed very dramatically in the recent decades? Further, what is the relationship between the political class (including the political executive) and the 'government', and perhaps more importantly, how is each constituted, and has their composition also changed?[254] Are these changes reflective of the much analysed, much desired, and much vaunted processes of 'democratic deepening'? The lens I will use to

[252] In academic terms, it suggests a move from clientelism to citizenship.
[253] This is an interesting contrast to Indira Gandhi, who was has on many an occasion been invoked as 'Mother India'. It would appear that the daughter-in-law has been less successful on the 'motherhood' scale, managing to bear only the government so far.
[254] It must be noted here that the term 'state' has not appeared in the chapter yet. This is not an act of omission. There is no comparable word for 'state' (in the political, not merely geographical sense) in Hindi, which itself is worthy of further enquiry.

explore these and other related questions is the second silence identified in Chapter 3 of this thesis, viz. the role of the state in the process leading to the enactment of the RTI Act in India in 2005. By examining in detail the production of this specific legislation, it is hoped that a more nuanced understanding of the contemporary state in India itself will be developed.

Data for this chapter have been culled primarily from two sources - interviews with senior bureaucrats (serving and retired) typically belonging to the IAS, who have dealt directly with the process of the enactment of the RTI Act at different historical points, and the examination of vast reams of internal government papers (including archival research) related to the enactment of the RTI Act in India. In the case of the former, most names have been changed, and have been indicated as such. The reasons for doing so are unsurprising. Most civil servants, whether serving or retired, are far more candid when their anonymity is guaranteed. To ensure the same, I have only provided pseudonyms and the date of the interview. Any other information, such as the designation or name of an associated government department that could potentially identify the person has been consciously omitted. Internal government papers were accessed by filing applications for information using the RTI Act 2005 itself. The concerned nodal department at the central government level was the Department of Personnel and Training (DoPT), under the Ministry of Personnel, Public Grievances and Pensions.[255]

[255] Details of this process were discussed in Chapter 2.

The Role of the State[256]

It is not as if the dominant narrative around the enactment of the RTI Act is *completely* silent on the role of the state in the process. The narrative does acknowledge its role, but almost exclusively in negative terms, particularly with reference to the bureaucratic arm of the state.[257] Typical examples run along the lines of the following: the permanent executive "has guarded information through red tape and a classification regime fine-tuned over a period" (Niranjan, 2005: 4870); A "factor that fundamentally threatens the process of bringing information into the public domain is the authorities' apparent lack of intent that it should prosper" (Roy and Dey, 2002: 89); "Its [the RTI Act's] many powerful detractors have fought a determined game of subterfuge and sabotage to hold onto a regime of exclusive control. The passage of this law marks for them a severe setback in the legal battle. This loss was not due to any lack of effort.";[258] "Sonia Gandhi together with NAC members who were associated with the NCPRI ensured that the RTI was finally presented in parliament to become a national law despite the quiet resistance of the bureaucracy" (Baviskar, 2007: 19); and perhaps most succinctly, "The law was passed despite the bureaucracy" (Kidambi, 2008: 21). In effect, the narrative asserts that the enactment of the RTI Act in 2005 is primarily a victory of the people over an obdurate state, particularly a bureaucracy loath to cede its untrammelled hold over information, and that this experience is an inspiring example of successfully bringing "peaceful democratic agitational pressure on the authorities" (Mander and Joshi, 1999: 14-15). In addition, the dominant narrative is premised upon the assumption

[256] I use the term 'state' largely in its classical Weberian sense. It includes the permanent bureaucracy, the government (including the political executive) at a given point in time, and the Parliament. Although the judiciary no doubt is an important element of the state apparatus, the role of the courts in promoting the 'right to know' is *not* dwelt upon in great detail in this chapter as this was discussed in Chapter 3.

[257] The dominant narrative does privilege the role of the political class in the process, though in the specific individual actions of Sonia Gandhi as the head of the Congress party and Chairperson of the National Advisory Council (NAC), as detailed in Chapters 3 and 4.

[258] From "The Problem" authored by the MKSS Collective in "Speaking Truth to Power: A Symposium on People's Right to Information", *Seminar* magazine, Issue 551, July 2005.

that the role of the state was primarily reactionary, in that it considered and acted upon (essentially by resisting) the proposal of greater transparency only *in response to* demands from the 'outside'.

Much of this appears to be in the 'natural order' of things, and cannot be overtly contested. However, several layers of complexity are added to this perspective from other quarters. Apart from civil servants who proffer alternate perspectives, government papers also seem to suggest that the state played a more complex role in the enactment process than of being merely a spoiler. The contestation with the dominant narrative primarily revolves around two broad themes. First, it questions the assumption that the impetus that eventually led to the enactment of the RTI Act in 2005 came largely from the sphere of activists and citizens' groups. This perspective thus refutes a foundational characteristic of the existing explanatory discourse - that of the RTI Act as an example of a reform carried out *in response to* pressures from below. The second point of contestation lies with the assertion of the dominant narrative that the role of the government, especially the permanent bureaucracy, was primarily one of resistance. Although some accounts from within the government do support this assertion (albeit on specific aspects and from specific quarters), others dismiss it, even as a closer examination of the evidence brings forth several complexities. For example, was the resistance of an all-encompassing nature, rejecting the very idea of freedom of information, or were there subtle (and critical) distinctions being made in terms of what could or could not be disclosed? Who stood to gain (or lose) from these distinctions? If bureaucratic 'resistance' did indeed exist, on what counts did the bureaucracy succeed in 'resisting', and on what others did it fail, and why? To what extent did other political events taking place in the country impact the nature of the resistance?

In the following section of this chapter, I will take up these two themes for detailed discussion in an attempt to examine the nature of the role of the state in the process leading to the enactment of the RTI Act in 2005.

Transparency-Related Reforms in Post-Independence India: A Top-Down or a Bottom-Up Process?

The Early Phase (1947-1989): Some Talk but No Action

In the context of the RTI Act, existing accounts suggest that apart from judicial pronouncements (mentioned in Chapter 3), the impetus for enacting a legislation related to freedom of information came largely from the environmental movement in the 1980s, and the 'people's movement' in Rajasthan from 1990 onwards, while the government, particularly the bureaucracy, essentially acted in response to pressures from without. However, there is other evidence to suggest that sporadic, if unsuccessful, efforts from within different organs of the state to increase government transparency had indeed been made in previous decades. Such efforts rallied primarily around the need to amend the much reviled Official Secrets Act of 1923. A brief chronology of these efforts is provided in the table below.[259]

[259] These do not include judicial pronouncements as this chapter concerns itself primarily with the role of the permanent bureaucracy, even as these were described in Chapter 3.

Table 5.1: Key events supporting greater government transparency, 1947-1989

Date	Event	Outcome
5 January 1966	First Administrative Reforms Commission (ARC) set up under the leadership of Morarji Desai.[260]	
February 1968	The Deshmukh Study Team submits its report to the ARC; Critiques certain clauses within the Official Secrets Act (OSA), the Civil Service Conduct Rules, as well as the Manual of Office Procedure that prevent civil servants from sharing information; Recommends "an information policy of providing maximum information relevant to a particular request rather than the prevailing practice of furnishing the minimum possible information, and very often less than that" (Srivastava, 2009: 114).	Recommendation not included in the report of the ARC.
1977	Post-Emergency, the Janata Party-led government sets up a working group of secretaries to examine whether the OSA of 1923 could be modified to enable greater dissemination of official information to the public.	Working group concludes that there is no need to amend the Act as the sharing of 'legitimate' information is not impacted by it.
1980	The Indian Institute of Public Administration (IIPA)[261] publishes a volume titled *Secrecy in Government,* a collection of papers on the subject in different countries across the world, including the United States and the United Kingdom. The volume was edited by T.N. Chaturvedi, a senior IAS officer (and later Governor of Karnataka).[262]	
1981	The IIPA publishes another volume, authored by Prof. S.R. Maheshwari, titled *Open Government in India,* perhaps the first publication to address this issue in the Indian context in such detail. The OSA, its history, and the need to amend it formed a major part of the book.	No changes made to the OSA.
1982	The Press Council of India conducts a series of studies on various legal topics including the OSA, 1923 and forwards its recommendations to the Government of India. This includes a study carried out by the Indian Law Institute which is highly critical of Section 5 of the OSA.[263]	No changes made to the OSA.

[260] A Member of Parliament from the Congress party at that time, Desai went on to become the first non-Congress party Prime Minister of India in 1977.

[261] The IIPA is the apex government body tasked with conducting training and research on administrative reforms. Shekhar Singh had joined the IIPA as faculty in the same year.

[262] In an interview, Chaturvedi recounted that this was a time when "some people found out that there are legislations like the right to information. Simultaneously there was talk of an ombudsman. How can they be effective, unless there is more information? That's why I decided that we should have an issue on secrecy in government. [Towards this,] we wrote to several embassies, we tried to get whatever information that could be collected." Interview with T.N. Chaturvedi, 23 November 2009, Noida, Uttar Pradesh.

[263] Section 5 of the OSA stated that "if any person having in his possession any document or information which has been entrusted to him in confidence by any government official, or which he has obtained as an official,

Interestingly, the discourse within which these efforts were located was the constitutional guarantees related to freedom of speech and expression, rather than concerns around corruption or livelihoods. This is unsurprising as the judicial pronouncements that peppered this period were premised on similar lines: "What is not a matter of opinion is the citizen's right to know. Information is not a gift in the bounty of the state. It is in fulfilment of the duty which the regime of the day owes to the people. The right to know is an integral, indispensable part of the fundamental right to freedom of speech and expression which is the very basis of democratic government. Of what avail is the right to speak if information is withheld or suppressed?" (Noorani, 1985: 1416). Yet, despite such lofty exhortations as well as the efforts highlighted above, precious little changed in practice. The OSA continued to remain unapologetically in place.

The Middle Years (1989-1996): A Push and a Pause

Immediately in the aftermath of the Bofors scandal, a more focused, high-level government initiative related to freedom of information came about when a coalition government headed by V.P. Singh came to power at the Centre in 1989.[264] This was perhaps the first instance where the perspective on government transparency was not merely articulated in negative terms in relation to the OSA, but in positive terms towards the development of an access to information regime, including the introduction of new legislation on the same. In its election manifesto, the (later victorious) National Front coalition under the sub-heading "Open Government" stated that "The National Front commits itself to full freedom of the media,

communicates it to any person, other than a person to whom he is authorised to communicate it, he shall be guilty of an offence… It proceeds further still. Any person who receives such document or information "knowing or having reason to believe" that it is being communicated in breach of the Act is also guilty of the offence" (Noorani, 1982: 1859).

[264] The Bofors scandal refers to the allegations of kickbacks received by senior Congress party leaders, including Rajiv Gandhi, in the purchase of artillery guns by the Indian Army manufactured by the Swedish company Bofors AB in the 1980s.

autonomous corporations for television and radio and elimination of practices that lead to direct and indirect arm-twisting of the Press. People's right to information shall be guaranteed through Constitutional Provisions" (National Front Party Manifesto, 1989, in Agrawal and Aggarwal, 1990: 69).[265] Once the National Front government was in place, this was elaborated to specifically mention a Freedom of Information Act. "Both the speech of the Prime Minister on 3 December 1989 on assuming office and the President's Address to Parliament on 20 December 1989 contained specific policy announcements on open government" (Centre for Policy Research, 1990: Foreword). Some months later, in his inaugural address to the Twentieth Conference of Ministers of Information and Cinematography in New Delhi on 18 April 1990, V.P. Singh proclaimed that "An open system of governance is an essential prerequisite for the fullest flowering of democracy. Free flow of information from the Government to the people will not only create an enlightened and informed public opinion but also render those in authority accountable… In tune with our firm commitment for transparent functioning of our Government, we propose to suitably amend the Official Secrets Act so that the people have increased access to information".[266]

The permanent bureaucracy's response to this push from the highest echelons of the political executive was not overtly adversarial. At the behest of the Ministry of Home Affairs, the Centre for Policy Research in New Delhi organised a workshop on "Freedom of Information and Official Secrecy" in March 1990. The forty participants in the workshop included representatives from academia, political parties, the voluntary sector, autonomous bodies, the armed forces, and senior government officials from, amongst others, the Ministries of Information and Broadcasting, Personnel (Administrative Reforms), Home Affairs, Law, and

[265] As described in Chapter 4, Shekhar Singh had been a part of the network of informal advisors to V.P. Singh, and this may indeed have had an impact on the importance being accorded to the right to information in the manifesto of the National Front.
[266] "Open Government Through Free Flow of Information", speech of the Prime Minister, Vishwanath Pratap Singh, New Delhi, 18 April 1990.

External Affairs.[267] In the end, the conclave was largely in favour of greater transparency, even as a cautionary note was raised. "Few countries, maybe no more than ten, have as yet adopted Freedom of Information Acts and no developing society... The country is embarking on an uncharted sea and the issues involved, first, conceptualising freedom of information and unravelling its complexities, and then formulating appropriate procedures and structures, need to be approached with great care and circumspection" (Centre for Policy Research, 1990: 3).[268] The participants were well aware that no low-income country had introduced an access to information law till date, and recommended wide national debate, possibly initiated through a discussion paper introduced in the Parliament that could highlight "foreign experience and survey the current states of the information regime and then go on to spell out the options and proposed amendments" (Centre for Policy Research, 1990: 40).

The Ministry of Home Affairs also constituted an Inter-Ministerial Task Force to develop a draft bill on the right to information, which was also tasked *inter alia* to conduct a survey of the 'foreign experience'.[269] "It was a Joint Secretary level committee, only officials [and no political figures]. That committee went to a few countries and thereafter it gave its report in two volumes. Somehow that report came into my hands, one volume only, and I requested the Home Ministry to give me the other volume, and give me the files on which this committee was constituted, the recommendations they made, and what was the decision of the Home Ministry on those recommendations. They said they have no papers on the subject. I didn't get anything except one volume, in which they only had copies of the legislations which they

[267] Interestingly, none of the 'usual suspects' that find pride of place within the dominant narrative were a part of this workshop. The MKSS would be founded some months later, while the NCPRI was still six years away from being formed. Other pioneers like T.N. Chaturvedi however, participated in this workshop.

[268] At this point, only the following fourteen countries had any kind of access to information laws (in chronological order) - Sweden, Colombia, Finland, United States, Denmark, Norway, France, Netherlands, Australia, Canada, New Zealand, Greece, Austria and Italy.

[269] Efforts to access their report were unsuccessful, not least because the "Ministry of Home Affairs have [*sic*] not been able to trace out even a single copy of the report given by the task force." Note from Rakesh Malhotra, Under Secretary in the Department of Personnel and Training (DoPT) to Harinder Singh, Joint Secretary, Establishment, DoPT, 31 January 2001. File reference 34011/1(s)/97-Estt. B.

had collected from other countries."[270] Whether the 'disappearance' of the second volume was by design or simply a result of poor record management, the familiar trope of the political executive being stymied by the bureaucracy reappears here.[271] "In conversations many years later, [V.P.] Singh revealed that though he had tried to get a suitable act drafted and introduced in Parliament, the bureaucracy had frustrated him at every step" (Singh, 2007: 43). Eventually, V.P. Singh's abilities to outmanoeuvre the bureaucracy on this issue remained untested, as his government did not last long enough. Eleven months after assuming power, the National Front government fell in November 1990 when its ally, the Bharatiya Janata Party, withdrew its support.

After this initial attempt of the V.P. Singh government, the idea of developing an access to information regime lay relatively dormant within government circles for some years.[272] Interestingly, there is an almost complete overlap between these 'quiet years' (1990-1995) and a stable coalition government which ran its full term at the centre (1991-1996), which itself was an anomaly in that period of India's political history.[273] Clearly, access to information was not a political priority for this government, although the Congress party manifesto for 1991 stated that "Freedom of information is another precious right. The

[270] Interview with BHJ644, civil servant, 3 December 2009.
[271] Although the preceding quote seems to suggest that a fair amount of obfuscation takes place within the bureaucracy as well.
[272] However, during this period, from 1990 to 1995, there *was* activity on the civil society front, as detailed in Chapter 3. An important development during this period, which is typically glossed over if mentioned at all in the dominant narrative, was the drafting and subsequent circulation of what could be termed as the first draft of an access to information legislation for India by the Consumer Education and Research Centre (CERC), a consumer rights NGO based in Ahmedabad. An analysis of the key clauses of this, as well as other drafts (and the implications this has on our understanding of the process), will be taken up for discussion later in this chapter. Other evidence about the role of the CERC in the evolution of the RTI Act in India also exists. However, the dominant narrative focuses its attention mostly on the MKSS-led activities in Rajasthan during this period.
[273] With P.V. Narasimha Rao as the Prime Minister, the minority Congress-led government ran its full term with support from the Left parties. This period also saw the launch of the economic liberalisation project in 1991, the links of which with the RTI will be explored in this chapter as well as in the following one.

Congress will make a law in this behalf".[274] This period of hiatus (within government circles) was broken in October 1995 when a workshop on the right to information was held at the Lal Bahadur Shastri National Academy of Administration (LBSNAA) in Mussoorie.[275] N.C. Saxena, who as the Director of LBSNAA had called the meeting, was a serving bureaucrat, as was his deputy, Harsh Mander. However, participants included individuals who were not government representatives.[276] The document, which provides the "preliminary set of readings" for the workshop, contains papers by Nikhil Dey, Aruna Roy, Shankar Singh and Kavita Srivastava (all associated with the MKSS), Harsh Mander, Shekhar Singh (who was then at the IIPA), A. Santhosh Mathew (an IAS officer of the 1985 batch of the Bihar cadre, then on deputation to the LBSNAA as faculty), as well as a paper on reforms for the IAS with LBSNAA as an institutional author.[277] Given the composition of the group, whether this workshop should be considered a government initiative or a civil society one is an unresolved question.[278] What cannot be contested is that the workshop was held under the aegis of a weighty government institution, with its active participation. This in itself added significant legitimacy to the subsequent production of this event as a key moment in the evolution of the RTI Act.

[274] In fact, it had pledged to legislate on freedom of information within the first two years of forming the government! Manifesto, Indian National Congress, 1991. See http://www.congresssandesh.com/manifesto/1991/manifesto91_7.html and http://www.congresssandesh.com/manifesto/1991/manifesto91_13.html. Accessed 10 October 2010.
[275] As described in Chapters 3 and 4. This meeting finds pride of place in the dominant narrative as well.
[276] The relationships between the participants in this workshop were examined in detail in the preceding chapter.
[277] See LBSNAA (1995). The paper by LBSNAA in the volume titled "Reforms for the Indian Administrative Service" makes a succinct recommendation: "Review the Official Secrets Act, and replace it by a Right to Information Act." Pp. 64.
[278] This also resonated with the discussion in the preceding chapter on the complex and close relationships between government institutions and several individuals who form the acknowledged leadership within civil society.

Some months later, in June 1996, a new government formed by the United Front coalition (with H.D. Deve Gowda as the Prime Minister) was formed. Soon after the new government had assumed power, the NCPRI was formed, and "we set up a group to draft the RTI Act, and we went and discussed [this draft] with Justice [P.B.] Sawant, who was the head of the Press Council of India. They felt that this needed to be supplemented further, so they set up their own committee, in which some of us participated as members, and the Press Council draft came out.[279] Justice Sawant being a former judge of the Supreme Court, boosted it up legally."[280] It should be noted that the Press Council of India occupies an important institutional space within the extended family of statutory institutions, especially in the context of providing the regulatory framework for press freedoms. That it had taken the RTI on board meant another layer of state involvement had now been introduced into the configuration of forces. The drafting committee set up by the Press Council of India with Justice Sawant in the lead finalised its draft bill by the end of September 1996, just under two months after the formation of the NCPRI.[281]

Meanwhile, the new coalition government in its Common Minimum Programme had stated its intention to introduce a freedom of information bill in the Parliament.[282] It would appear that publicly articulated political support for freedom of information had by now become *de rigeur*, at least within the universe of pre-election party manifestos, as well as post-election

[279] The Press Council drafting committee included, amongst others, Justice Sawant, Prashant Bhushan and Shekhar Singh, of which the latter two were founder-members of the NCPRI.
[280] Interview with Shekhar Singh, 13 January 2009, New Delhi. As discussed in detail in Chapters 3 and 4, the Press Council of India had in fact jointly organised a meeting with the MKSS in Jaipur in July 1996 on the RTI. Further, Ajit Bhattacharjea, an early journalist supporter of the MKSS (and later founding member of the NCPRI) and Justice Sawant were 'good friends'.
[281] As per a letter dated 23 September 1996 from G.K. Batra, Secretary, Press Council of India, to Shekhar Singh, enclosing a copy of the final draft of the bill on the Right to Information. File no. 25/9/96-PCI.
[282] Interestingly, this government also set up the Disinvestment Commission.

pledges. Possibly as a response, a statement of "Operative Recommendations" arising from the national conference of Chief Secretaries[283] held on 29 November 1996 stated that "It is necessary to introduce greater transparency and openness in the functioning of Government and public bodies. This would cover, for example, movement towards a Right to Information Act".[284] Soon after, on 2 January 1997, the Department of Personnel and Training constituted a "Working Group on Right to Information and Promotion of Open and Transparent Government" with H.D. Shourie, a leading consumer rights activist, as its Chair.

The constitution of the Shourie Committee is a critical inflection point in the process leading to the eventual enactment of the RTI Act in 2005 for several reasons. First, with the setting up of this Committee, the process took on a momentum of its own, which grew virtually uninterrupted until the RTI Act was eventually enacted in 2005. Second, the report of this Working Group became the *de facto* point of embarkation for all subsequent discussions within the government on this issue.[285] And finally, it is with the constitution of the Shourie Committee that significant schisms begin to appear between the dominant narrative and government perspectives allowing the exploration of the political dynamic of this apparent tussle over the process of truth-making.[286]

[283] The Chief Secretary of a state is the head of the bureaucracy at the state government level.
[284] From "Operative Recommendations of the Conference", National Conference of Chief Secretaries, New Delhi, 29 November 1996.
[285] As will be explored later in the chapter, this also meant that the contours of all subsequent discussions were in effect defined by the recommendations made in this report, including the proposed draft bill.
[286] As described above, although the years preceding the constitution of the Shourie Committee had seen several government initiatives to promote greater transparency and information sharing, none of these had amounted to anything concrete, and in that, the dominant narrative can at most be held guilty of omission.

The H.D. Shourie Committee[287]

The attribution of causality in the setting up of this Working Group is contested terrain, and provides an example of the tension that exists between the dominant narrative and other accounts from within the government. The former suggests that the NCPRI "sent this much debated and widely supported bill [drafted by Justice Sawant, along with members of the NCPRI] to the Government of India... In response, the Government of India set up a committee, known as the Shourie Committee... The Shourie Committee was given the responsibility of examining the draft right to information bill and making recommendations that would help the government to institutionalise transparency" (Singh, 2011: 56).

However, such claims are rejected by perspectives from within the government. "The issue relating to amendment of Official Secrets Act, 1923 has been under consideration in this Ministry [of Home Affairs] since 1989. This issue was discussed by the Committee of Secretaries at the meeting held on 31.7.1995."[288] Later, the MHA "held a meeting in December 1996. There were only officials in that meeting, and it was decided that the government should have a transparency act. There, a decision was taken that it should be handled by the Ministry of Personnel. The note from the MHA only gave a recommendation that let's have a transparency law. How to go about it was left to DoPT. So it was decided to constitute a working group."[289] Within a few days of the conference and this meeting, an internal note outlining the contours of this working group was sent from the DoPT to the

[287] Although the official name of this group was "Working Group on Right to Information and Promotion of Open and Transparent Government", it came to be better known as the "Shourie Committee". I have used this moniker or "Working Group" interchangeably.
[288] "Draft Cabinet Note for Consideration of the Group of Ministers" dated 26 December 1997. F. No. II/21011/49/97-IS (US D.II), Ministry of Home Affairs.
[289] Interview with BHJ644, civil servant, 3 December 2009.

Cabinet Secretary.[290] The rationale for setting up such a working group was premised on the following arguments:

- Endorsement of the conference of Chief Secretaries to "make public services more responsive to customers' needs";
- "In the Central Govt., 60% of the civil service is actually engaged in providing basic service functions like Postal Services, Telecommunications, Railways, and issue of Passports. There is basically no reason as to why these departments should withhold information especially when they are not generally dealing with any secret matters";
- "Responsive administration would not only require Right to Information, but also lead to reduction in corruption";
- "This has been emphasised in the manifesto of the UF [United Front] government also";
- In India "courts are increasingly disinclined to allow withholding of information on matters like tender procedures or harassment by police etc. and are not taking the view that merely because a Govt. department claims public interest as a reason for disallowing information is no ground for allowing such relief".
- There is a "worldwide trend towards more open and transparent govt. where citizens are able to get information about all except the most sensitive matters related connected to security and defence of the country";[291] and
- Brief reviews of transparency mechanisms existing or being introduced in New Zealand, Canada, UK, USA and Malaysia, including FoI laws where they existed at that time.

[290] Note to T.S.R. Subramaniam, Cabinet Secretary, from Harinder Singh, Joint Secretary (Establishment), DoPT, through Additional Secretary, (Administrative Reforms) P.S.A. Sundaram, and Arvind Varma, Secretary (Personnel), dated 4 December 1996. File reference No. 34011/1(s)/97-Estt (B). It must be emphasised here that this note was written for internal purposes only. At that time, the concerned officials may not have imagined that these very files would be open to public scrutiny within a decade. One can therefore assume that this note (and others that significantly predate the RTI Act 2005) were written with genuine intent, and not with a 'response bias' as it were.

[291] Ibid.

Further, the final terms of reference of the Working Group did not mention the examination of any draft bill, and in addition, did not even require the Working Group to propose a draft legislation.[292] Evidence from within the government thus suggests that the rationale for proposing greater transparency was premised on an *ongoing* bureaucratic impulse to carry out reforms, a push from the political executive, judicial pronouncements and global trends.[293]

Bringing in the 'Outside' Perspective

Although by this time the efforts of the MKSS and the NCPRI were relatively well-known, there is no mention of civil society activism or grassroots experiences as significant contributing factors. There is also no overt reference to the review of any existing draft bill (such as the Press Council draft). "This was essentially an administrative reform for reducing the extent of corruption and there was an understandable driving force within the government. Nobody from outside had to say anything. It was not something that was forced upon us. At the same time these new ideas float in society, government also picks on them, that is also true."[294] In this context, even as KLD416 negates the role of any pressure from below, he appears to be euphemistically acknowledging the possible influence of other actors in the process. This (if indirect) reference to outside influences thus requires further examination if the opposing claims of 'top-down' and 'bottom-up' processes are to be reconciled in any meaningful way.

[292] See Annexure III for the terms of reference of the Working Group.
[293] The note also suggests that the argument within the government for developing a freedom of information regime was made within the framework of 'citizens as customers', rather than rights-bearing individuals who have a political relationship with the state. This fits in with the New Public Management thinking which was current at that time, a theme to which we will return later in this chapter and the next.
[294] Interview with KLD416, former civil servant. 16 December 2009.

The aforementioned internal government note proposed the setting up of an inter-ministerial working group on the RTI, which was to include representatives from different ministries of the government, as well as "some outsiders like representative of consumer interest group, say Shri H.D. Shourie."[295] Including 'outsiders' within such committees would allow "views from sources external to the system to also come in. That is one way of enriching the content, making it acceptable from all sides".[296] The choice of Shourie was made on the basis that "he was a great one for public causes, [and was] doing an extraordinary job with Common Cause. He had a background of being a civil servant, and he was very much into the life of the common man."[297] In response, the Cabinet Secretary suggested that "perhaps one or two more non-officials with background / knowledge / experience would be useful. Sri N.N. Vohra?"[298] The Secretary (Personnel) responded by proposing the inclusion of Justice P.B. Sawant in the Working Group, and also suggested that Shourie be made its Chair.[299] However, as "Justice Sawant expressed his inclination to stay out of the Working Group in view of his firm ideas on the subject... it is submitted that Shri Soli Sorabjee, eminent lawyer, may be considered as a non-official member of the Group apart from Shri Shourie".[300]

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[295] Note to T.S.R. Subramaniam, Cabinet Secretary, from Harinder Singh, Joint Secretary (Establishment), DoPT, through Additional Secretary, (Administrative Reforms) P.S.A. Sundaram, and Arvind Varma, Secretary (Personnel), dated 4 December 1996. File reference No. 34011/1(s)/97-Estt (B). The choice of an advocate of consumer rights to lead this Working Group reiterates the fact that access to information was being imagined within a framework of citizens as consumers.

[296] Interview with KLD416, former civil servant. 16 December 2009.

[297] Interview with the then Secretary (Personnel), Arvind Varma, 16 December 2009, New Delhi. H.D. Shourie, who died in 2005, was arguably India's best known advocate for consumer rights. Common Cause was an NGO he founded in 1980. One of his children, Arun Shourie, is former Editor of the *Indian Express* newspaper, as well as a former minister in A.B. Vajpayee's cabinet (1999-2004).

[298] N.N. Vohra was a 1959 batch IAS officer and at that time had retired from the government. He is currently the Governor of the state of Jammu and Kashmir.

[299] Clearly, the bureaucracy was aware of Justice Sawant's involvement in developing a draft FoI bill. By extension, and civil servants at that level are usually quite aware of such details, the Secretary would have known about the work of the MKSS as well as the NCPRI.

[300] Note from P.S.A. Sundaram, Additional Secretary (Administrative Reforms and Training) to Arvind Varma, Secretary (Personnel) dated 26 December 1996. File reference No. 34011/1(s)/97-Estt (B). The Secretary added the information that Soli Sorabjee was the Attorney General of India in 1989-90 before 'putting up' the file to the Cabinet Secretary. This proposal was approved by the Cabinet Secretary. Justice Sawant's 'firm ideas' were "that all institutions whether public, private, co-operative etc. whose activities have a bearing on public interest have to be included in the RTI Act. The government as well as the bodies which were influencing the government decisions were not inclined to include [them] within the definition of the authorities from which the

This note thus suggests that the government appeared to be proactively soliciting opinion from the 'outside'. In this context, *who* (from the vast multitudes on the 'outside', including those working at the 'grassroots'), is chosen to serve on such committees and for what reasons become critical questions.[301] "Usually not much discussion takes place on this issue. Take law. You require somebody from the law for such a legislation. There are usually only a few names who are making the news. Mr. Soli Sorabjee was very much in the news, he had a very good track record. There are persons who are totally open, you can expect that they will give you a sound, balanced judgement, without fear or favour, not playing to the gallery."[302] In the context of the RTI, having on board a 'balanced' and acceptable voice was critical as "we were breaking new ground, [and] there was understandably a view that we should proceed slowly and cautiously. That was the predominant mood."[303] Mr. Sorabjee did indeed have a cautious view on the subject. As the then Attorney General of India, he had delivered the annual lecture at the Media Foundation in New Delhi on 27 March 1990 on "The Right to Know and Official Secrecy". In this lecture, even as he asserted that the "administrative process is surrounded by needless and excessive secrecy, sometimes bordering on the farcical", he also stated that "there can be no unrestricted right to information, [and] secrecy cannot be banished altogether… the right to know cannot always be extended to the internal deliberations of government… In the memorable words of Lord Reid… "no government could contemplate with equanimity the inner workings of the government machine being exposed to the gaze of those ready to criticise without adequate knowledge of the background

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information could be accessed… Hence I was not inclined to join the group." Email message from Justice P.B. Sawant, 29 July 2012.

[301] Examining these questions may also provide clues to the peculiarity of the fact that no one associated with the NCPRI or the MKSS was at any point considered as a potential member of this Working Group, although they were 'in the news' as well.

[302] Interview with BHJ644, civil servant, 3 December 2009.

[303] Interview with KLD416, former civil servant. 16 December 2009. The question of 'acceptability' is a defining element of such a process, and a similar logic may have been at work in the constitution of the National Advisory Council in 2004.

and perhaps with some axe to grind"".[304] It thus appears that even as spaces for 'outside' perspectives to formally, directly and publicly influence government policy are created, in practice these appear to primarily have an instrumental function - that of according greater credibility and legitimacy to the government. 'New ideas' could thus be 'new' only inasmuch as they resonated with existing thinking to a significant degree.[305]

Subsequently, the "Working Group on Right to Information and Promotion of Open and Transparent Government" consisting of nine members was set up through an office memorandum dated 2 January 1997 with Shourie as the Chair, Sorabjee as the other 'outside' member, and civil servant representatives from the Ministries (or Department as the case may have been) of Information and Broadcasting, Home Affairs, Legal Affairs, Railways, Posts, Telecom, and Personnel and Training. The Working Group held six meetings between 10 January and 25 April 1997[306] during which it reviewed the existing FoI regimes in other countries, and also examined the Press Council draft bill because "You've got to start somewhere, and therefore we took the bill drafted by Justice P.B. Sawant as a base and started developing it".[307] Although examining the 'feasibility' and 'need' for legislation on freedom of information was central to its terms of reference, at no point did the Working Group question the necessity of enacting such a law - by now this was considered to be a *sine qua non* in the context of strengthening democratic polity. Clearly, the acceptability of

[304] *Indian Express* newspaper, 6 May 1990. The reference to Lord Reid is in the context of the decision of the House of Lords in 1968 in the case of *Conway vs. Rimmer*. The applicability of any access to information legislation to the internal deliberations of the government is an important question that continues to engender intense debate. In the Indian context, this remains an acrimonious point of disagreement (and confrontation) between some activists and the government, and will be discussed in greater detail later in this chapter.

[305] By extension, it could be said that the positions of the MKSS and the NCPRI, at least at this point in time, were not within the pale of 'acceptability'. This will be discussed in greater detail in the next part of this chapter.

[306] On 21 April 1997, H.D. Deve Gowda had to make way for I.K. Gujral as the Prime Minister due to differences that had cropped up between Gowda and the Congress party on whose support the United Front coalition government depended.

[307] Interview with BHJ644, civil servant, 3 December 2009. A "Draft "Freedom of Information Bill, 1997" proposed by Shri H.D. Shourie, based on the "Right to Information Bill, 1996," prepared by Justice P.B. Sawant, with a few modifications" was circulated within the Working Group on 16 January 1997, two days before the second meeting of the Group.

freedom of information as a political necessity had increased manifold in the intervening decades when compared to even in "the heyday of the Janata era, its Minister of State for Home Affairs, Dhanik Lal Mandal, blandly denied, in the Lok Sabha on August 30, 1978, that Indian law prevented legitimate access to official documents" (Noorani, 1982: 1859).

Eventually, the Working Group submitted its report to the government on 21 May 1997 (including a draft legislation), in which it proposed the enactment of a 'Freedom of Information' Act and not a 'Right to Information' Act as ""right" has connotations which might make legislation susceptible to avoidable litigation. Freedom of Information would be a broader and a more positive concept".[308] This was argued on the basis that "the right to information has already received judicial recognition as part of the fundamental right to free speech and expression and the purpose in enacting the Freedom of Information Act is mainly to provide a statutory framework for this right. Therefore, in our opinion, the expression "freedom of information" fully reflects the spirit and intent in the proposed legislation" (Government of India, 1997b: 6).

The submission of the Shourie Committee report marks a watershed in the process that eventually led to the enactment of the RTI Act in 2005. From this moment onwards, the wheels of the government machinery began to move inexorably towards the eventual enactment of the RTI Act in 2005. Albeit punctuated by several changes in government, an examination of relevant government files reveal that this period (1997-2005) saw the process evolve largely uninterrupted at the bureaucratic as well as political levels. Details of important events that punctuated this process are provided in the table below.

[308] Suggestion by H.D. Shourie from the proceedings of the first meeting of the Working Group held on 10 January 1997. File reference no. 34011/1(s)/97-Estt. (B), DoPT, dated 16 January 1997.

Table 5.2: Chronology of government-related events culminating in the enactment of the RTI Act, 1997-2005[309]

Date	Event
2 January 1997	Constitution of "Working Group on Right to Information and Promotion of Open and Transparent Government" with H.D. Shourie as Chair
16 January 1997	Approach paper to the Ninth Plan (1997-2002) lays emphasis on bringing "institutional changes to bring in transparency in implementation and operation of programmes. For this purpose, avoidable barriers to full flow of information must be removed."[310]
21 May 1997	Shourie Committee submits report to government
24 May 1997	Report shared at Chief Ministers' Conference in New Delhi; Conference endorses need for early legislation on FoI by the central government
3 June 1997	Report sent to all Ministries and Departments of the central government for comments and suggestions
11 June 1997	Report sent to all state governments and union territories for comments and suggestions
29 July 1997	Committee of Secretaries (CoS) meets to discuss DoPT note on FoI bill
15 August 1997	Prime Minister I.K. Gujral in his Independence Day speech makes a statement assuring that FoI bill will be introduced in the Parliament in the Winter Session
21 August 1997	Second meeting of the CoS
3-4 September 1997	"National Workshop on Right to Information" is organised by the National Institute of Rural Development (NIRD), Hyderabad. Participants include government functionaries, civil society representatives, academics and media personnel. Draft FoI bill (the NIRD draft) recommended, which is in sync with the Press Council draft rather than the Shourie Committee draft.[311]
23 September 1997	Third meeting of the CoS
27 September 1997	George Fernandes introduces the NIRD draft bill as a private member's bill in the Lok Sabha
17 October 1997	DoPT sends a Cabinet Note to the Cabinet Secretariat incorporating suggestions of the CoS, as well as a draft FoI bill, for obtaining the Cabinet's approval to introduce the FoI bill in the Parliament.[312] The Cabinet Note has concurrence of the Ministry of Law and Justice, as well as the Department of Legislative Affairs.

[309] Grey bands and bold italic type indicate a change in government.
[310] See Government of India, 1997a: 123.
[311] The differences between these drafts will be taken up for discussion in the next section of this chapter.
[312] A 'Cabinet Note' is an essential element in the decision-making process of the Government of India. Typically, it is sent by the Ministry that owns the proposal being sent to the Cabinet for its consideration. "The decisions taken by the Cabinet and Cabinet Committees are fundamental to the governance of the country. Various matters of national and international importance impacting different facets of governance get flagged and placed before the Cabinet and Cabinet Committees. The notes for their consideration are, therefore, central to policy making and to successful execution of different programmes… The proposals that are placed before the Cabinet and Cabinet Committees are often the culmination of a series of steps. These include consultations with the stakeholders within the Central Government and outside, consultations with the State Governments, inter-ministerial consultations and in many cases, appraisal by designated bodies or financial institutions" (Government of India, 2011: 1).

20 October 1997	Cabinet considers the proposal; Decides to set up a Group of Ministers to examine the proposal in detail.
23 October 1997	Group of Ministers (GoM) constituted. The Ministers include Indrajit Gupta, Minister of Home Affairs; Janeshwar Mishra, Minister of Petroleum and Natural Gas; Murasoli Maran, Minister of Industry; and Ramakant Khalap, Minister of State in the Ministry of Law and Justice.
28 October 1997	First meeting of the GoM
29 November 1997	Congress withdraws support to the United Front coalition; I.K. Gujral resigns as Prime Minister; President K.R. Narayanan asks Gujral to stay as care-taker Prime Minister until fresh elections are held in February-March 1998.
17 December 1997	Second meeting of the GoM
5 January 1998	Third meeting of the GoM
12 February 1998	Draft bill finalised by GoM sent to Ministry of Law and Justice for concurrence, and subsequent submission to the Cabinet
1 March 1998	Ninth Five Year Plan document says that the "Enactment of the Right to Information Act and making the findings of evaluation studies accessible to the public and media are also required to bring about accountability and transparency in development administration"(Government of India, 1998: 198).
6 March 1998	Ministry of Law gives its concurrence to the draft FoI bill
19 March 1998	***New government of the BJP-led National Democratic Alliance (NDA) sworn in; A.B. Vajpayee is the Prime Minister.***
1 April 1998	Draft Cabinet Note on FoI sent to Prime Minister's Office
27 April 1998	New Group of Ministers (GoM) constituted to examine the legislative proposal afresh. GoM consists of L.K. Advani, Minister of Home Affairs; George Fernandes, Minister of Defence; M. Thambi Durai, Minister of Law, Justice and Company Affairs; Sushma Swaraj, Minister of Information and Broadcasting; Vasundhara Raje, Minister of State in the Ministry of External Affairs; and K.R. Janarthanan, Minister of State in the Ministry of Personnel, Public Grievances and Pensions.
14 May 1998	First meeting of the GoM
25 June 1998	CoS meeting
10 October 1998	Ram Jethmalani, then Minister for Urban Development, orders that all files within his Ministry be made public; A few days later, his order is quashed through an intervention from the Cabinet Secretary through the Prime Minister's Office.
18 December 1998	Second meeting of the GoM
17 April 1999	NDA government falls due to withdrawal of support by AIADMK; Fresh elections called; Vajpayee stays as care-taker Prime Minister; Ministers from AIADMK resign, including M. Thambi Durai and K.R. Janarthanan who were in the GoM.

19 July 1999	New GoM constituted with Jaswant Singh, Minister of External Affairs; Ram Jethmalani, Minister of Law, Justice and Company Affairs as new additions; and Pramod Mahajan, Minister of Information and Broadcasting replacing Sushma Swaraj.
13 October 1999	***NDA returns to power; Vajpayee returns as Prime Minister.***
29 October 1999	New GoM constituted keeping the previous members (some of whose portfolios have been changed) while adding Arun Jaitley, Minister for Information and Broadcasting to the group.
22 November 1999	First meeting of the GoM
10 December 1999	Composition of GoM revised; Arun Shourie, Minister of State in the Department of Administrative Reforms and Public Grievances joins the GoM.
7 January 2000	Second meeting of the GoM
2 February 2000	Third meeting of the GoM
8 May 2000	Draft bill and Cabinet Note approved by Ministry of Law, Justice and Company Affairs, Ministry of Finance and Prime Minister's Office for placing before the Cabinet towards introduction in the Parliament.
13 May 2000	Cabinet approves draft bill and its introduction in the Parliament
25 July 2000	"Freedom of Information Bill 2000" introduced in the Lok Sabha by Vasundhara Raje, Minister of State for Personnel, Public Grievances and Pensions
14 September 2000	FoI bill referred to the Department-Related Parliamentary Standing Committee on Home Affairs (PSC-HA); Pranab Mukherji is Chair of the Committee.
23 October 2000	First meeting of the PSC-HA
24 January 2001	Second meeting of the PSC-HA; Includes depositions by Commonwealth Human Rights Initiative (CHRI) (Maja Daruwala, Abha S. Joshi, Bimal Arora, Deepika Mogilishetty), Dr. Madhav Godbole, Former Secretary, Ministry of Home Affairs, A.G. Noorani, Lawyer, and Prof. Manubhai Shah of the Consumer Education Research Centre (CERC), Ahmedabad.
8 February 2001	Third meeting of the PSC-HA; Includes depositions by the MKSS (Kavita Srivastava, Nikhil Dey, Prabhash Joshi, Neelabh Mishra, Jharna Jhaveri, Anuraj Singh) and Justice P.B. Sawant on behalf of the Press Council of India.
25 June 2001	Fourth meeting of the PSC-HA
10 July 2001	Fifth meeting of the PSC-HA
25 July 2001	PSC-HA presents its report to both Houses of Parliament
3 December 2002	Bill taken into consideration clause-by-clause by the Lok Sabha and passed by the House.
16 December 2002	Bill passed by the Rajya Sabha
21 December 2002	Tenth Plan document (2002-2007) observes that "The Right to Information Act must be enacted expeditiously and implemented in letter and in spirit" (Government of India, 2002: 182).
6 January 2003	Freedom of Information Bill 2002 receives Presidential assent

7 January 2003	Freedom of Information Act 2002 published in the Government of India Gazette; Date at which it will come into force not defined.
22 May 2004	***New government formed by the UPA; Manmohan Singh is sworn-in as Prime Minister***
31 May 2004	NAC constituted to monitor the implementation of the Common Minimum Programme of the UPA coalition
17 July 2004	First meeting of the NAC
31 July 2004	Second meeting of the NAC
14 August 2004	Third meeting of the NAC; Recommendations sent to the government including a draft RTI bill.
18 September 2004	Press release from the government says that it will "introduce in the Winter Session of Parliament a bill to seek amendments to the Right to Information Act, based on suggestions put forth by the NAC."[313]
13 December 2004	Note sent to the Cabinet by DoPT
15 December 2004	Cabinet Meeting held; Bill approved; Recommends the setting up of a GoM
23 December 2004	Bill introduced in the Lok Sabha
31 December 2004	Bill referred to the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice (PSC-PG)
5 January 2005	GoM constituted comprising of Pranab Mukherjee, Minister of Defence; Sharad Pawar, Minister of Agriculture and Consumer Affairs; Shivraj Patil, Minister of Home Affairs; S. Jaipal Reddy, Minister of Information and Broadcasting and Minister of Culture; P. Chidambaram, Minister of Finance; H.R. Bharadwaj, Minister of Law and Justice; Dayanidhi Maran, Minister of Communication and Information Technology; and Suresh Pachouri, Minister of State in the Ministry of Personnel, Public Grievances and Pensions.
1 February 2005	First meeting of the PSC-PG
14 February 2005	Second meeting of the PSC-PG; Includes depositions by Aruna Roy, Nikhil Dey, Prashant Bhushan, Jean Dreze, Angela Rangad, Harsh Mander, Anna Hazare, Prakash Kardaley, Shekhar Singh, Shailesh Gandhi (all MKSS/NCPRI); Maja Daruwala, Charmaine Rodrigues, Venkatesh Nayak (all CHRI), Jayaprakash Narayan and Shanti Bhushan.
16 February 2005	Third meeting of the PSC-PG
1 March 2005	Fourth meeting of the PSC-PG
2 March 2005	Fifth meeting of the PSC-PG
21 March 2005	PSC-PG submits its report to both houses of the Parliament
26 April 2005	First meeting of the GoM
30 April 2005	Second meeting of the GoM
4 May 2005	Cabinet approves amendments made to Bill based on inputs from the PSC-PG and the GoM; Includes repeal of FoI Act 2002.
11 May 2005	Clause-by-clause discussion in the Lok Sabha; Amendments and bill passed.
12 May 2005	Rajya Sabha passes the bill.

[313] Press Information Bureau, 18 September 2004. http://pib.nic.in/release/rel_print_page.asp?relid=3908. Accessed 10 December 2011.

15 June 2005	Presidential assent received; RTI Act comes into existence.
12 October 2005	RTI Act comes into force.

Analysing the events that took place from 1966 onwards provides revealing insights into the process. First, there is clear evidence to suggest that indeed "the thinking in the government did not come through any pressure groups... Not a small number [of bureaucrats] obviously realised that knowledge is power, and therefore if we share knowledge, we share power, which is what we should be all about... A fairly large number of civil servants were supportive, and this built up over the years, they began to realise that without sharing info you can't have an inclusive government, and you can't really stimulate civil society to get more active and participate in governance because government in those days virtually had become a part of the problem - till 1991... And we found that the OSA 1923 came in the way. And this was a holy cow which couldn't be slain easily."[314] At the same time, the bureaucracy was a divided house and significant elements within it did not subscribe to such an approach. "And then you had of course the secrecy-wallahs who were dead against all of this. [However,] the prime mover continued to be the government."[315]

Thus, whether causality is attributed to nudges from the judiciary or from the political executive, it is clear that a significant cohort of reformist bureaucrats within the government had been proactively pushing the agenda for greater transparency since at least the early 1990s, if not earlier.[316] In this sense, at least some credit could be attributed to the actions of

[314] Interview with FSQ974, former civil servant, 24 November 2009.
[315] Ibid.
[316] Of course, the mere setting up of committees does not necessarily mean that the bureaucracy specifically or the government generally, is in support of a policy proposal. In most cases, these could be seen as the classic bureaucratic response to defuse pressure. However, the tone and content of government reports and papers pertaining to this period suggest that there *was* support to the larger idea of government transparency, even as the specifics of such a legislation was a contested terrain. These specifics are examined later in the chapter.

'reform champions' within the government. However, that the dominant narrative does not recognise this role is pointed out with some rancour by civil servants. "When I went to an Information Commissioners' conference, one speaker also said that there was this movement in Rajasthan... There may have been a movement in Rajasthan, but we went ahead with the process independently. You might have seen our files, did you see anywhere that we proceeded in response to the movement in Rajasthan? *We* set up the Shourie Committee after all."[317] While this is borne out by documentary evidence (as highlighted above), it is interesting to observe that the position of other 'official' accounts seems to have shifted over the years to align substantially with the dominant narrative. The report of the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice which had been tasked with examining amendments being proposed to the FoI Act of 2002 proposes that the "campaign started by some prominent social groups like Mazdoor Kisan Shakti Sangathan (MKSS) and the National Campaign for the People's Right to Information, took concrete shape when in January, 1997 the Government set up a Working Group on "Right to Information and Transparency" under the chairmanship of Shri H.D. Shourie to examine the feasibility and need for a full-fledged law" (Rajya Sabha Secretariat, 2005: 3). However, the earlier, more temporally proximate Department-Related Parliamentary Standing Committee on Home Affairs which had examined the FoI bill in 2000 had not attributed any such causality despite the MKSS having deposed before it. Clearly, the intervening years had allowed the civil society perspective to become the accepted truth.[318] How, and why did this change occur?

A part explanation may lie in an insight offered by a respondent. "In fact, it [was] the government all along. Have you ever seen in the files, that the government was trying to

[317] Interview with BHJ644, civil servant, 3 December 2009. Emphasis in expression.
[318] The reasons for this change are an important concern and will be taken up for discussion later in the thesis.

block [the RTI Act]? If you look at the files, you will see that all along there was some activity going on. Some activities are accomplished in a very short period of time. Some take a longer time. It is not that the government had gone into a slumber. We are dependent on the GoM, we are dependent on the Parliamentary Standing Committee. We have to find time with each of the members. And by the time we fix everything, the government changes... The government has been working all along. The only thing is that we don't shout from the rooftops, "Look, today we got an appointment with minister X." We work silently. We are the unseen face of government. We cannot go outside and clarify our positions. We don't try to create an image for ourselves... If they make claims, want to take credit for all of that, it's up to them, we don't mind. We have done our work, and we are satisfied. We do our job, forget it, and move on."[319] Even as BHJ644 points to the possibility of a counter-intuitive phenomenon viz. that in the context of claiming credit for 'pro-people' policy reforms, 'civil society' appears to have a greater voice than the government, a more sophisticated analysis is offered by another civil servant. "Maybe the record can be set straight. Why is [the role of the government] not recognised? Because the government speaks in many voices, and the collective voice is one which favours natural regression, which means secrecy. You come back to the norm, which is opacity, secrecy, security. In a sense, it's like going back to the mother, that's where you were born, you were raised - it's a comfort zone. Regression can and does take place in quite a few areas where there has been reform, *unless civil society and others accept the reform*."[320] This perspective was reiterated by other senior civil servants as well. "The view that [the RTI Act came about] because of [civil society] is absolutely preposterous. This started in the beginning because of a need for good governance. The NDA government had come after some time, they wanted to show results. [Many] initiatives started

[319] Interview with BHJ644, civil servant, 3 December 2009.
[320] Interview with FSQ974, former civil servant, 24 November 2009. Emphasis added.

then. All these initiatives were in the way of making government more accountable...[321] Subsequently, it is quite possible that civil society might have joined the bandwagon. Because quite often civil society may not start a thing, but joins the bandwagon."[322] Here, FSQ974 and EFD094 are proposing that these reforms were successful not because the idea 'emanated' from the 'people', but because society at large was ready and willing to support an idea that had in effect originated from progressive sections within the government, according necessary legitimacy to government efforts in the process. In doing so, they are proposing a complete inversion of the existing explanation of government transparency-related reforms in India.

Thus, the question of transparency reforms being a 'top-down' or a 'bottom-up' process becomes more of a question of truth-making than one of examining 'facts'. As far as evidence goes, there is enough to suggest that the process was *not* simply one where sustained pressure from below led to an eventual government response. At the same time, it cannot also be said that the push came exclusively from within a reformist section of the bureaucracy or the political executive. On balance, it could perhaps be proposed that in essence "the climate was right".[323] Even though the dominant narrative privileges the 'pressure from below' thesis, several other factors were at play. Judicial pronouncements had laid the groundwork, reformist elements within the bureaucracy had been wrestling internally with government opacity; individuals who straddled both the government as well as the advocacy spheres had managed to bring the attention of an alternative political executive (viz. the National and United Front governments) to this issue; political interest in access to information had become the norm across parties, even as the political class was being

[321] This is an important insight, as it locates the RTI within the thinking on New Public Management that was current at that time, an issue to which we will return in the following chapter.
[322] Interview with EFD094, former civil servant, 24 November 2009.
[323] Interview with FSQ974, former civil servant. 24 November 2009.

influenced by actors from outside the government (for example, through the depositions made to the Parliamentary Standing Committees); and significant sections within the higher civil service were pushing the boundaries (at times with the support of 'outsiders', for example at the LBSNAA), even as others were attempting to engage in obfuscatory tactics (for example, by giving proposals an 'acceptable' tone). Meanwhile, the relatively lower level of the central government bureaucracy continued to grapple with the mundane procedural details of drafting a legislation, and of course, within this melange of factors, a 'grassroots movement' (with the caveats proposed in the preceding chapter) was also evolving in Rajasthan.

However, suggesting that a variety of factors were at work does not quite answer the political questions lurking just beneath the surface of this process. If "the climate was right" for the RTI Act to come about, what were the constituting elements of this climate, and by extension, what had changed within the 'elements' so that it had become 'right'? Further, how did it come to be that despite ample evidence to the contrary, over a period of time the political class itself began to endorse the assertion that the RTI Act was indeed an example of the government responding to pressures from below? Could it be that by the time the RTI Act was enacted, it had become politically expedient to attribute credit to forces 'outside' the government? If so, why? Some clues to this question could be provided by examining the nature of the resistance that the bureaucracy purportedly brought to bear on the process. It is to this infamous 'resistance' that we turn next.

Bureaucratic Resistance Revisited

To assess the nature of the bureaucratic resistance to FoI, it is instructive to return to the deliberations of the H.D. Shourie Committee as a point of embarkation. These discussions were prescient in that the concerns that engendered the most debate recur consistently in all subsequent discussions around the RTI Act, whether within the government, or in the context of the demands made by activists and lobby groups, including the NCPRI.[324] The contentious discussions can be distilled into four themes.[325]

a. Review and appellate mechanisms in the cases of denial of information;
b. The nature of sanctions on officials that wilfully deny information;
c. The nature and extent of exemptions to the law, especially whether internal deliberations of the government should be publicly accessible; and
d. The definition of a 'public authority', and whether such a law should be applicable to private entities as well.

Examining the evolution of the positions, not just of the government, but also of non-government actors on each of these themes is an instructive exercise, and I will take this up for discussion in detail next.

[324] It should be noted that the progression of this debate and the (changing) positions of various actors over the following years provide critical clues in unravelling the puzzle of the enactment of the RTI Act in 2005. This will be examined in detail later in this chapter.
[325] These themes have been distilled from a detailed examination of the minutes of all the meetings of the Working Group.

a. Review and Appellate Mechanisms

On this issue, Justice Sawant's draft (and the later NIRD draft), with the endorsement of the NCPRI and CHRI amongst others, had proposed that in case of denial of information, an appeal could be made to the "District Judge or the Principal Civil Judge of the City Civil Court as the case may be" within fifteen days, with the proviso that the judge was to dispose of the case within thirty days.[326] The rationale behind this was "to ensure easy access for citizens to the appellate forum".[327] Although it discussed several other options (such as Information Commissions and Ombudsmen that existed in other countries), eventually the Shourie Committee proposed a two step appeal process - first, an internal departmental review to be decided upon by the Head of the Department, thus keeping it within the governmental machinery, and second, the utilisation of the Consumer Protection Act (CPA), 1986 to appeal against the decision of the reviewing authority, in part because the "courts are already suffering under a heavy burden of arrears and therefore would not perhaps be in a position to deliver justice to the citizens or to public authorities in time".[328] However, using the CPA would have implied following "the process of appeals under that Act i.e. an appeal from the District Forum to the State Forum and thereafter to the National Commission and finally to the Supreme Court. The remedy provided is thus dilatory and expensive."[329] Sections of the bureaucracy were also not in favour of using the CPA as "First, the performance of these forums in redressal of complaints itself leaves much to be desired as they seem to suffer from endemic shortages in terms of manpower and material resources... Secondly, in some cases, the decision to withhold information may have to be taken at very

[326] Government of India, 1997c: 9. Details of the National Institute for Rural Development (NIRD) draft were provided in Table 5.2.
[327] Proceedings of the 5th Meeting of Working Group on Right to Information and promotion of open and transparent Government, 12 April 1997. File reference no. 34011/1(s)/97-Estt. B, DoPT.
[328] Ibid.
[329] Note from Justice Sawant to P.S.A. Sundaram, Additional Secretary, Department of Administrative Reforms and Public Grievances, 28 July 1997.

high level in the Government and it may not be appropriate to vest District Forums with appellate powers over such decisions".[330]

However, these concerns around the utilisation of the CPA were essentially a red herring. The CoS eventually did away with this platform as well and proposed "a two-tier appellate remedy of a purely departmental character... with no recourse to courts. However, any person dissatisfied with the outcome of a departmental appeal would still have recourse to the writ jurisdiction of the High Courts".[331] The argument was premised on serving the interests of the citizens as "the ultimate objective from a citizen's point of view was to secure a locally accessible, convenient and least costly forum for appeal against rejection of the request for information", which no doubt a purely departmental appeal process would have been able to provide! The CoS' views prevailed, and the GoM endorsed this stand in its first meeting on 28 October 1997.[332] This perspective continued to hold sway practically unchallenged (through the different avatars of the GoM, as well as other high-level committees) until the enactment of the RTI Act in 2005.[333] The earlier Freedom of Information Act of 2002 also reflected this position under sections 12 (1) to 12 (4).[334] In depositions before the Department-Related Parliamentary Standing Committee on Home Affairs, all external invitees expressed concern that the independence of the appellate mechanism in the dispensation proposed in the FoI bill was suspect. Yet the Committee did not yield and endorsed the position of the government.[335]

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[330] Agenda paper dated 25 July 1997 for the CoS meeting held on 29 July 1997. File reference no. 34011/1(s)/97-Estt. B, DoPT.
[331] "Note for the Group of Ministers" dated 27 October 1997. File reference no. 34011/1(s)/97-Estt. B, DoPT.
[332] Minutes of the meeting of Group of Ministers held on October 28, 1997 at 10.30 am in the Chamber of the Minister of Home Affairs, dated 5 November 1997, file reference no. 34011/1(s)/97-Estt. B, DoPT.
[333] See Table 5.2 for details.
[334] See Annexure IV for the Freedom of Information Act, 2002.
[335] External witnesses who commented specifically on the limitations of the appellate mechanisms included the CHRI, CERC, the MKSS, former civil servants Madhav Godbole and B.G. Deshmukh, and Supreme Court lawyer A.G. Noorani.

This appellate mechanism was eventually revised completely in the draft bill (in the form of proposed amendments to the FoI Act of 2002) sent by the NAC to the Prime Minister in August 2004. It allowed for a first level departmental review, and proposed the creation of an independent appeal structure in the form of Information Commissions at the state as well as central government levels to which second appeals would be directed. Although the bureaucracy did offer some resistance to these proposals (for example, highlighting the financial implications of setting up Information Commissions across the country), these were quickly and effectively quashed by the political executive.

In some perspectives, the creation of such an appellate structure was in fact a critical ploy to defang any resistance from the higher bureaucracy by coopting it. "One could debate it, [but] I think the fact that the RTI Act gave employment to a large number of retired IAS officers also played an important role, because everyone thought, 'As I am retiring...' This [thought] must have been there, that 'I'll get a job'. In fact, I'd invited Aruna [Roy] to Mussoorie to speak on the RTI and while introducing her to the class I said that Aruna's greatest contribution to the RTI Act has been that she gave employment to many of her batchmates because she's from the 1968 batch, and that's the time [around 2005] they were retiring... More so, the first [Chief Information] Commissioner was from the 1968 batch."[336] Such 'post-retirement benefits' are highly coveted amongst the soon-to-be-retiring IAS officers as it lengthens their time of service by five years (including the continuation of a full salary, as opposed to a relatively meagre pension), while continuing to provide perks such as hugely subsidised government housing in pampered and prestigious locations, and the use of official

[336] Interview with N.C. Saxena, 15 October 2009, New Delhi. The first Chief Information Commissioner was Wajahat Habibullah. Interestingly, the Secretary of the DoPT at the time of the enactment of the RTI Act in 2005 was A.N. Tiwari, who was himself nominated as one of the first Central Information Commissioners.

vehicles, both important markers of status.[337] The enactment of the RTI Act meant that potentially over 300 such positions would need to be filled across the State and Central Information Commissions.[338] Given this, it is hardly surprising that "In 2012 two-thirds (66%) of the 83 Information Commissioners (including Chief Information Commissioners) at the Central and State level are retired civil servants" (CHRI, 2012: 3).

b. Sanctions on Erring Officials

The Press Council / NIRD draft bill had taken a strong position against public officials who did not provide complete information and/or on time. Section 8 / Section 10 of the respective drafts envisaged that officials were to be fined personally for delays and denial of information. However, such personal sanctions were questioned by members of the bureaucracy within the Shourie Committee. "Given the nature of Government procedures and the large number of functionaries associated with its function, such a provision needs a review, particularly because **determining the liability** with reference to the **gravity of the fault** of any person would pose serious problems in practice."[339] Shourie put up a defence of sorts by suggesting that personal penalties "would be attracted only in respect of a person who is under an obligation to supply information under the provisions of the Act. It would not be attracted in respect of other functionaries."[340] In the third meeting of the Working Group, "it was pointed out by some members that these provisions appeared draconian. Most often the person who was vested with the responsibility to provide information would not

[337] The usual obligatory retirement age is 60 years, and such positions typically allow the incumbent to hold the position till the age of 65. For an impressive list of top-level reappointments of retired bureaucrats, see "Former, not ex: How retd babus never retire", *Indian Express* newspaper, 9 July 2012.
[338] The Act allows for up to eleven Information Commissioners for each State Information Commission, and a similar number for the Central Information Commission.
[339] "Comments on the Draft Bill on 'Freedom of Information' proposed by Shri H.D. Shourie", dated 11 February 1997 by S. Prakash, Joint Secretary, Ministry of Home Affairs. File reference no. D.O. No. II/21011/54/96-IS/US.D.II, Ministry of Home Affairs. Emphasis in original.
[340] "Observations of Shri H.D. Shourie on Shri Prakash's Comments on the Draft Bill", dated 17 February 1997. File reference no. 34011/1(s)/97-Estt.(B), Ministry of Personnel, Public Grievances and Pensions, DoPT.

himself be possessing or controlling it, and would have to obtain it from his superiors, colleagues or subordinates. In such a situation it would be undesirable to subject him, to the liability of punishment."[341] This view was subsequently reflected in the draft proposed by the Shourie Committee, which had no penalty provisions for errant officials.[342] However, this lacuna was criticised in the media (including public critiques by Justice Sawant) which was discussed in the Committee of Secretaries meeting held on the 29 July 1997. Unsurprisingly, the CoS maintained the stance, arguing that penal provisions "may generate resistance and resentment among the employees thereby adversely affecting implementation of the law".[343] This issue did not even arise in subsequent meetings of different Groups of Ministers, although it did come up for debate in the proceedings of the Department-Related Parliamentary Standing Committee on Home Affairs in 2001. However, the government took the position that "After the "Freedom of Information Bill" introduced by the Central Government becomes an Act, the CCS [Central Civil Services] (Conduct) Rules, in all India Services, State Services, Local Bodies etc. are proposed to be amended requiring a Government servant to give information which is asked for by an institution or an individual under the Acts. Any officer who deliberately withholds information or deliberately gives false information, shall be liable to action under the relevant disciplinary rules and it is considered that a departmental penalty would be sufficient in such cases" (Rajya Sabha Secretariat, 2001: 61-62). This view prevailed and the Freedom of Information Act, 2002 did not contain any penalty provisions.

[341] Minutes of the third meeting of the Working Group held on 19 February 1997, dated 27 February 1997. File reference no. 34011/1(s)/97-Estt.(B), Ministry of Personnel, Public Grievances and Pensions, DoPT.
[342] In fact, greater protection was provided to officials under section 17, which said that "No suit, prosecution or other legal proceedings shall lie against any public authority or any individual, for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder".
[343] "Minutes of the meeting taken by the Cabinet Secretary at 4.30 pm on 29 July 1997 in the Committee Room of the Cabinet Secretariat" dated 8 August 1997. File reference no. 1/97/3/97-CA.V, Cabinet Secretariat.

The NAC draft bill resurrected the issue of penalty provisions in 2004, proposing the imposition of personal fines and/or imprisonment of officials who denied or delayed the provision of information by the relevant Information Commission. The bureaucracy made a spirited resistance to this proposal. Suggesting the dropping of the penalty clauses, it proposed that "The progress of implementation may be watched for some time. If after two years of implementation of the provisions of the proposed Act, it is found that the desired success is not coming, the suggestion may be considered at that time to include a penalty provision."[344] Further, the Department of Legal Affairs was of the view that "such nature of power to punish may not be desirable to be vested in Information Commissioners. The punishment of imprisonment can be imposed under the criminal law by the Courts only."[345] The Secretary in the Ministry of Law and Justice concurred. "Empowering the [Information] Commission to investigate and punish officers is impermissible in law. The investigator cannot be a judge also. Judiciary alone can impose penalty after a fair trial... This provision is likely to frustrate the whole purpose and demoralise the system."[346]

The tussle continued over the next months with the bureaucracy, under pressure from the political executive, eventually making peace with the financial penalty provisions, but digging in its heels over the possibility of imprisonment being meted out by the Information Commissions. By some accounts, the Prime Minister was also not in favour of the clauses related to imprisonment. "In the meeting, Manmohan Singh said, "They make loads of mistakes in the private sector, but no one says anything. You want to hang government

[344] Note dated 20 September 2004 from Pratibha Mohan, Director (E.II), DoPT to the Prime Minister via Joint Secretary, Establishment, and Secretary, Personnel, as a part of the process to develop a Cabinet Note. File notings in file no. 34011/6(s)/2004-Estt.(B).
[345] Note dated 9 December 2004 from R. Koli, Joint Secretary and Legal Adviser, Department of Legislative Affairs to the Law Secretary, as a part of the process to prepare the Cabinet Note. File notings in file no. 34011/6(s)/2004-Estt.(B).
[346] Note dated 10 December 2004 from Secretary, Ministry of Law and Justice to Secretary, Department of Legislative Affairs, as a part of the process to prepare the Cabinet Note. File notings in file no. 34011/6(s)/2004-Estt.(B).

officials for making just one mistake?""[347] By the time the bill passed through the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, the draft bill proposed that the powers of the Information Commissions would be "restricted to authorize an officer of the Central Government to file a complaint against the defaulting Public Information Officer before a Judicial Magistrate of First Class", which could lead to imprisonment, albeit imposed by the judiciary.[348] However, this clause was subsequently dropped by the GoM and finally the Information Commissioners retained only the authority to impose financial penalties, with the possibility of recommending departmental disciplinary action in cases of persistent wrongdoing by concerned officials.

c. Exemptions

"The heart of the legislation is the exemption clause."[349] It therefore comes as no surprise that the issue of what types of information would be exempt from disclosure engendered a great deal of debate throughout the process of the evolution of the legislation (and even after the Act came into force). The essential point of contention in the process revolved around the issue of whether internal government deliberations would be exempt from disclosure or not. Such deliberations typically include 'file notings', which in the context of government papers means that section of a government file on which the executive records its opinions and provides the rationale for the same. Considerable energies were expended on this concern - whether the decision-making process within government could be made public or not. In the first instance, the Press Council / NIRD drafts had proposed that the exemption of disclosure would be limited only to matters pertaining to national security, individual privacy and trade and commercial secrets, with the caveat that "that information which cannot be denied to

[347] Interview with Shekhar Singh, 13 January 2009, New Delhi.
[348] Rajya Sabha Secretariat, 2005: 30.
[349] Interview with BHJ644, civil servant, 3 December 2009.

Parliament or State legislature shall not be denied to any citizen", thus including internal deliberations within the purview disclosure.[350] The Shourie Committee considered this issue, and as early as in its second meeting, "a view was expressed that it was necessary to provide for safeguards against premature disclosures. It was noted that both, the Freedom of Information Act in the U.S. and the code of Practice on Access to Govt. Information in the U.K., provided for safeguards against disclosures of internal communications of the Govt. such as inter departmental memoranda etc... It was accordingly decided that an attempt would be made to draft a Sub Clause... to protect such categories of information."[351] The argument made in support of these exemptions was pegged on the need to ensure the "objectivity of advice that civil servants were required to bring into decision-making processes and to protect candour and frankness of expression in discussions".[352] Although some debate did take place on whether such information could be disclosed *after* a decision had been made, this eventually did not make its way into the draft legislation proposed by the Committee, which specifically mentioned "information in the nature of Cabinet papers, including papers prepared for submission to Cabinet or submitted to Cabinet, other than the documents whereby such decisions are published" and "information in the nature of internal working papers such as inter-departmental / intra-departmental notes and correspondence, papers containing advice, opinions, recommendations or minutes for the purposes of deliberative processes in a public authority" as exempt from disclosure.[353]

[350] Section 4 of the Press Council draft and section 5 of the NIRD draft.
[351] Minutes of the second meeting of the Working Group held on 18 January1997, dated 27 January 1997. File reference no. 34011/1(s)/97-Estt.(B), Ministry of Personnel, Public Grievances and Pensions, DoPT. The relevant exemption clauses of the FoI laws of Australia and Canada were also examined in the context of this discussion.
[352] Minutes of the third meeting of the Working Group held on 19 February 1997, dated 27 February 1997. File reference no. 34011/1(s)/97-Estt.(B), Ministry of Personnel, Public Grievances and Pensions, DoPT.
[353] Clauses 9(iii) and 9(iv) of the Shourie Committee draft bill. Interestingly, sections 9 and 10, which provide the exemption regime, are the longest sections in the draft bill.

The concerns of the bureaucracy on this issue continued to hold sway over the following years, and in a later meeting of the Group of Ministers, it was decided to expand the definition of Cabinet papers to also include the "deliberations of the Committee of Secretaries since these often formed an inextricable part of the Cabinet's decision-making process".[354] The perspective on such exemptions was premised on the view that "the minutes of the records of advice etc., during the decision making process prior to the executive decision or policy formulation shall be exempt from disclosure".[355] The bureaucracy doggedly stuck to this stand even in the face of criticism levelled against these exemption clauses during the examination of the proposal by the Department-Related Standing Committee on Home Affairs in 2001. The argument made in favour of keeping internal deliberations exempt was specious at best. "According to the UK Government white paper presented to Parliament in 1997 in connection with the legislation of the FOI Act, the internal discussions and advice is exempted from disclosure in Australia, New Zealand, Ireland, Netherlands, the USA, France and Canada. All these countries, while recognising that the public has a Right to Know the decisions of the Government, have considered it fit to exclude the deliberative processes from disclosure. In India also, the Government is keen to encourage free and frank expression of views on the part of various officers. A conscious view has therefore been taken that the deliberative process in coming to a decision should not be made available to the public" (Rajya Sabha Secretariat, 2001: 47). Eventually, the Parliamentary Standing Committee allowed the exemption clauses to go through unchanged. With only a token debate taking place on this aspect of the law in the Parliament, the FoI Act of 2002 retained this view.[356]

[354] Minutes of the meeting of Group of Ministers held on 28 October 1997, dated 5 November 1997. File reference no. 34011/1(s)/97-Estt.(B), Ministry of Personnel, Public Grievances and Pensions, DoPT.
[355] Letter from T.K. Viswanathan, Additional Secretary, Ministry of Law, Justice and Company Affairs, dated 11 January 2000 to the Group of Ministers set up to examine the legislative proposal for Freedom of Information. Reference No. 1(57)/97-Leg.I, Ministry of Law, Justice and Company Affairs.
[356] Clauses 8(1)(d) and (e) of the FoI Act 2002 exempted the following information from disclosure: "Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers" and "minutes or records of advice including legal advice, opinions or recommendations made by any officer of a public authority during the decision making process prior to the executive decision or policy formulation".

The draft bill sent to the Prime Minister's Office by the NAC on 16 August 2004 significantly changed the contours of this debate. First, it overtly mentioned "file notings" under the definition of "information" that was open to disclosure.[357] Second, it did not mention any exemption of internal deliberations, and third, while it allowed for the exemption of "cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers" from disclosure, it added a critical caveat to this clause by proposing that such information would be exempt, "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".[358] It further proposed that no exemptions would apply to any information older than twenty-five years.[359] The RTI Act that was eventually passed by the Parliament in 2005 retained this perspective.[360]

However, the issue of internal deliberations, particularly whether 'file notings' would be exempt from disclosure, continued to simmer. When the Parliament sent the bill to the President for his signature, the then President A.P.J. Abdul Kalam raised a cautionary note on the possibility of the disclosure of file notings as this "would harm the process of decision making as officials would be more cautious in or even refrain from rendering objective, frank and written advice on file."[361] In his response, the Prime Minister agreed and stated that, "in

[357] Section 2(e) of the NAC draft defines information as "information means any material in any form, including records, documents, file notings, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data, material held in any electronic form and any information relating to a private body which can be accessed by a public authority under any law". The overt reference to 'file notings' in this clause was absent in the final bill passed by the Parliament.
[358] Section 8(1)(i) of the NAC draft bill, which was eventually retained in the RTI Act 2005.
[359] At the behest of the Group of Ministers set up to examine the bill, the relevant clause was later amended to provide "security related information and Cabinet papers… an all time exemption from disclosure". Minutes of the meeting of Group of Ministers held on 26 April 2005, dated 3 May 2005. File reference no. 34012/1(s)/2005-Estt.(B), Ministry of Personnel, Public Grievances and Pensions, DoPT.
[360] Albeit the number of years was reduced to twenty.
[361] Letter from the President of India to the Prime Minister dated 15 June 2005. File reference no. 34012/10(s)/2005-Estt.B, DoPT.

case it is noticed that file notings are in danger of exposure under this Act, we will consider amending the Act suitably at the appropriate time".[362] Perhaps encouraged by this exchange, the bureaucracy maintained its stand that these were not open to disclosure as "In the Right to Information Bill, 2004, as suggested by the National Advisory Council, the expression "information" [included] records, documents, file notings, memos, e-mail, etc. The provisions of the NAC Bill were subsequently discussed with Chairperson, NAC by MOS (PP)[363], wherein a conscious decision was taken to exclude the "file notings" from disclosure... following which the expression "file notings" was deleted from the above definition. The RTI Bill, with the definition as revised above, was introduced in the Lok Sabha... [and] was later examined by the Parliamentary Standing Committee, as also the Group of Ministers, and considering that the Committee/GOM did not recommend any changes to the definition, the obvious inference is that Government had taken a decision that "file notings" would not be open to disclosure under the legislation".[364] The Prime Minister's Office endorsed this position and directed that the "rules under the Act may be appropriately amended"[365] to reflect this position. Statements from the PMO also suggested the possibility of amendments being made to the Act itself to strengthen this exemption. At the same time, some sections within the bureaucracy did not necessarily support this position. "[When] the government supported the withholding of note sheets, a large number of us were up in arms, because we said who are you trying to protect? If you're trying to protect the honest civil servant, for God's sake don't try and protect us because we'd be the happiest people if our note sheets entered the public domain. And it's a lot of bull if you think that civil servants need this kind

[362] Letter from the Prime Minister to the President dated 26 July 2005.
[363] MOS (PP) refers to Minister of State, Personnel and Pensions, the junior minister. The Personnel portfolio at this point had been retained by the Prime Minister.
[364] Note from Rakesh Malhotra, Under Secretary, DoPT, dated 10 October 2005 to Secretary (Personnel). File reference no. 34012/15(s)/2005-Estt.B. Emphasis in original.
[365] Note from Rakesh Malhotra, Under Secretary, DoPT, dated 20 October 2005 to Secretary (Personnel). File reference no. 34012/15(s)/2005-Estt.B.

of protection. It is the crooks that need it."[366] Eventually, faced by an onslaught of protest from activists and the media, as well as interpretations of the legislation by the now functioning Central Information Commission that ordered the disclosure of 'file notings' in several cases, the government had to abandon this position.

d. Applicability to the Private Sector

The fourth theme that attracted much debate in the process that eventually led to the enactment of the RTI Act in 2005 centred on the applicability of the law, especially whether it would include private entities within its purview. In the early articulations of the legislation, the private sector was firmly envisaged within its ambit. The CERC draft had proposed that a 'public body' would include "any other body which provides public services such as but not limited to energy, transport communication, banking, insurance, finance health, medical and the like".[367] It also had provisions to allow citizens to inspect the premises of hazardous industries to check if adequate safety measures were in place.[368] The Press Council draft provided a more generic applicability. It defined a public authority as including "a company, corporation, trust, firm, society or a cooperative society, whether owned or controlled by private individuals and institutions whose activities affect the public interest".[369] Further, the draft (under Section 9) specifically placed the culpability of offences under the Act upon the senior management of private companies. Critically, no draft proposed at any point (and certainly not the RTI Act of 2005) expressly included political

[366] Interview with FSQ974, former civil servant, 24 November 2009.
[367] Section 2(q)(xi), draft Access to Information Act 1996 proposed by Consumer Education and Research Centre (CERC), Ahmedabad.
[368] See Chapter X of the CERC draft on the "Community's Right to Know".
[369] Section Sec 2(c)(ii), draft Right to Information Act authored by the Press Council of India. The later NIRD draft went further and dropped the public interest clause as well. Section 2(c)(iii) defines a public authority to include "a company, corporation, trust, firm society, a cooperative society, or associations whether owned or controlled by the Government or by private individuals and institutions".

parties or the media within the purview of the Act, although the definitions in the Press Council and NIRD drafts could arguably have been interpreted to include them as well.

In many ways, the deliberations of the Shourie Committee on this issue defined the contours of the discussion that was to ensue over the following years. On 11 February 1997, a few days prior to its third meeting, S. Prakash, who was then Joint Secretary in the Ministry of Home Affairs and a member of the Committee, circulated his comments on the draft bill amongst the other members. He highlighted the issue of the applicability of the draft bill on private entities, arguing that "companies, corporations are engaged in commercial activities and their rights and privileges flow from several other statutes… Any curb on the rights and privileges flowing to these bodies from the other Act [*sic*] would make it liable for being challenged in the Law Courts… In addition, inclusion of these bodies within the definition of public body… would also pose problems in their identification as only those bodies are supposed to be covered whose activities affect public interest."[370] Clearly, the license-quota-permit raj thinking was on the wane, as it was a bureaucrat who was raising concerns about the rights and privileges of corporate bodies.

Shourie defended the stance by stating that "the provisions of Clause 4(c) of the Bill already protect trade and commercial secrets from disclosure. Outside the area of trade or commercial secrets, there would be a large area of information, the disclosure of which would be necessary in consumers' interest - without necessarily affecting the legitimate interests of a firm as regards its competitiveness in the market".[371] However, Shourie's argument was quashed in the third meeting when the Group "felt that… that the legislation should

[370] "Comments on the Draft Bill on 'Freedom of Information' proposed by Shri H.D. Shourie", dated 11 February 1997 by S. Prakash, Joint Secretary, Ministry of Home Affairs. File reference no. D.O. No. II/21011/54/96-IS/US.D.II, Ministry of Home Affairs.
[371] "Observations of Shri H.D. Shourie on Shri Prakash's Comments on the Draft Bill", circulated within the Working Group on 17 February 1997. File reference No. 34011/1(s)/97-Estt.(B).

preferably cover only governmental organisations. The right to information in most countries was vis-a-vis the State. While the citizen, as a taxpayer, had the right to have access to information held by the Government, he did not stand in a similar relationship to a private firm. Besides, the implications of such a right on business activities, which generally should be left to the market forces, were another aspect to be considered… On balance of considerations, it was decided that the definition of public bodies may be amended to include only organisations substantially funded/controlled by the Government."[372] The draft bill proposed by the Shourie Committee in May 1997 maintained this perspective.[373]

The exclusion of the private sector from within the purview of the proposed legislation came in for strident criticism from some quarters, especially from Justice Sawant, who had led the Press Council effort in conjunction with some members of the NCPRI. "If the object of the Act is to give access to all institutions whose activities affect the interests and welfare of the people, it is immaterial whether the interests are affected by the private or public institutions... With liberalisation, free market economy and globalisation, private bodies are bound to play an increasingly important role correspondingly reducing the role of the government and public authorities... To keep such major sources of information out of the access to information, is to make a mockery of the right to information."[374]

Based on similar concerns around the changing economic climate, criticism also came from sections within the government. For example, the "Insurance sector is nationalised and

[372] "Proceedings of the third Meeting of the Working Group held on Feb 19, 1997", circulated within the Group on 27 February 1997. File reference No. 34011/1(s)/97-Estt.(B).
[373] Section 2(g) defined a public authority as "(i) The government of India, the Government of each of the States/Union Territories, local bodies and other bodies owned or substantially controlled or funded by the Government of India or Government of a State/Union Territory and the administrative offices of the Supreme Court, High Courts, subordinate Courts and of Parliament and State Legislatures; (ii) A company, corporation, trust, firm society or a cooperative society substantially funded or controlled by the Government".
[374] Comments of Justice P.B. Sawant, Chairman, Press Council of India, on the "Central Working Group Bill on Right to Information" sent to Dr. P.S.A. Sundaram, Additional Secretary, Administrative Reform and Training, Department of Administrative Reforms and Public Grievances, on 28 July 1997.

private companies are not allowed to conduct insurance business in India. However, as per the announcement made by the Finance Minister in his Budget Speech, a segment of insurance business will be thrown open to the private sector. The Bill, in its present form, will be applicable only to the public sector companies and not to the private companies. It is apprehended that if the private sector companies are not covered under the above Bill, nationalised companies will be placed at a disadvantageous position vis-a-vis private companies because while on the one hand public sector companies will be required to part with certain information, such binding will not be on the part of private companies. This may not ensure a level field playing [*sic*] between the public and private companies."[375] Such concerns were responded to by modifying the exemption clauses "to specifically exempt from disclosure information which might prejudicially affect the competitive position of a public authority".[376]

Perhaps the most detailed argument of the government to *not* include private entities within the ambit of the FoI (or later RTI) law was articulated in the background note (Cabinet Note) sent by the DoPT to the Cabinet in January 1998.

> "As regards the private sector, the view of the Shourie Working Group was that the legislation should not apply to it. The Committee of Secretaries also endorsed this view. While extension of the proposed legislation to private sector may have an emotive appeal, it is necessary to consider it with caution and circumspection... Corporate governance is a different area altogether and the appropriate vehicle to bring about improvement in it cannot be the freedom of information legislation. It was [*sic*] apt to be regarded as an excessive intrusion into the freedom and management of private sector. There is also the danger that it may become a tool for competitive strategy with deleterious consequences for the industry which are too obvious to require elaboration. *Such a step would also be fraught with grave*

[375] 'Comments of Insurance Division on Freedom of Information Bill, 1997' sent to DoPT. File reference no. 15(29)-B(R)/97, Ministry of Finance, Department of Economic Affairs (Budget Division), 6 August 1997.
[376] Minutes of the meeting of the Group of Ministers held on 28 October 1997, dated 5 November 1997. File reference no. 34011/1(s)/97-Estt.(B), DoPT.

implications for the national economy as it would affect the investment climate at a time when we are liberalising and opening the economy."[377]

This argument was accorded wide and longstanding support by the political executive.[378] The first Group of Ministers to examine the proposal reiterated that "The objective of the laws providing the right or freedom to access information was essentially to promote open, transparent and accountable government and this consideration could not be wholly applicable to private bodies which could not be said to "govern"".[379] This perspective continued to hold sway throughout the subsequent meetings of different Groups of Ministers under different governments over the next several years. The question arose again several years later during the examination of the proposal by the Department-Related Parliamentary Standing Committee on Home Affairs (PSC-HA) in 2001. Amongst others, the MKSS and the CHRI were invited to depose before the Committee, and both suggested that the private sector be included within the ambit of the bill. However, the government held its ground, and the report of the PSC-HA repeated the argument almost verbatim. "Any attempt to bring the private sector under the proposed legislation is apt to be regarded as an excessive intrusion into the freedom and management of private sector not to mention that there would be implementation difficulties too in expanding the scope of FOI Bill to private bodies. There is also the danger that it may become a tool for competitive strategy with deleterious consequences for the industry which are too obvious to require elaboration... It is noteworthy that none of the advanced democracies such as USA, Australia and Canada, has thought it fit to widen its laws to this extent to cover the private sector" (Rajya Sabha Secretariat, 2001: 34-36).

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[377] Note for the Cabinet dated - January 1998, sent by DoPT. File reference no. 34011/1(s)/97-Estt.(B), DoPT. Emphasis added.

[378] This was pointed out by Justice Sawant as well. "It is obvious that [the government] was under the influence of private sector and their strong lobbies in the government and the parliament." Email communication from Justice Sawant, 29 July 2012.

[379] Minutes of the Meeting of Group of Ministers held on 17 December 1997. File reference no. 34011/1(s)/97-Estt.(B), DoPT.

Even as wider international experience was used to buttress the argument to exclude the private sector, it is not as if other models had not been made available for comparison. The South African Constitution that had been enacted in 1996 guaranteed that "Everyone has the right of access to a) any information that is held by the state; and b) any information that is held by another person and that is required for the exercise or protection of any rights".[380] This was duly noted and highlighted by some elements *within* the government around the same time.[381] In September 2001, the Prime Minister's Office had sent a 'Consultation Paper on Probity in Governance' drafted by the National Commission to Review the Working of the Constitution to the DoPT for its comments. The paper enclosed "a copy of the recently enacted South African Freedom of Information Act... which covers both the public and private bodies. It can indeed serve as a model enactment for any country committed to concept of freedom of information [*sic*]".[382]

Despite the existence of this alternate viewpoint, the Department-Related Parliamentary Standing Committee was not swayed by the South African example and the bill was returned unchanged (on this issue) to the Parliament. In the parliamentary debates however, the issue rose again, when Prithviraj Chavan (an MP belonging to the Congress Party in the Rajya Sabha, and later Minister in the UPA government) observed that the "right to get information from the private sector should also find a place here in this bill. The Government may say that the Consumers' law provides such a right, but it is not full enough. So, a separate provision should also be provided in this regard".[383] But this intervention was unsuccessful

[380] Section 32 (1) of the Constitution of South Africa.
[381] As also by the CHRI in its deposition before the Department-Related Parliamentary Standing Committee in 2004.
[382] "Consultation Paper on Probity in Governance", National Commission to Review the Working of the Constitution, Government of India, September 2001, enclosed with a note from K.V. Eapen, Director (Vigilance), DoPT, to Pratibha Mohan, Director (E.II), DoPT. File reference no. 4366/Dir(E-II)/01, DoPT.
[383] Rajya Sabha debate on the Freedom of Information bill, 16 December 2002. Interestingly, Chavan was Minister of State in the Ministry of Personnel from 6 April 2008 to 10 November 2010, a period during which he remained rather silent on this issue.

and the FoI bill finally enacted by the Parliament in 2002 did not include the private sector within its ambit.

Judging by the pattern emerging from the previous three themes discussed above, the next and final stage in the evolution of this element within the legislative framework should have seen the unequivocal inclusion of the private sector within the ambit of the Act in the draft bill (more precisely, a list of amendments to the FoI Act 2002) sent by the NAC to the government in August 2004. However, this did not happen. The NAC draft did *not* redefine the definition of public authorities to expressly include private entities. This is especially peculiar as up to this point, the lead actors associated with the NCPRI and the MKSS (who were now quite influential through their linkages with the NAC) had consistently maintained that any private entity performing a public function must fall directly within the ambit of the Act.[384] What the NCPRI/NAC draft did do (in this context) however, was to redefine 'information' to include "any information relating to a private body which can be accessed by a public authority under any law".[385] The dilution of their stand could possibly be attributed to the fact that "most of those who were agitating for including directly the private sector in the Act were of the opinion that let at least the Act proposed by the government see the light

[384] For example, in a letter (unaddressed, but presumably) to Members of Parliament dated 23 July 1998, the NCPRI had stated that it was "distressed that the [FoI] bill excludes from its purview the private sector and NGOs, whose activities affect public interest... because increasingly, large corporations are taking decisions that impinge significantly on the lives of ordinary people...". Later, in its deposition before the PSC-HA in 2001, the MKSS had proposed that the definition of a public authority "must be expanded to include... a company, corporation, trust, firm, society, cooperative society, or associations whether owned or controlled by the Government or by private individuals and institutions" (Rajya Sabha Secretariat, 2001: 34). In its deposition before the PSC in 2004, no such arguments were proposed.

[385] Section 2(e) of the draft Right to Information bill sent by the NAC to the PMO in 16 August 2004. This phrase was eventually redrafted as "any information relating to a private body which can be accessed by a public authority under any other law for the time being in force" under Section 2(f) in the RTI Act, 2005. This clause has not been used much, and in cases where information has been sought from private entities or entities which are Public-Private Partnerships (PPP), information has been denied and the matter taken to court. One recent example relates to Mumbai International Airport Limited, a PPP entity. For media reportage on the case, see "Why not sell the Taj, when we can do it with Mumbai airport?", *Firstpost*, 12 July 2012 and "Drop The Iron Curtain", *Outlook Business* magazine, 26 November 2011.

of the day, and we could push our agenda for inclusion of the private sector at a later stage".[386]

Subsequently, a brief discussion did take place on this matter during the examination of the bill by the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice in 2004. This was initiated by the deposition made by the CHRI, which was the only organisation that had maintained its position on the issue through the years (amongst those who had deposed before both the Parliamentary Standing Committees in 2001 and 2004). In its written submission to the Committee in 2004, the CHRI had proposed to "Broaden the right to information to allow access to information held by private bodies - ideally wherever access is needed "for the exercise or protection of any right", but at least "where the functions of the body are of a public nature; where the body provides services under a contract with a public authority; where the body is owned, controlled or receives aid directly or indirectly from the Government; or where the body's office bearers are appointed by the Government"" (CHRI, 2004: 2). However, the Standing Committee remained unconvinced and the relevant clauses that had been proposed in the NAC draft bill were largely retained in the RTI Act enacted in 2005.

In sum, if the four themes discussed above are to be looked at from the perspective of bureaucratic resistance, a peculiar pattern seems to emerge. In the cases where the power of the bureaucracy was being curtailed significantly, viz. the nature of appellate mechanisms, individual sanctions on erring officials, and the exemption of internal deliberations from disclosure, sections of the bureaucracy did indeed offer resistance, but eventually had to capitulate. However, on the one issue which does *not* appear to affect the bureaucracy

[386] Email communication from Justice P.B. Sawant, 29 July 2012.

directly, that of the inclusion of the private sector within the ambit of the RTI Act, the views of the bureaucracy won the day. In addition, even as the 'successful' activists and the 'resistant' section of the bureaucracy appeared to be at loggerheads on the first three issues, a rapprochement of sorts seems to have occurred on the fourth.[387]

Changes in the 'Climate'

Apart from this differentiated alignment of forces, stark differences also emerge when the procedure followed in the policy-making process that led to the enactment of the FoI Act in 2002 is compared with the one followed in the case of the RTI Act in 2005. In the case of the former, the role of the bureaucracy remained significant (with a correspondingly greater success at 'resistance'), while in the latter, the involvement of the bureaucracy in the process appears to be vastly diminished. For example, the CoS played an important role in the process until the enactment of the FoI Act in 2002. Once the UPA government came to power in 2004, the policy-making procedure was effectively redefined, with practically no involvement of the CoS in the process.[388]

The observations above call for greater analysis. What are the implications of the difference in the role that the bureaucracy played in the enactment of the FoI Act in 2002 vis-à-vis the RTI Act in 2005? How did it come to be that one of the most constitutionally protected bureaucracies of the world could not stand its ground on matters central to its continued hold over power, even as it supported the cause of an interest group that it previously sought to contain (or selectively ally with through rent-seeking)? Was the bureaucracy no longer capable of effective resistance (and perhaps was this a part of the 'right climate')? Or is this

[387] By the more 'successful' activists, I mean those associated with the MKSS and the NCPRI, whose proposals have a clear imprint on the draft bill sent by the NAC to the government.
[388] See Table 5.2 for details.

an example of the realignment of the interests of the bureaucracy in the larger battle between the state and the market? Indeed, what does this say about the conception of these categories as different and separate from each other? And how does this relate to the question of 'the right climate' mentioned in the preceding section? To understand these questions better, it may be instructive to examine the changing institutional nature of the higher bureaucracy in the socio-political landscape of India over the past two decades.

W(h)ither the Steel Frame?

For all the importance that is routinely accorded to the higher bureaucracy, particularly the IAS, in the institutional infrastructure of the state in post-independence India, surprisingly little systematic, large-scale, longitudinal research exists on it.[389] This is in part due to the preoccupation of most scholarly research with the 'everyday state' and the experiencing of it by the vast multitudes of the country. Important as such pursuits are, this has led to a large gap in developing a sophisticated understanding of the way the state functions at the higher echelons.[390] David Potter's (1986) masterful study on the traditions of the Indian Civil Service (ICS) and its post-independence successor the IAS, is possibly the best-known exception to this phenomenon (although it was published prior to the reforms introduced in 1991). The theoretical framework proposed in Potter's work is useful when examining the question of bureaucratic resistance as indicated in the questions above. Potter proposes that the continuation of administrative traditions and its attendant influence is a function of three factors. "The first is *political support* for the structures, behaviour patterns, norms and values

[389] Research that tentatively approaches this direction includes Radin (2007), Krishna (2010) and Saxena (2010). Subramaniam (1971) and Potter (1986) perhaps remain the most thorough of studies in this context. Most research has focused on the 'everyday state' and its interface with citizens, or questions around the effectiveness of the state, including issues of service delivery. A major area of interest has been the 'worm-eye' view approach, while the political dynamics of the higher echelons of the state remain woefully under-researched.
[390] This in turn, is no doubt affected by the problem of access. The 'ordinary' world is far more accessible and visible than the 'exclusive' one.

of the tradition... [This includes] the *agency* of power exercised by administrators within the state... The other is the broad *structure* of the state and class power in which the bureaucracy is located. The second process is *obtaining similar successors* on a continuing basis. This involves the steady replacement of retiring administrators by younger recruits similar in educational and class background... The third process is *shaping successors* to the tradition... The most significant period when this occurs is during the first few years of service in a particular administrative group - during initial training..." (Potter, 1986: 4, emphasis in original). Amongst these however, "political support stands out as of fundamental importance" not least because it "does not depend on the other two processes" (Potter, 1986: 25), while the converse holds largely true. For reasons of coherence, I will first take up the latter two factors for discussion and will return to the issue of political support subsequently.

Obtaining and Shaping Similar Successors

Resonating with Potter's concern around 'obtaining similar successors', several senior and former civil servants spoke of the changing social profile of recruits into the higher civil services, particularly the IAS. An early study, one of the very few that has attempted to analyse longitudinal trends in the social composition of the higher civil services, showed that for the period 1947-1963, entrants into these services were primarily children of the salaried and professional middle class, including high-level civil servants (Subramaniam, 1971). The study concluded by asserting that the higher civil services of the country was a "middle class monopoly" (Subramaniam, 1971: 124). However, the intervening decades have seen "dramatic changes. Earlier on, the services were considered an upper middle class occupation. Not anymore. The social base of the service has increased which means that Group A officers' kids do not go into the services. They [the entrants] do not come from

affluent families. They are mainly the sons of grade three employees, and small shopkeepers, and some fairly poor families. There [has been] a general social levelling down. It is a much wider base than ever before."[391] "A very large number of people are from the middle-sized towns, not from Delhi, even less from metros. Their class background is very different. Many of them are not even very fluent in English."[392] Affirmative action policies since the 1950s and the implementation of the Mandal Commission Report in the early 1990s have meant that recruitment process has indeed widened the social base to increase the proportion of SCs, STs and OBCs into the civil service. "During the 20 years from 1971 to 1991, the representation of the Scheduled Castes in the higher levels of the federal government public service moved from 2.6% to 9.1% while the Scheduled Tribes increased from 0.4% to 2.5%" (Radin, 2007: 1533).[393] Other reports suggest that much larger shifts have taken place. "Less than 2 in 10 entrants [to the higher civil services] were from a metro or a state capital in '04; More than 5 were born in a *tehsil* or district town in '04;[394] One out of four are kids of fathers who have not studied beyond matriculation; 12 of top 50 rank-holders in the 2006 civil services exam are OBCs; 32.5 % of IAS officers inducted in the last five years [2001-2006] are OBCs".[395] Clearly, the democratisation impulse since independence has resulted in a sea-change in the process to 'obtain similar successors'.

Apart from shifts in the recruitment policy, the recruitment process itself has also undergone significant changes in consonance with this democratisation impulse. "Earlier on, in the 50s and early 60s, the interview was given a lot of importance, and that changed. Now the

[391] Interview with FSQ974, former civil servant, 10 November 2010.
[392] Interview with N.C. Saxena, former civil servant, 15 January 2009, New Delhi. It should be noted that the familiar specter of the importance of the knowledge of English in spaces of influence, as detailed in the preceding chapter, raises its head again. 'Metros' refers to metropolitan cities, which in the Indian context include Delhi, Mumbai, Kolkata and Chennai.
[393] Radin (2007) also reports that "A trend analysis of IAS recruits from the 1987 to the 1991 batches indicated that increasingly they were from a lower socio-economic status".
[394] 'Tehsil' in this context implies a sub-district town, not the district headquarter.
[395] Report based on data from the Union Public Services Commission. *Outlook* magazine, 6 August 2007. 'Matriculation' here means the final year of high school.

interview is only one small factor in the selection process. This was to remove the urban and elitist biases. Then the pressure came to increase the age limit - again arguing that there needs to be a rural emphasis and a more inclusive agenda for recruitment".[396] "The age limit for eligibility has been progressively extended to 30 years (with concessions for reserved categories), while it was only 24 during the two decades following Independence" (Benbabaali, 2008). "When the OBC reservation came in the wake of the Mandal report, they also got a couple of extra years, and the SC and the ST kids got an extra couple of years. The number of attempts [allowed to take the entrance examination] were increased... They could enter at about 33 or 34, and then many, definitely north Indians, fudge a couple of years, so by the time they get in they are about 35."[397] These changes have cumulatively meant that the average age of entry into the higher civil services stood at more than 27 years in 2004.[398]

One implication of this increase in age resonates with the second of Potter's concerns, that of 'shaping successors', which would necessarily entail initiation and moulding at a more impressionable age.[399] "Today's [entrants] are much older, many of them are married, with children of their own even before they enter the service, so their value systems have [already] been formed."[400] Layering Potter's framework proposed in the context of the IAS to C. Wright Mills' (1956) singular treatise on the relationship between social background, the membership of institutions, and their relationship to the relative influence of the same, it could be proposed that consequent to the democratisation of the higher civil service in India, at least some attrition has occurred in its influence in the larger socio-political space. This also resonates well with an aspect of Potter's first principle (as mentioned above) correlating

[396] Interview with FSQ974, former civil servant, 10 November 2010.
[397] Ibid.
[398] Puri (2004).
[399] Something which could also be seen as indoctrination in less flattering parlance.
[400] Interview with FSQ974, former civil servant, 10 November 2010.

the importance of the location of the bureaucracy within a given class structure to the degree of influence it wields.

'Political Support'

Another important shift in the 'political support' accorded to the higher bureaucracy is related to the agency it is able to and does exercise. This too, appears to have changed significantly, especially when observed within the framework of institutional relations between the political class generally, the political executive specifically, and the permanent executive as manifested by the higher civil service. "It started with the Emergency. For the civil servants it was said that when they were required to bend, they crawled. That showed that we were in one sense puppets of the political executive. The politicians [now] understood that they had the power and not the civil servants, and that the civil servants could be forced to bend to their will or pack up and sent to nondescript jobs. The political executive never really looked back after that."[401] Apart from using transfers as a stick, the political executive also discovered an Achilles' heel of the civil servants. "There are incentives for being weak - you get good postings and promotions."[402] This would typically require "latching on to politicians to try and become Home Secretary, or Finance Secretary, and so on".[403] That such practices have become more the norm than the anomaly, whereby the much-vaunted 'neutrality' has made way for 'commitment' to a specific political dispensation, has meant that "if we start acting independently, then certainly we'll find a colleague who will be more pliable, and the work can be done. The *esprit de corps* gets eroded when the bureaucracy aligns itself to

[401] Ibid.
[402] Interview with NXW937, former civil servant, 17 December 2009.
[403] Interview with N.C. Saxena, former civil servant, 15 January 2009, New Delhi. Such positions are much more desired than say, Secretary to the Department of Animal Husbandry.

political power".[404] 'Political power', in this context, is not necessarily restricted to actions of the political class. "When someone comes to [the Department of] Education they think, 'I'll go abroad, I'll get a job in WHO, UNESCO, UNICEF. Or if there is a seminar abroad, I'll go there'. So you tend to take a viewpoint that is slightly populistic, that is slightly pro-people so that you appear to be acceptable in larger international fora. So these are the fellows who may have been very very cussed at the state government level. They come to Government of India and they become different in their own personal interest. They feel, let's take this line, let's talk about people's participation, the rhetoric changes."[405] The question of 'acceptability', whether to the political class, or to the larger popular discourse, therefore defines the boundaries within which 'resistance' can be asserted.

In the case of the higher civil service, it is not as if their agency, or their ability to resist, has only been voluntarily ceded. Over the last decades, several institutional changes have been introduced by the political executive to wrest greater control over the policy-making process. In this context, the institutionalisation of the 'group of ministers' is an important example. Such an entity did not exist within the Government of India's 'Transaction of Business Rules' until the 1990s. It was brought in as an "effort to bypass the standard method of bureaucracy. What was happening is that the Secretaries and the bureaucracy were very powerful. Their arguments were very logical, as is expected to be, because they would go into the matter in great depth, and ministers sometimes found it very difficult to overrule them... [Then] this intermediary 3-4 member group of ministers comes in, that starts saying, "No no, what the ministry is saying is not suitable, the executive decision at the political executive level is B, and not A." It has always been a matter of how the political executive can take the real power, because otherwise, the concept of a sort of partnership between the bureaucratic

[404] Interview with FSQ974, former civil servant, 10 November 2010. Rudolph and Rudolph speak of the 'neutrality' versus 'commitment' dichotomy in some detail (1987: 78-82).
[405] Interview with HFA533, former civil servant, 15 October 2009.

executive and the political executive, this was breaking down. As the bureaucracy tended to be a little higher because of their own professional inputs, it had become very difficult for single ministers to overrule [it]."[406]

In the context of the enactment of the RTI Act, the implications of such institutional changes are starkly visible, if only to show the extent to which the influence of the permanent bureaucracy on the policy-making process has been reimagined over the last couple of decades. If until the enactment of the FoI Act in 2002, the Committee of Secretaries (as an emblematic example of bureaucratic power) had jousted with successive Groups of Ministers (with some success), once the UPA government came to power in 2004, the CoS played virtually no role in the process as the draft RTI legislation was sent by the NAC to the PMO, which in turn sent it to the nodal ministry, which was expected to merely go through the procedural paces.[407]

[406] Interview with NXW937, former civil servant, 17 December 2009.

[407] The choice of the PMO over the Cabinet Secretary's office is itself a telling example of the shift in relative power between the political executive as represented by the former, and the head of the permanent executive as represented by the latter. It is also not surprising therefore that if the most powerful bureaucrat in the country used to be the Cabinet Secretary, now it is considered to be the Principal Secretary to the Prime Minister, a post currently held by Pulok Chatterjee (who finds mention in Chapter 4 as well). "Earlier this week, a committee of secretaries was set up under Chatterjee - not Cabinet Secretary Ajit Kumar Seth, as is the norm - to chalk out a time-bound action plan on coal and gas shortage, cheap imported coal, hike in power tariffs and for unleashing the second generation of power reforms. Chatterjee is also coordinating with crucial ministries, a job usually assigned to the Cabinet Secretary. Though Seth and Chatterjee are from the same Uttar Pradesh IAS cadre, it is increasingly becoming clear that it would be the Principal Secretary and not the Cabinet Secretary who will call the shots on the economy and derailment of economic reforms." From "India's second most powerful person", *The New Indian Express*, 22 January 2012. Another example of the ways in which the political executive, supported by 'compliant' bureaucrats, has sought to further disempower the permanent executive is by instructing that "A copy of the draft [cabinet] note should necessarily be forwarded to the Prime Minister's Office at the time when notes are sent for inter-ministerial consultations… The fact that a copy of the note was forwarded to PMO and their comments, if received, were taken into account while finalizing the note for the Cabinet/Cabinet Committee may be indicated in the forwarding communication sent to the Cabinet Secretariat, but the details of the views of PMO should not be made in the body of the note for consideration of the Cabinet/Cabinet Committees. The fact that the draft note had been sent to PMO, can, however, be mentioned in the paragraph on interministerial consultations without referring to what comments were received from PMO" (Government of India, 2011: 15-16). In effect, this means that while a ministry may make a policy proposal, it is no longer at liberty to place on record any political interventions that may affect its substance, a clever ploy to exercise political power without its attendant responsibility on the part of the PMO. Meanwhile, the permanent bureaucracy must take responsibility for any negative fallout of such a political intervention should it later arise.

The NAC itself had no constitutional or procedural authority, but wielded immense political power, headed as it was by Sonia Gandhi.[408] In many ways, the NAC could be seen as the culmination of the evolution of the impulse to wrest influence away from the bureaucracy, perhaps even the government, and locate it within the political class. "These people wanted to bypass the formal structure of government - the ministry, the secretary, the minister concerned, the Group of Ministers, the Cabinet - this is the formal structure... The NAC was a device, particularly because the lady [Sonia Gandhi] was not a part of government. [The question was] how to make that lady the *de facto* PM without actually her having to take the responsibility of the PM and doing the day to day work of the PM. Why did it come about and was not opposed very strongly? Because they said, we will also take into account a cross section of opinions, we'll put one NGO, we'll put one activist, we'll put various shades of opinion. And it will be an eminent body with people who have done well in their own fields."[409] It is quite instructive to observe that several themes that have arisen previously in this thesis find sublimation in this perspective on the NAC viz. the necessity of seeking its legitimacy through the incorporation of 'civil society'[410]; the argument of 'eminence' to justify its composition[411]; the social profile of its members[412]; and the bypassing of existing procedural norms as well as institutional actors in the policy-making process[413]. Further, it was also proposed that the selection of those invited to join the NAC was defined by the 'acceptability' of their views, if not to further a larger political agenda. "I see [activists] as a pressure group, and these pressure groups are *used* quite often by political parties to put forward their point of view."[414]

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[408] As discussed in detail in Chapters 3 and 4.
[409] Interview with NXW937, former civil servant, 17 December 2009.
[410] Akin to the legitimacy claimed by government committees that include non-government representatives.
[411] Similar to the argument proposed in the process of choosing the non-governmental members of the H.D. Shourie Committee.
[412] See Annexure V for details of the members of the NAC which resonates tremendously with the social profile of the established leadership of the 'movement' for an RTI Act (as discussed in Chapter 4).
[413] Similar to GoMs, which were eventually institutionalised.
[414] Interview with EFD094, former civil servant, 24 November 2009. Emphasis in interview.

The 'Right Climate'

Given the discussion above, it could be proposed that on the three themes related to the bureaucratic resistance to the RTI Act mentioned above, the permanent executive may have indeed lost the battle, but this cannot be attributed merely to 'pressures from below'.[415] Rather, structural changes related to the social composition of the higher bureaucracy, in conjunction with the greater assumption of power and influence by the political executive specifically and the political class generally, may have a more direct causal relationship with these outcomes. It was not as if the celebrated 'steel frame' of the country had been tamed by the collective will of the people, but it is more likely that an already emasculated entity had inevitably capitulated to the pressures of political processes that were far beyond its ability to resist. And yet, even such an emaciated and marginalised bureaucracy did win one battle at least - it succeeded in preventing the law from being extended to the private sector. How and why did this come to be, and what implications does this have?

To answer this question, one must return to the issue of the social composition of the higher civil service and extend it further. If the bureaucracy is no longer being inhabited by the traditional upper caste, upper-middle class, urban elite, what spaces has this elite moved into?[416] An important clue came to the fore during the data collection process for this research. *None* of the children of the 17 senior IAS officers (ranging from the batches of 1959 to 1975) interviewed as a part of this research had joined the civil services at any level.[417] Most of these 'IAS-kids' worked for large multi-national corporations, private sector banks and other financial institutions, with a few having become journalists or academics, whether

[415] The three issues being the nature of the review and appellate mechanisms, the extent of sanctions on errant officials, and the nature of exemptions to the law.
[416] There are significant overlaps between this elite and the elites defined in Chapter 4.
[417] The children of these bureaucrats themselves constituting the same elite.

in India or abroad.[418] Although limited research on the profile of entrants into the higher civil services exists (as discussed above), no study has comprehensively analysed the caste, educational and social profile of the managerial class within the private sector in India, particularly with respect to disaggregating data by the occupation of the parents of respondents. However, a smattering of small-n sector-specific studies do show that the managerial class in the private sector is, at the very least, overwhelmingly upper caste and belongs to the middle and upper-middle classes.[419] A recent study also shows that decision makers within the national media based in Delhi belong overwhelmingly to the upper castes.[420] For example, high caste Hindus including Brahmins, Kayasthas, Rajputs, Vaishyas and Khatris occupy about 86% of the key decision making positions in the media. Of these, Brahmins alone constitute 49% of the key media personnel. Not even one of the 315 key decision-makers surveyed in the study belonged to the Scheduled Castes or the Scheduled Tribes, while only 4% had an OBC background. This does not necessarily mean that the social composition of the managerial class in the private sector and the media was substantially different *prior* to the changes taking place in the higher bureaucracy. What it does point to however, is that with the expansion of the private sector and the media over the past two decades, that elite fraction of the middle class that previously dominated the higher bureaucracy has now shifted its location to the private sector and the media.[421]

When one juxtaposes these observations with the fourth bone of contention in the enactment process, it no longer comes as a surprise that the then senior bureaucracy that was involved in

[418] Although I have not found any data on this, anecdotal evidence suggests that there is also a concurrent phenomenon of an increased rate of attrition of serving officers of the IAS, where mid-level officers resign from the service to take up lucrative positions in large multi-national companies. Apart from managerial experience, an additional attraction for such companies to hire former IAS officers is their ability to help the companies negotiate officialdom and garner large public contracts through their networks formed during their 'service' years.
[419] See Upadhya and Vasavi (2006) and Upadhya (2007).
[420] See Chamaria et al (2006).
[421] This resonates with the economic liberalisation as an 'elite revolt' thesis after Corbridge and Harriss (2000).

the process of the drafting of the RTI Act itself supported the cause of the private sector. The debate on the ambit of the RTI Act was primarily (and quite early in the process) restricted to greater *government* transparency (and not greater transparency of *all* institutions that affect public interest, including those within the private sector, or political parties, or for that matter the media), even as several functions of the *mai-baap sarkar* of yore were being privatised.[422] The climate was indeed right, for the state was in retreat, with the market scoring important victories over it.[423] In such a climate, it also comes as no surprise that significant support for such a 'people's demand' for greater *government* accountability came from the mainstream English-language media, led as it was with the elite fraction of the middle class, which was no longer vested in the state as it once was.[424]

In sum, the timing of the enactment and the final form that the Act took must be seen in conjunction with each other to gain a nuanced understanding of the contours of this 'right climate'. The early 1990s is then a critical period in the process for two very important reasons - the launch of the economic reforms project, along with the implementation of the Mandal Commission report that would further democratise the higher civil services. It is therefore only to be expected that the efforts to bring in greater government accountability that predated 1991 did not amount to anything substantial. At this point, the elite fraction of the middle class was still vested in the state, even as the democratisation of the higher civil service was relatively predictable and contained. That the early articulations of the legislation also envisaged the inclusion of the private sector directly within its ambit only serves to

[422] Importantly, the RTI Act has largely been produced as a potential tool to hold the government, particularly the lower bureaucracy to account. Most campaigns, whether of government or NGO provenance, highlight the potential use of the RTI to ask information on service delivery concerns, rather than more political questions.
[423] See Kohli (2012) for a recent commentary on this phenomenon.
[424] An emblematic example is that of Sagarika Ghose, a career journalist and currently the Deputy Editor of CNN-IBN, a popular English language television news channel. Married to Rajdeep Sardesai, who is the Editor-in-Chief of the same channel, she is the daughter of Bhaskar Ghose, an IAS officer of the 1960 batch who retired in 1998. Prior to retiring, he also held the position of Secretary, Ministry of Information and Broadcasting. Unsurprisingly, both father and daughter are alumni of St. Stephen's College, Delhi (see Chapter 4 on the St. Stephen's 'phenomenon').

strengthen this proposition from a different direction. Once it was obvious that the higher bureaucracy was no longer going to remain the preserve of this elite fraction of the middle class, concomitant as it was with the launch of the reforms project which imagined a greater role for the market vis-à-vis the state, the momentum for greater *government* transparency gained an inexorable momentum. The private sector, on the other hand, now could not be overtly placed within the radar of the legislation, for this was the space where the class that previously dominated the higher bureaucracy was moving into.

Some Preliminary Conclusions

Taking the twin issues of timing and content as a point of departure, the discussion can now return to the questions that the preceding chapter ended with. The celebratory discourse around the RTI Act is essentially founded on the proposition that it fundamentally alters the citizen-state relationship, and in that is an intensely *political* idea.[425] However, if the nature and composition of the state itself is undergoing fundamental transformations, to what extent does this claim ring true? If the state itself is in retreat - its 'traditional' responsibilities being relocated to other actors, along with the established policy-making process being circumvented (in part due to the elites disinvesting from the bureaucracy), to what extent is increased *government* accountability through mechanisms such as the RTI Act a meaningful political exercise of democratic deepening? Had an effective legislation (similar to the current RTI Act) with its ambit limited only to public authorities been enacted prior to 1990, it could indeed have been considered as the victory of a 'political' idea. Conversely, had the current (post-1990) RTI Act incorporated the private sector (and through that the media as well) within its purview, that too could have been considered to be an 'audacious reform', and very

[425] Even as the demand and the events surrounding its realisation being within the realm of political society was questioned in the preceding chapter.

politically so. With neither of these being true, the assertion that the RTI Act fundamentally alters the structure and location of power cannot be seen as an unquestionable truth. At best, perhaps it could be seen as an example of locking the stable doors after the horse has bolted. A more sinister reading would perhaps imagine the RTI Act as an important element within a larger project of the ring-fencing of the state. Every successful use of the RTI Act to unearth government corruption has led to a reiteration of the state being a venal, arbitrary, and inefficient entity. While this is a worthwhile exercise in itself, this has also had an (un)intended consequence of strengthening the discourse that promotes a 'less-state, more-market' model of development. This profound irony has been completely ignored in the narratives that produce the RTI Act as an emblematic example of democratic deepening in India.

Returning to the more proximate concerns highlighted in this chapter, what can be gleaned from a more nuanced understanding of the role that the state played in the process of the enactment of the RTI Act? In the first instance, the dominant view that relegates the role of the state as being primarily reactionary and resistant needs to be revisited. The implications of this are important. The state does not merely react to pressures from below. It also initiates processes of political change. This may occur as a result of 'reform champions', or because the 'climate is right'. However, this appears to contradict the preceding assertion. If the state is the 'prime mover' in processes of political change, then it cannot at the same time be considered to be weak.

This apparent contradiction can be resolved if the discussion is taken beyond the conceptual category of the state, and into the larger category of 'power'. In this sense, the state remains but one location of power, even as the spaces that such power is located in are in a constant

state of flux. At the same time, those dominating these spaces of power constitute the ruling elite at any given moment in time, and one way to identify the location of power is to follow the movement of the ruling elite. This is not to say that the 'ruling elite' itself is an immutable category. An upward movement into the rarefied world of the ruling elite can and does take place, but this occurs at the margins and over generations, even as the defining attributes of this elite remains the same. The old rich were themselves nouveau riche once, but the social and cultural attributes that define the old rich remain the same.

If prior to 1991 the bureaucracy was an important location of political power, the outmigration of the ruling elite from it, along with the reimagining of the role of the state has meant that the location of power is changing. "In that sense power has shifted to two categories, politicians and businessmen. Bureaucrats realise that as the economy matures, they become less relevant. Deal-making then of course gets confined to smaller numbers and higher sums. Ultimately, the politician and the businessman have a dialogue, they don't need the bureaucrat. The bureaucrat now is the fellow who provides data, information and in the areas where there is no political angle, his advice can be accepted. The businessman has also realised that he does not need an interlocutor. If money is to be paid to the politicians, there is no reason why you should have a bureaucrat in between, and then of course you have muscle power... and then the businessman decided that it's even easier to enter politics as a means of insurance."[426] In the context of the RTI Act, the state then becomes complicit in this process of relocation of power. To ensure the legitimacy of this move, it then becomes imperative to bring on board 'independent' and civil voices, themselves possessing the attributes of the

[426] Interview with FSQ974, former civil servant, 24 November 2009. A recent study carried out by the National Social Watch Coalition reported that "128 out of the 543 members of the 15th Lok Sabha belonged to the business class". This included Vijay Mallya, a Member of Parliament from the Rajya Sabha. The owner of Kingfisher Airlines, he was quite conveniently on the Parliamentary Standing Committee on Civil Aviation. See "Su Casa Es Mi Casa", *Outlook* magazine, 21 May 2012.

ruling elite, even as the process is produced as a shining example of a responsive and sensitive state.

The above does not propose that the state in India has been completely emasculated and wields no power. As long as the formal structures of democracy continue to be in place, the political class will need to derive its legitimacy from within the scaffolding of the state. However, the nature of political power is essentially reflexive, in that political power is the ability to exert influence and direct social and economic processes to ensure that it remains with the holders at any given moment in time. In this context, the role of the state in the process of enactment of the RTI Act only appears to reinforce this assertion. Early reformist elements within the apparatus of the state failed to achieve greater government transparency, not least because sections of the ruling elite were still vested in the state through the domination of the higher bureaucracy. Once this section of the ruling elite had to relocate to new spaces, the resistance to the idea plummeted, as long as the demand for accountability would not be extended to the spaces it was to relocate to. The temporally and substantively differentiated bureaucratic resistance (as described above) then, was the ability of the ruling elite to protect its own interests, and took on forms related to the spaces it occupied at a given moment in time. That political parties were *never* imagined to fall directly within the purview of the RTI Act lends further credence to this proposition. Further, the RTI Act in its current form "does not affect the political class. They have a huge plethora of weapons. They have a hundred pots to eat from. If one or two are sealed off as a result of the RTI Act, it will not affect them."[427] Meanwhile, the democratisation of the higher bureaucracy has also meant that the bureaucratic space is now less able to influence political power, not least through limits imposed on it by mechanisms such as the RTI Act. In other words, even as the ruling

[427] Interview with HFA533, former civil servant, 15 October 2009.

elite was previously manifested in the politician-business-bureaucrat alliance, it has now coalesced within the former two spaces, with the bureaucratic space having been vacated for those lower in the pecking order, their role being relegated to that of statisticians with the 'public's' RTI-tinted gaze focused firmly upon them.

Finally, we must return to the slogans that the Hazare campaign threw up (mentioned at the commencement of this chapter). The days of the *mai-baap sarkar* may indeed be over. However, that familial relationship has also moved - to the relationship between the political class and the government. Sonia Gandhi is indeed the mother of the government, which therefore must discharge its obligations of filial duty. The governmental apparatus therefore did indeed respond in a suitably deferential manner to the push coming from the Gandhi-led NAC in the context of the RTI Act. And Manmohan Singh as the uncle of the government did seek and receive obeisance from a perhaps not-so-recalcitrant bureaucracy. To his credit, he tried to protect his flock (by attempting to keep file notings within the 'family'). But family dynamics are capricious. The mother intervened.

At this juncture, and with no reference to the origins of the mother, we turn to the third silence identified in the dominant narrative, that of the role of international processes in the enactment of the RTI Act.

Chapter 6

The Foreign Hand

"The West has today opened its doors,
There are treasures for us to take.
We will take and we will also give,
From the open shores of India's immense humanity."
- Extract from Rabindranath Tagore's poem *Bharat Tirtha,* quoted by Prime Minister Manmohan Singh[428]

"We are now emerging as one of the important players on the world stage. There are many forces that would not like to see India realize its true place in the Comity of Nations. We must not play into their hands."
- Manmohan Singh, Prime Minister of India[429]

Rabindranath Tagore wrote the poem *"Bharat Tirtha"* ("The Pilgrimage That is India") in 1911. In 2005, the Prime Minister of India referred to it when accepting an honorary Doctor of Civil Law degree from his *alma mater,* the University of Oxford. Six years later, and precisely one hundred years after the poem was written, the worldview of the same Prime Minister (now in his second term in office) appeared to have changed somewhat. In the context of allegations made by his party spokesperson that 'foreign support' had been extended to the Lokpal movement, Mr. Singh seemed to have forgotten his earlier invocation of Tagore. Outside 'forces' were not only a source of treasures, but could also be weaving a sinister plot to prevent India from claiming its rightful place at the international high-table. Six years in office, it would seem, had resulted in politics triumphing over poetry.[430]

[428] This specific extract and translation was quoted by the Prime Minister in his acceptance speech at the University of Oxford upon being awarded the honorary degree of Doctor of Civil Law on 8 July 2005.
[429] From the statement made by the Prime Minister, Manmohan Singh, to the Parliament on 17 August 2011, after Anna Hazare had been arrested in Delhi in the context of the agitation for a Lokpal Bill.
[430] Some months later, the Prime Minister's concerns about outside forces were reiterated, albeit this time in the context of a proposed nuclear power plant in Tamil Nadu. "Foreign hand nuking Tamil Nadu nuclear power project, says Prime Minister Manmohan Singh", headline in *Mail Today* newspaper, 24 February 2012.

Although the relationship between politics and poetry is something that this thesis cannot dwell upon at any great length, Tagore's poetry, his politics reflected therein, and his relationship with the Indian freedom struggle pose questions that are relevant to this thesis. In response to Gandhi's call for non-cooperation, Tagore had said "The idea of India is against the intense consciousness of the separateness of one's own people from others, and which inevitably leads to ceaseless conflicts... Let us be rid of all false pride and rejoice at any lamp being lit at any corner of the world, knowing that it is a part of the common illumination of our house" (Rabindranath Tagore, quoted in Guha, 1999). In response, Gandhi stated, "'I hope I am as great a believer in free air as the great Poet. I do not want my house to be walled in on all sides and my windows to be stuffed. I want the cultures of all the lands to be blown about my house as freely as possible. But I refuse to be blown off my feet by any" (M.K. Gandhi, quoted in Guha, 1999).[431]

This exchange provides us with useful clues when examining the third of the silences in the dominant narrative that seeks to explain the enactment of the RTI Act in India in 2005 (as identified in Chapter 3). To what extent, if any, did 'lamps lit' in other parts of the world influence the process in India? If international actors and process did indeed play a role, what was its nature? If there *were* external influences, then for what reasons is the dominant narrative pointedly silent on this aspect of the process? Do the reasons lie in the nature of the influences, or on local and international political realities? Was it a 'give and take', or was India 'blown off its feet' and 'played into the hands' of outside forces? Do these opposing pulls of acknowledgement and denial point to other anxieties that underpin the discourse on democratic deepening? Given that this is a recurring trope (from the independence struggle to more proximate 'movements'), using the RTI Act as a lens to examine such questions may

[431] As Guha's essay points out, the second and third sentences of Gandhi's statement have been oft-quoted out of context positing him as a great internationalist, a selective interpretation to say the least.

provide us with a more nuanced understanding of the complex interplay between the local and the global, the domestic and the international, the 'inside' and the 'outside' when investigating processes of social change in a post-colonial democratic polity.

The Dominant Narrative: Mostly Home, a Little Away

The dominant narrative that seeks to explain the reasons behind the enactment of the RTI Act in India unequivocally asserts that the process was exclusively 'home-grown', that it was almost completely insulated from external influences, and that this characteristic makes the Indian case exceptional and inspiring, especially as such a process deepens democracy more meaningfully. That this assertion is made not only by the established leadership of the 'people's movement' for an RTI Act, but is also endorsed by international actors, the mainstream media, some sections of the government, as well as existing research, has meant that this version of events is now considered to be an inviolable truth. In the telling of this 'truth', the sheer absence of international trends, processes, or actors in this narrative is striking. In practically *all* of the literature that currently exists on the RTI Act in India (regardless of its source), there is barely a mention of the possibility of external entities having had any influence on the process that led to the enactment of the RTI Act in India.[432] The narrative limits itself to speaking of the 'grassroots movement', and at most extends the genesis of the RTI Act to the environmental movement of the 1980s.[433] In this sense, the grassroots is conflated with the local (inhabited by marginalised, poor, and often illiterate people) - a radically different image compared to the transnational, networked, intellectual elites that have typically played a significant role in advocating for an FoI legislation in other

[432] This literature was reviewed in Chapter 3.
[433] As reviewed in Chapter 3 and critically examined in Chapter 4.

counties.[434] The resounding silence around the role of international actors and processes has thus allowed the Indian experience to be produced as a rare bottom-up process in stark contrast to the ubiquitous top-down processes that have typically informed the growth of FoI legislation across the world. In this context, this chapter is somewhat different from the previous two. While the silences examined in Chapters 4 and 5 took the claims made in the dominant narrative (on the role of the grassroots and the state) as a point of departure and offered alternative perspectives on the same, this chapter primarily engages with the silence around the influence of international processes and actors on the Indian RTI Act in a literal sense. There is, literally, a gargantuan gap in the dominant narrative on this issue, and therefore this chapter is qualitatively different from the preceding two in that it attempts to *fill in* a silence, rather than highlight alternative perspectives to existing claims.

The concern around this silence is echoed in possibly the only paper to mention the international context (albeit cursorily) in relation to the Indian RTI Act. "How exactly did transnational institutions and processes affect the Indian movement? It is hard to answer this question because Campaign activists prefer to highlight the indigenous roots of RTI initiatives and emphasize that the process leading up to the Indian legislation was qualitatively different from that in other countries" (Baviskar, 2007: 20). That *all* existing analyses have drawn primarily on the perspectives of 'campaign activists' has meant that the question posed by Baviskar has been largely ignored.[435] In the few instances where there *is* a reference to the international in the context of the explanatory narrative of the RTI Act in India, it exists only to explicitly negate its role, and reiterate that the Indian experience was largely unaffected by related events in other parts of the world, and is therefore exceptional.

[434] See Blanton (2002a, 2002b), Roberts (2003), Banisar (2005, 2006), Ackerman and Sandoval-Ballesteros (2006), Szekely (2007) and Obe (2007) for the role of such an elite in the RTI-related narratives pertaining to other countries.
[435] A silence that may have been highlighted, but left unexamined by Baviskar as well.

An example of such an analysis is Singh (2011), the most recent and detailed published account of 'the genesis and evolution of the RTI regime in India'. In the paper, Singh suggests that "the impetus for operationalising the right to information... arose primarily out of the failure of the government to prevent corruption and to ensure effective and empathetic governance. The role, if any, of international agencies was marginal" (Singh, 2011: 45). A key 'campaign activist' respondent proposed a more expansive conceptualisation of international influences. "In India we are so immunised to what is happening abroad. I've been a part of this from the early 1980s and I've not even been aware of where there is an RTI Act and where there is not. One never looked out."[436] Such a perspective emanating from part of the established leadership of the 'RTI movement' - that the demand for an RTI Act in India grew primarily from the grassroots (and the 'movement' was therefore essentially 'local'), and that commonalities with international events were at best a mere coincidence - have been endorsed by the growing literature arising from the academic as well as international actor spaces, which hold up the Indian case as an exceptional one. "Unlike nearly every other country's campaign for greater access to information access, spearheaded by middle-class professionals, India's drive was fueled from the grassroots up (Florini, 2007: 10). A regularly cited World Bank Institute commissioned research paper speaks of "the strictly "grassroots, home-grown" nature of the right-to-information movement across [India]" (Puddephatt, 2009: 25).[437]

Similar endorsements litter the discourse emanating from international agencies and INGOs and posit the exceptionality of the Indian case against the experiences of other countries

[436] Interview with YDS558, 13 January 2009.

[437] That the World Bank commissioned a paper on "Exploring the Role of Civil Society in the Formulation and Adoption of Access to Information Laws" is revealing in itself. Another example is the similarly titled UNDP publication, "Civil Society and Right to Information: A Perspective on India's Experience" (Sharma, 2004). I have yet to come across a paper (commissioned or otherwise) that explicitly explores the role of international actors and agencies in the rise of FoI laws. The reasons behind such a silence are explored later in this chapter.

where other non-grassroots, non-local causal factors have been explicitly acknowledged. "Freedom of information laws are promoted in many ways, from top-down examples (as in Mexico, where a regime change led to excellent freedom of information legislation) to grassroots approaches (as in Rajasthan)" (World Bank, 2004: 1). "India is *one of the only places* in the Commonwealth where there has been strong grassroots mobilisation specifically around the issue of the right to information" (CHRI, 2003: 66, emphasis added). "India's experience shows that an effective ATI [Access to Information] act can unleash a powerful movement of bottom-up accountability. In India ATI has enabled grassroots groups to obtain key information about government programs and demand their entitlements."[438] "It is often assumed that right to information laws are only of interest to the urban elites, or those concerned with policy-making. However, one of the most imaginative campaign histories can be found in India in which a grassroots organization was able to successfully illustrate the link between a lack of transparency and corruption" (UNDP, 2004: 16). "In India, the movement for right to information has been as vibrant in the hearts of marginalised people as it is on the pages of academic journals and in media coverage" (Article 19, 2001: 56).

Although the production of the established narrative can be traced primarily to 'campaign activists, international agencies, academia, and mainstream media spaces (as identified in Chapter 3), it is interesting to note in several instances, sections of the government endorsed this version of events.[439] "The Indian legislation on the right to information is the *result of a popular grassroots struggle* for effective governance" (Central Information Commission, 2006: 8, emphasis added) and the "campaign started by some prominent social groups like Mazdoor Kisan Shakti Sangathan (MKSS) and the National Campaign for the People's Right

[438] Extract from the speech of Sanjay Pradhan, Vice President, the World Bank Institute, at The African Regional Conference on the Right of Access to Information organized by The Carter Center, 7-9 February 2010, Accra.

[439] A vast majority of internal government papers invoke the 'international experience', but these are typically not acknowledged in the production of the dominant narrative.

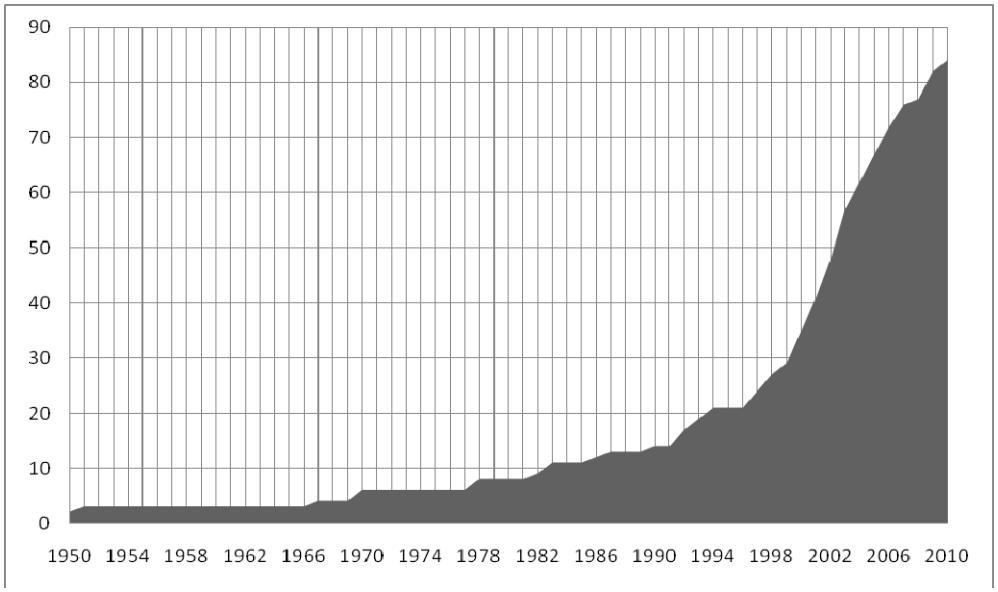
to Information, took concrete shape when in January, 1997 the Government set up a Working Group on "Right to Information and Transparency"" (Rajya Sabha Secretariat, 2005: 3) are two emblematic examples. Further, with the establishment of the Indian case as an outlier in this regard, several other countries, particularly within the South Asian region, appear to be almost apologetic about their individual national trajectories in this context. For example, in the case of Bangladesh "The [RTI] law was passed through the efforts, effective lobbying and advocacy of many civil society organisations, academia, media, researchers and legal experts. It was not preceded by a grassroots level awareness and mobilization as in India" (Anam, 2011: 2).[440]

In sum, the existing explanatory narrative around the RTI Act in India proposes that the Indian experience is particularly noteworthy as not only can its roots be traced to the dusty weather-beaten paths of rural India, but also because the process was divorced from any perceptible international influences or trends. It is this defining characteristic of the Indian 'struggle' for an RTI Act that accords it an almost mythical status within FoI-related advocacy, academic and activist spheres. Top-down, elite-led, externally influenced democratic 'deepening' after all, presents a far less attractive image compared to a bottom-up local struggle that succeeds in wresting power from above.

[440] A respondent highlighted the negative consequences at the global level of promoting the claim that the Indian RTI Act was a result of a people's movement, and had little to do with international processes. "It is doing disservice [to the cause]... Now there is this feeling that unless you have a mass movement like India, you can't have an RTI Act... This is a myth. There was no mass movement that brought about this thing [in India]". Interview with YDS558, 9 October 2011.

This particular version of the 'truth' calls out for deeper examination, not least because of the timing of the enactment of the RTI Act in India. In 1990, only fourteen countries had some sort of a law that provided citizens with a formal and legal procedure to access government information. In 2010, this number stood at eighty four.[441] In addition, another fifty countries seem to be on their way to enacting such legislation.[442] Some international organisations, including the World Bank, have of late begun to draft disclosure policies somewhat on the lines of national FoI laws.[443] Clearly, there seems to be a well-established global trend of adopting national (and international) FoI legislation and policies across the world, particularly over the last two decades.

Figure 6.1: Growth in the number of countries with Freedom of Information laws[444]



[441] See Vleugels (2010).
[442] Ibid.
[443] For the World Bank's disclosure policy, see http://www1.worldbank.org/operations/disclosure/policy.html. For an interview of Isabel Guerrero, Vice-President for South Asia at the World Bank, which was published in the April 2010 issue of *Civil Society* magazine, on how India's RTI Act has inspired the World Bank's disclosure policy, see http://go.worldbank.org/99PC5A8EA0. Accessed 10 October 2010.
[444] Data by year in which law came into force. Prior to 1950, only two countries, viz. Sweden and Colombia had such a law. While the history of the Swedish law is relatively well documented, the Colombian case remains a bit of a mystery, at least in the literature and resources available in English.

As the figure above suggests, the trend takes a sharp upward trajectory around the late 1990s, which continues up to the present without showing any signs of abating. Given this, it is mystifying that the dominant narrative that seeks to explain the enactment of the RTI Act in India in 2005 does not even acknowledge the presence of this global trend, far less identify any relationship between the two. This becomes all the more puzzling as the enactment of the RTI Act in India falls almost squarely in the middle of the high-growth phase of the enactment of such laws across the world. Could it indeed be possible that India was so insulated from a global trend that continues to overwhelm scores of countries around the world, and that the timing of the enactment of the RTI Act is therefore a mere coincidence? Or was there indeed a relationship between the national and the international processes that requires further examination? In the event that such a relationship did indeed exist, what was its nature, and why should the dominant narrative ignore it so pointedly?

This chapter will attempt to answer these and other related questions by first examining the claim that international influences did *not* play any notable role in the enactment of the RTI Act in India. Data for this line of inquiry have been culled from government papers, documents sourced from civil society actors, as well as interviews with relevant individuals that span both the government and civil society spaces. After assessing the extent of the influence of the 'outside' on the Indian case, the chapter will then link it to the normative framework underlying the spectacular rise of FoI as an idea, both in India as well as globally. The chapter will finally attempt to explain why the dominant narrative is largely silent on the role of international processes on the enactment of the RTI Act in India and what implications this has on the democratic deepening debate. For reasons articulated in the preceding chapters, the anonymity of individual sources has been ensured throughout this chapter.

Ghare-Baire (The Home and the World)[445]

The Argument for Freedom of Information

As mentioned in Chapter 3, the first documented artefact that explicitly articulated the demand for an FoI legislation in India was the affidavit filed in the Supreme Court by Kalpavriksh, an environmental NGO, "for the limited purpose of bringing on record and submitting the various facts and issues concerning the Right to Know".[446] Section III of the affidavit dwelt significantly on "The right to know or the freedom of access to information in some of the other democracies".[447] These included Sweden, where "for over two hundred years the Constitution has provided for open access to official documents and full information to any citizen about administrative activities";[448] Denmark and Norway where "citizens must identify and request specific documents. This means that they must know that a document exists before they can ask for it";[449] Finland, France, the Netherlands, Canada and the USA.[450] Salient features of the respective FoI legislation in each of these countries were highlighted in the affidavit. Importantly, this affidavit was the first of the background papers for the 'famous' workshop held in Mussoorie in 1995 where the now-established leadership of the RTI movement in India had foregathered. The country case studies mentioned in the affidavit highlighted several of the main themes which would later emerge in the debate on the content of the RTI Act in the Indian context, including response times to

[445] *Ghare-Baire* was a novel written by Rabindranath Tagore in 1916, later adapted into a film directed by Satyajit Ray. Apart from several other themes, the novel also highlighted Tagore's internal dilemmas with respect to Western culture.
[446] Affidavit on behalf of Kalpavriksh Environmental Action Group, Writ Petition No. 12739 of 1985 in the Matter of M.C. Mehta (Petitioner) versus Union of India and Others (Respondents) in the Supreme Court of India. Pp. 1.
[447] Ibid. Pp. 17.
[448] Ibid. Pp. 17-18.
[449] Ibid. Pp. 18.
[450] The affidavit cited *Secrecy in Government*, edited by T.N. Chaturvedi and published by the IIPA in 1980 (as mentioned in the preceding chapter) as the source for these case studies.

requests for information, exemptions, sanctions for non-disclosure, the nature of appellate mechanisms, and public awareness and sensitisation. For example, the affidavit dwelt at length on the American Freedom of Information Act (1966), particularly in the context of the duty of industrial firms, whether publicly or privately owned, to disclose environmental information. In this context, the affidavit cited extensively from a paper published in *The New England Journal of Medicine*,[451] and concluded that the "disclosure of documents, whether held by the State (or industrial firms) is the rule and not the exception in various other democracies of the world".[452] The relief sought from the Supreme Court reflected this position and the affidavit strongly emphasised the need for a legal obligation to be placed on industrial firms to disclose relevant information.[453]

This looking outward to 'learn' from other countries influenced other early events as well, including the "Workshop on Freedom of Information and Official Secrecy" organised by the Ministry of Home Affairs and the Centre for Policy Research in New Delhi in March 1990 (referred to in the preceding chapter), where the Australian, Swedish, Canadian and American FoI laws were discussed at length. In 1991, Prof. Manubhai Shah, Managing Trustee and Ms. Pritee Shah, Deputy Manager, Education and Research, Consumer Education and Research Centre (CERC), an NGO working on consumer rights in Ahmedabad, were funded by the International Development Research Centre (IDRC) Canada to travel to the USA, the UK and Canada to study the access to information regimes in each of these countries. Their report titled "A Study on the Access to Information in U.S., Canada

[451] The paper referred to was "The Right to Know About Toxic Exposures: Implications for Physicians" authored by Jay. S. Himmelstein and Howard Frumkin, *The New England Journal of Medicine*, Vol. 312, March 14, 1985, pp. 687.

[452] Affidavit on Behalf of Kalpavriksh Environmental Action Group, Writ Petition No. 12739 of 1985 in the Matter of M.C. Mehta (Petitioner) versus Union of India and Others (Respondents) in the Supreme Court of India. Pp. 26.

[453] This concern around hazardous industries and the *direct* responsibility of private industrial actors to proactively disclose information to the state as well as to the general public was reflected in the CERC draft FoI bill. It is another matter that the RTI Act of 2005 does not explicitly cover private entities, the reasons behind which were discussed in Chapter 5 and will continue to be elaborated in this chapter.

and U.K." was published in the journal published by CERC, *Consumer Confrontation,* over 1991-92. This report was subsequently considered by the Shourie Committee in 1997. In 1995, CERC published a paper (funded by a German foundation that promotes 'liberal politics', Friedrich Naumann Stiftung) titled "Judicial Pronouncements on Access to Information", which *inter alia* located the need for an RTI Act within India's obligations as a signatory to the Universal Declaration of Human Rights, 1948, and the International Covenant on Civil and Political Rights, 1976, with respect to freedom of speech and expression. A year later, in 1996, CERC was the first entity to draft and propose a complete draft of an FoI legislation for India. Given that this was also the year that the NCPRI was formed, the testimony of Shekhar Singh (as founder-member of the organisation) in this context is insightful. "The process started in 1996. The paradigms were those that had been set up in international best practices. It wasn't as if any one of us said let's sit down and think what will be an Indian RTI Act. We looked at the international best practices - minimum exclusions, maximum coverage. Those were the paradigms that were used. And there is nothing to suggest that our law is [any] different. In fact if you look at the other laws, the American law and many others, there are structural similarities. The whole Information Commission institution we took from Canada to make it stronger."[454] The international experience, limited as it was at that time, was directly and significantly influencing the 'RTI pioneers' in India, and yet none of these influences find utterance in the dominant narrative.

Even as 'civil society' was invoking international experiences to buttress its argument for the enactment of an FoI law, the influence of existing laws in other countries is clearly visible in the thinking within the government as well (if in negative terms in the early instances). Several years prior to the formation of the NCPRI (as part of the early efforts made during

[454] Interview with Shekhar Singh, 9 October 2011, New Delhi.

V.P. Singh's tenure as the Prime Minister), a team of officials had gone on an international tour to study FoI laws in countries where they existed. "[V.P. Singh] told me that all these officers went around the world, looked at various acts, and then drafted this terrible thing."[455] Some years later, the background note authored by the DoPT that proposed the setting up of a working committee (later the H.D. Shourie Committee) opened its argument by stating that "there is a worldwide trend towards more open and transparent govt. where citizens are able to get information about all except the most sensitive matters connected to security and defence of the country".[456] The note went on to take the examples of FoI laws (and other transparency-related mechanisms) that existed at that time in New Zealand, Canada, the United Kingdom, the USA and Malaysia.[457] The background material for the first meeting of the Shourie Committee included the paper "Transparency in Government by Mrs. Kiran Aggarwal, Secretary, Department of Supply, together with a copy each of the United States "Freedom of Information Act" and the "British Official Secrets Act 1989"".[458] The paper authored by Aggarwal provided the details of FoI laws in the countries mentioned above, with special (if amusing) attention being accorded to New Zealand's approach. "New Zealand has one of the most open systems of government in the world... Government service in New Zealand has been compared to the [*sic*] McDonald's i.e., as soon as you enter a McDonald's outlet, you can see the board showing what services are being offered and at what price... Services are being provided at most competitive rates in New Zealand by allowing open competition between State Owned Enterprises and private organisations to

[455] Interview with Shekhar Singh, 13 January 2009, New Delhi.
[456] Note from Harinder Singh, Joint Secretary (E), to Secretary (Personnel) through Additional Secretary (Administrative Reforms), DoPT, dated 4 December 1996. File reference no. 34011/1(s)/97-Estt (B). This quote is an example of the way in which the boundaries of a discourse is definitively framed by early articulations. Practically *all* subsequent government documents related to FoI invoke this 'worldwide trend' using the same phraseology, which in effect also refutes the claim of the 'indigenousness' of the idea of the RTI.
[457] This inclusion of Malaysia in this list is peculiar, as it does not have an FoI law till date. However, the document highlighted the Malaysian government's efforts to set up an online information clearing house.
[458] Note from Y.G. Parande, Director, DoPT, dated 7 January 1997, to all members of the Shourie Committee. File reference no. 34011/1(s)/97-Estt.(B).

provide the services" (Aggarwal, undated: 3).[459] Other material subsequently shared with the Committee as inputs for their deliberations included the CERC report on the study tour of the UK, the USA and Canada to study their respective FoI laws, "a copy of the citizen's guide on 'Freedom of Information Act' prepared by the Committee on Government Operations, U.S. House of Representatives",[460] and a statement "comparing the salient features of the provisions relating to exemption from disclosure in... Australia, Canada, U.K. and U.S.A".[461]

From Laws to Clause: Cherry-Picking as a Strategy

The Shourie Committee Report

As the draft FoI Act proposed by the Shourie Committee became the point of reference for all subsequent efforts in the enactment process (as detailed in Chapter 5), examining the extent to which it was influenced by the 'outside' is an instructive exercise. In the first instance, the Committee examined the existing FoI legislation in the countries mentioned above (as well as others) in great detail, particularly with reference to their handling of appellate mechanisms, exemptions to the law, and the scope of the proposed legislation. For example, during its third meeting, the Committee "decided that a suitable draft exclusion clause would be prepared after a comparative study of the provisions relating to disclosure of such information in various other countries".[462] Another example from the same meeting related to the creation of new records. "The Bill should not result in an obligation to create records where none were operationally necessary. It was decided that provisions of clause 3(2) would be suitably

[459] 'Burgernomics', it appears, was also influencing the thinking around administrative reforms in India.
[460] Note from Y.G. Parande, Director, DoPT, dated 24 January 1997, to all members of the Shourie Committee. File reference no. 34011/1(s)/97-Estt.(B).
[461] Note from Y.G. Parande, Director, DoPT, dated 11 March 1997, to all members of the Shourie Committee. File reference no. 34011/1(s)/97-Estt.(B).
[462] Proceedings of the third meeting of the Shourie Committee, held on 19 February 1997, dated 27 February 1997. File reference no. 34011/1(s)/97-Estt.(B), DoPT.

modified to ensure that they would not necessitate creation of such records - on the analogy of FOIA of US."[463] In the context of discussions on the exemption of internal deliberations of the government from disclosure, "it was noted that both, the Freedom of Information Act in the U.S. and the code of Practice on Access to Govt. Information in the U.K., provided for safeguards against disclosures of internal communications of the Govt. such as internal departmental memoranda etc."[464] That other existing laws, such as the Swedish one, did not accord such exemptions was not taken into account.[465]

What can be clearly discerned through such examples is that arguments used during contentious debates invoked only those clauses from similar legislation in other countries which resonated with the thinking of the committee members on a given issue. The note sent by the DoPT to the Cabinet in early 1998 stated that, "While extension of the proposed legislation to private sector may have an emotive appeal, it is necessary to consider it with caution and circumspection. It is noteworthy that none of the advanced democracies such as the U.S., Australia and Canada have thought it fit to widen its laws to this extent".[466] Even as this was not necessarily the complete truth (the American law, for one, did include industrial firms in the context of environmental information within its ambit), the international experience was invoked only when it coincided with the perspective of the decision-makers. This pattern of selectively invoking international examples to strengthen the position of the government on different aspects of the proposed law recurred regularly over subsequent years.

[463] Ibid. Emphasis in original.
[464] Proceedings of the second meeting of the "Working Group on right to information and promotion of open and transparent government" held on 18 January 1997, dated 27 January 1997. File reference no. 34011/1(s)/97-Estt.(B), DoPT.
[465] Other examples of invoking the international during the proceedings of the Shourie Committee were provided in the preceding chapter and are not being repeated here.
[466] Note for the Cabinet dated - January 1998, sent by DoPT. File reference no. 34011/1(s)/97-Estt.(B), DoPT. The notion of 'advanced' democracies here is important as it suggests an aspiration aspect, a theme we will return to later in the chapter.

The Examination of the FoI Bill by the Parliamentary Standing Committee on Home Affairs, 2001

As the process unfolded, copies of existing legislation in other countries were also solicited by the DoPT, with missives being sent from Delhi to embassies around the world, including Japan, Ireland and the Netherlands.[467] This formed a part of a "comparative statement on the provisions made in the 'Right to Information/Freedom of Information' Acts enacted by various countries vis-a-vis 'Freedom of Information Bill, 2000; and 'Freedom of Information Bill, 2000' and Foreign Acts - appeal and penal provisions" that was provided to the Parliamentary Standing Committee on Home Affairs (PSC-HA) that had been tasked to examine the FoI bill in 2001.[468] The report of the PSC-HA is replete with examples of the ways in which the international experience was consistently brought to bear on the local. Explicit references to the laws of other countries made in the report (especially the position of the government on several critical clauses) are presented below in a tabular form.

[467] A peculiar situation ensued in the case of the latter. The Indian embassy in the Netherlands wrote back to the DoPT saying that "the complete text of the 'Freedom of Information Act 1991' and amendments thereto run into 584 pages. The text of this Act is available in Dutch only… The Embassy does not have a professional translator… The cheapest quotation by a qualified translation agency is Dfl 65,000 (approximately Rs. 12 lakhs) for translating 584 pages. The translation will take approx. six months to complete. I would like to seek your guidance as to whether we should proceed with getting the text and amendments thereto translated in the Netherlands?" Letter from V.B. Dhavle, First Secretary, Embassy of India, The Hague, to Harinder Singh, Joint Secretary, DoPT, dated 1 December 2000. File reference no. Hag/Pol/312/5/00, Embassy of India, The Hague. Eventually, an existing report (written in English) highlighting the salient features of the Act was sent.

[468] Office memorandum dated 6 February 2001from Rakesh Malhotra, Under Secretary, DoPT, to Tapan Chatterjee, Deputy Secretary, Rajya Sabha Secretariat. File reference no. 34011/1(s)/97-Estt.(B). The table compared the provisions of the proposed Indian FoI Act with those of similar legislations of New Zealand, Ireland, the USA, Japan, Australia, Canada and the Netherlands.

Table 6.1: Government arguments invoking the international experience in the drafting of the FoI bill in 2001

Issue	**Relevant extract from the report**
Need for an FoI law	In the introduction itself, the report invoked the FoI-related laws of the USA, Japan, Ireland, the Netherlands, Australia, Canada, France, the United Kingdom, New Zealand and South Africa as part of the rationale for the Indian Act (Rajya Sabha Secretariat, 2001: 5).
Title of the Act	In response to demands made by civil society actors for the Act be called the 'Right to Information' in depositions before the PSC-HA, the government favoured the title 'Freedom of Information' using the titles of FoI-related laws of Australia, Ireland, the USA, the UK, Canada, New Zealand, and the Netherlands as examples (Rajya Sabha Secretariat, 2001: 32).
Eligibility to use the Act	On the issue of eligibility, the government cited clauses from the FoI-related laws of the USA, the Netherlands, the UK and Canada, and did not have "any objection to the access to information being given to all citizens as also all persons who are present in India" (Rajya Sabha Secretariat, 2001: 32-33).[469]
Timeframe for the implementation of the Act	In the discussion on the date of implementation of the Act, the government took the example of the UK seeking time "to set up the infrastructure for the Act to become operational" (Rajya Sabha Secretariat, 2001: 33).
Applicability of the Act to private bodies	When the applicability of the Act to private bodies was discussed, the government used the examples of the USA, Australia and Canada to reject the proposal (Rajya Sabha Secretariat, 2001: 36).
Response time for Public Authorities	The government highlighted the relevant provisions of FoI laws of Canada, New Zealand, Australia, the USA, Ireland and the UK and argued that "the response time of 30 days provided in the Indian FOI Bill is not considered to be long" (Rajya Sabha Secretariat, 2001: 42).
Exemptions	On the critical issue of exemptions of types of information as well as specific organisations, the government argued that "It would be pertinent to mention that information which would prejudicially affect the conduct of international relations has been exempted from disclosure in the legislation enacted by Australia, New Zealand, Ireland, The Netherlands, USA, France and Canada. The provision in the Indian FOI Bill making a similar exemptions [*sic*], is therefore not an exception... According to the UK Government white paper presented to Parliament in 1997 in connection with the legislation of the FOI Act, the internal discussions and advice is exempted from disclosure in Australia, New Zealand, Ireland, Netherlands, the USA, France and Canada." (Rajya Sabha Secretariat, 2001: 46-47).
Protection of officials for withholding information	In arguing for the protection of government officials who withhold information 'in good faith', the government cited the examples of Canada, Australia, New Zealand and Ireland (Rajya Sabha Secretariat, 2001: 56).

[469] In its final (and current) avatar, the RTI Act of 2005 states that it can be used by Indian citizens only.

Lack of an independent appeals body	The government supported its position on the lack of an independent appeals mechanism using the examples of Ireland, the USA, Japan and Australia (Rajya Sabha Secretariat, 2001: 63).
Protection of whistleblowers	Finally, on the concerns around protecting whistleblowers, the government argued that "Protection to 'whistleblowers' is not the scope of the Bill and hence no provisions need be made therefore. As for immunity to Government servants who make available information in public interest, suffice to say that the Japanese law provides that a person who violates the Access to Information Law and discloses secrets shall be sentenced to a maximum of 1 year of imprisonment with hard labour, or a maximum fine of 300,000 yen" (Rajya Sabha Secretariat, 2001: 63-64).

Given these substantial influences of the international on the drafting of the FoI Act (which served as the reference point for the drafting of the RTI Act in 2004-05), the fact that the dominant narrative maintains a studied silence on it continues to be puzzling. Some clues towards unravelling this phenomenon could perhaps be gleaned by assessing the role of international actors on the process, to which we turn next.

Partaking of Common Wealth: The Influence of International NGOs, Agencies and Networks

As this process evolved, it was not as if government functionaries involved in examining similar legislation in other countries were working in complete isolation from other actors who had also been looking 'outward'. An entity that played a significant role in bringing the 'outside' within the 'home' was an international NGO, the Commonwealth Human Rights Initiative (CHRI). The CHRI was founded in 1987 with a mandate "to ensure the practical realisation of human rights in the countries of the Commonwealth".[470] Initially headquartered in London, its offices moved to Delhi following a management restructuring in 1993, with

[470] CHRI website, http://www.humanrightsinitiative.org. Accessed 10 June 2011.

Maja Daruwala taking over as its Executive Director in 1996.[471] "In 1997, the organisation decided to have a programmatic agenda. That was when Maja had come in, very new. They wanted to choose areas, which would be different from what other people chose, otherwise it would be very easy to choose women's rights or children's rights. What is it that is different, something that other organisations are not doing, but still connected with human rights? And they found three issues, police reforms, prison reforms, and RTI. [One of the reasons] they picked it up at that point in time [was because] they were also clued into what was happening in Eastern Europe, because 1990s was the time when those countries started having access to information laws. That was also the time when CHRI collaborated with the World Bank to come up with the status of RTI in South Asia."[472]

In addition, interest in the issue had also been developing within the Commonwealth Secretariat in London, where, for example, an Expert Group Meeting was held over 30-31 March 1999 on the "Right to Know and the Promotion of Democracy and Development"[473] which *inter alia* recommended that "governments should enact freedom of information legislation containing appropriate administrative measures for its implementation".[474] This subsequently took the form of the Commonwealth Freedom of Information Principles which were 'noted' by the Commonwealth Heads of Government Summit held in Durban later that year, and endorsed by the Commonwealth Law Ministers at their meeting in the same year in

[471] Maja Daruwala was previously at the Ford Foundation in New Delhi. Also belonging to the elite fraction of the middle class referred to in Chapter 4, she is the daughter of Field Marshal Sam Manekshaw, who was India's Chief of the Army during the victorious war with Pakistan in 1971.
[472] Interview with SCT844, 20 October 2009.
[473] Final document titled "Promoting Open Government: Commonwealth Principles and Guidelines on the Right to Know" arising from the meetings of the Commonwealth Expert Group on the "Right to Know and the Promotion of Democracy and Development", held at Marlborough House, London, 30-31 March 1999. The group drew upon a statement from a much earlier meeting of the Law Ministers of the Commonwealth held in 1980 in Barbados, where it was stated that "public participation in the democratic and governmental process was at its most meaningful when citizens had adequate access to official information".
[474] Ibid.

Trinidad and Tobago.[475] The theme picked up momentum over the next couple of years, with the Commonwealth Secretariat proposing a model FoI Act "to assist member countries which have yet to enact laws on the subject".[476] Responding to this, the Indian government observed "that the 'Freedom of Information Bill, 2000' introduced by the Government of India compares favourably with the draft model bill of the Commonwealth Secretariat as most of its provisions are but a rephrasing of the provisions of the model Bill having regards to the conditions and governance procedures in our country. To an extent, the Indian FOI Bill may, therefore, be taken as an adaptation of the Commonwealth Secretariat's draft model Bill".[477]

Following (and in part influencing) such leads generated by the Commonwealth Secretariat, the CHRI continued its work on the issue over this period, although "[it was] not very serious lobbying or advocacy. [It was] more in tune with public education - telling people that there is a right, telling people that there are other laws... [During this period,] CHRI was closely involved with the drafting committee [of the NCPRI], because at that point of time [it] had a person with the expertise of the laws, and this is something that was not planned for".[478] Soon

[475] These principles were: "Member countries should be encouraged to regard freedom of information as a legal and enforceable right; There should be a presumption in favour of disclosure and governments should promote a culture of openness; The right of access to information may be subject to limited exemptions but these should be narrowly drawn; Government should maintain and preserve records; In principle, decisions to refuse access to records and information should be subject to independent review." See report of the conference on "Parliament and the Media: Building an Effective Relationship", held at the Parliament House Annexe, New Delhi on 15-18 February 2000. Available at: http://parliamentofindia.nic.in/jpi/June2000/CHAP-3.htm. Accessed 20 May 2012.

[476] Internal note from Rakesh Malhotra, Under Secretary, DoPT to Joint Secretary (Establishment), DoPT, dated 19 October 2001. File reference no. 34011/1(s)/97-Estt.(B), DoPT. The note was drafted in response to a request from the Department of Legal Affairs seeking the government's stand on the status of FoI in India in the context of impending meetings of the Law Ministers of Commonwealth countries.

[477] Letter from S. Chandrasekaran, Joint Secretary (Establishment), DoPT to A. Sinha, Joint Secretary and Legal Adviser, Department of Legal Affairs, Ministry of Law and Justice, dated 22 October 2001. File reference no. 34011/1(s)/97-Estt.(B), DoPT. This letter was sent in response to a request from the Department of Legal Affairs seeking the government's stand on the status of FoI in India in the context of impending meetings of the Law Ministers of Commonwealth countries.

[478] Interview with SCT844, 20 October 2009. The lawyer referred to here is Charmaine Rodrigues, whose social profile, unsurprisingly, has much in common with the elite fraction of the middle class identified in Chapter 4. She is the niece of General S.F. Rodrigues, Chief of Army Staff between 1990 and 1993, and later Governor of Punjab. What is not commonly known is that she is an Australian national, putting on another layer of 'internationalism' to the process. That an Australian national deposed before the Parliamentary Standing Committee and played an important role in the drafting of a cherished national law would certainly not go down very well with those concerned about the influence of the 'foreign hand' in India.

after, the CHRI conducted a comprehensive review of the status of FoI legislation amongst all the countries of the Commonwealth.[479] "Every two years, [the CHRI submits] a report to the Commonwealth Heads of Government. [In] 2001, the theme was poverty eradication and human rights. That went nowhere. CHRI then did a study of all the Access [to Information] laws in the Commonwealth and were ready with a report. It had studied the laws, it knew what was good, what was bad, what was working, and then it had a lawyer who had some familiarity with non-Commonwealth laws as well, like Mexico".[480] All of this meant that the CHRI was "in a position to speak with authority on what should be a part of a good RTI, what should be part of an RTI law to make it a good law".[481] Efforts such as these had a direct impact on the way the government drew on the 'expertise' of the CHRI, not least because it "certainly had a certain level of comfort with it, because they were not in that typical *jholawala* mode, not a confrontational mode, and it saw that CHRI could give them credible research.[482] And this is the reason the [Parliamentary] Standing Committee called it back a second time with additional research".[483] Yet, despite these major contributions made by the CHRI from an early stage, it is puzzling to note that the organisation itself publicly maintains that the "campaign for right to information has been effectively linked to the

[479] Titled "Open Sesame: Looking for the Right to Information in the Commonwealth", the report was presented at the Commonwealth Heads of Government meeting held in Abuja in 2003. The report was authored by the International Advisory Commission of the CHRI, chaired by Margaret Reynolds, who was a former Minister and Senator in the Australian Parliament, as well as a Professor of Human Rights and Politics at the University of Queensland.

[480] Interview with SCT844, 20 October 2009.

[481] Ibid.

[482] In this context, *jholawala* means a left-leaning activist-intellectual, typically with some links to the grassroots, and very vocally critical of the government.

[483] Interview with SCT844, 20 October 2009. This refers to the depositions made by the CHRI to the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice on 14 and 16 February 2005. A supplementary submission was made by the CHRI on 21 February 2005 at the request of the Committee. The role of the CHRI was also acknowledged in the report of the earlier Department-Related Parliamentary Standing Committee on Home Affairs that examined the FoI bill in 2001, which stated that "A special word of thanks is due to Commonwealth Human Rights Initiative who rendered valuable assistance to the Committee and its Secretariat in the course of the examination of the Bill" (Rajya Sabha Secretariat, 2001: 4). At the same time, it should be noted that the leadership of the CHRI was not invited to be a part of the NAC despite its substantial work on the RTI. This could in part be explained by the fact that the organisation was an international one, was open to receiving funds from abroad, and was not a 'grassroots' one. Furthermore, unlike other advocates, the CHRI maintained its position that private entities that perform public functions should fall directly within the ambit of any FoI legislation throughout the process of the evolution of the law.

livelihood issues of the rural person and is deeply rooted in the struggles and concerns of survival and justice of the most disadvantaged rural people."[484] Despite evidence to the contrary, this umpteenth reiteration of the 'creation myth' of the RTI in India points to the complexities of movement politics as well as the deeper anxieties that inform the interplay between the legitimacy of civil society actors on the one hand, and their publicly projected 'foreign' versus 'homegrown' identities on the other.

Apart from the role played by the CHRI, other international agencies also brought in global perspectives on the issue throughout the process. Organisations such as the UNDP, the World Bank and the American Embassy organised and/or funded several seminars, workshops and other meetings, brought in 'experts', as well as funded the visits of government officials to countries where FoI legislation existed.[485] The UNDP, for example, paid for a "consultant on operationalising the Freedom of Information Act" under its project titled "Capacity Building and Civil Service, Administrative Reforms and Training in the Centre and the States".[486] A few years later, it funded the travel of two officials "for the Study tour on 'Improving Citizen's Access to Information and Right to Information' to South Africa, UK and USA for 12 day [*sic*]."[487] Several other programmes were carried out in India over 2001-2004 under the project headings "Improving Citizens' Access to Information", "Access to Information" and "Media and Citizens' Access to Information" (UNDP, 2003: 44). As another example, a "National Workshop on Right to Information" was jointly organised by the IIPA and the American Embassy in New Delhi on 15 September 2000 with the participation of, amongst

[484] See the "History and Background" of the RTI in India on the CHRI website. Available at http://www.humanrightsinitiative.org/programs/ai/rti/india/history.htm. Accessed 10 June 2011.
[485] These trips were typically made to 'advanced' democracies.
[486] Letter from Tilak R. Maakan, Assistant Resident Representative (Governance and Institutional Development), UNDP India to A.K. Arora, Joint Secretary, DoPT, dated 20 August 1997. Letter reference number IND/95/008(99)X.
[487] Office Memorandum from A.B. Maindoliya, Senior Research Officer (Training), DoPT, to A.K. Soni, Under Secretary, UN Section, North Block, dated 19 December 2003. One of these officials was Rakesh Malhotra, Under Secretary, DoPT, who was the person directly responsible within the government for drafting the legislation throughout the process.

others, representatives from the American Embassy, Pranab Mukherjee, Prashant Bhushan and Shekhar Singh.[488]

In 2004, as events approached their dénouement just prior to the NAC forwarding a list of amendments to the FoI Act 2002 to the government, the 'international' continued to play a critical role. "When the actual final drafting was taking place, we had two or three very strong international influences. The core group which sat and drafted this was Prashant Bhushan, Arvind Kejriwal, Charmaine Rodrigues and myself. At that time, two very strong "western influences" were there. Charmaine was very familiar with the Australian law, and had studied by that time a lot of international laws. She kept bringing to us knowledge about what is happening in the international scene. Many of the clauses were tailored, built in on the basis of her saying this is in X or Y law. Number two, I was at that time Co-Chair of this international task force. So for about 20 days before that, I was sending out to all the members emails about specific issues... I would send [them] out in the night, and by the morning, because most of those places were in the West, the responses would all be there. How is the private sector, for example, covered in other countries' laws? And I remember [name of person] from South Africa responding and saying that though our law covers the private sector, however it is totally unworkable... There was a whole lot of interaction going on at that time with the international community..."[489] The entity that Singh is referring to was a 'Task Force on Transparency' set up under the aegis of the Initiative for Policy Dialogue (based at Columbia University) launched by Joseph Stiglitz in 2000. Singh had been nominated as a Co-Chair of this task force whose mandate was to bring together "scholars and activists from all regions who are working to improve global understanding of

[488] Pranab Mukherjee is one of most senior leaders of the Congress party.
[489] Interview with Shekhar Singh, 9 October 2011, New Delhi. Arvind Kejriwal is a former civil servant who has gained fame in the recent past as an anti-corruption crusader and part of the inner-group of Anna Hazare.

what transparency can accomplish and how it can be increased".[490] "People who were not involved with it [the drafting], who thought that Shekhar and Prashant and Arvind and Charmaine sat in this room would think that this is 'indigenous'. But this room had an internet connection, this room had a telephone, this room had all sorts of documents from all over the world... I think 80% of the law was influenced by interactions with people in other parts of the world."[491]

The High-Table Beckons: The Politics of Aspiration

The above discussion clearly shows that international experiences and actors played a significant role in imagining and producing the FoI and RTI Acts in 2002 and 2005 respectively. However, there was a key difference in the way that this role was articulated in the evolution of the discourse in the two instances. In the case of the former, the argument was largely framed by projecting FoI legislation as an essential marker of democracy, and both civil society actors as well as the government used a similar strategy of invoking examples from 'advanced democracies' to buttress their respective arguments. When the matter resurfaced in 2004 after the UPA formed the government at the centre, the process that followed did *not* involve the explicit examination of existing legislation in any other country.[492] The post-2004 phase took the Indian FoI Act of 2002 as its framing text (along with the UPA's pledge in its Common Minimum Programme to make the FoI Act "more progressive, participatory and meaningful" as its causal argument), which later evolved into

[490] See http://policydialogue.org/programs/taskforces/transparency/. Accessed 12 June 2011.
[491] Interview with Shekhar Singh, 9 October 2011, New Delhi.
[492] This holds true for at least the formal process. The ways in which international processes continued to have an influence even during this phase was discussed earlier in this chapter.

the RTI Act of 2005 without any explicit reference to any external legislation, at least within government or other published documents.[493]

However, the international experience *was* invoked in the argument for an RTI Act, but this time linking it to India achieving its 'rightful' place in the 'comity of nations', and not merely to prove its democratic credentials. The report of the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice (PSC-PPG) that had been tasked to examine the RTI bill stated that, "It is being recognized globally that public participation in the democratic and governmental process is at its meaningful best when citizens have adequate access to official information. This access lays the foundation for good governance, transparency, accountability and participation. This realization has found expression with over fifty-five countries having enacted their comprehensive laws that protect the right to information and many more countries are coming forward to enact specific legislations in pursuit of this objective. Sweden, Australia, Canada, New Zealand, Beliez [*sic*], Pakistan, South Africa, Trinidad and Tobago, United Kingdom, Zimbabwe, Jamaica and USA are among the countries exhibiting their Governments' commitment to open governance through legislative measures guaranteeing citizens access to information... *India too is not left behind in the race.* Growing realization for open governance and assured access to information has brought it on the world map" (Rajya Sabha Secretariat, 2005: 1, emphasis added). A more ambitious tone was struck by the Minister of State in the Ministry of Personnel, Public Grievances and Pensions, Suresh Pachauri, when he moved the RTI bill for the consideration of the Lok Sabha on 10 May 2005. "I believe that the provisions of the Bill will be a watershed in the evolution of the right to information in our country, and will bring India at par with only a handful of the countries which have enacted such legislations.

[493] Although the authoring of the 'NAC draft' in 2004 had significant international influences as mentioned by Singh above.

In several respects, ours, when passed, will be *a law far more liberal and advanced* as it resolves the conflict between the State and the citizen in favour of the citizen. It is coming just in time when India is emerging and claiming its rightful place, as a major global player in the comity of nations."[494] During the same debate, Dr. R. Senthil, Member of Parliament representing the Pattali Makkal Katchi (PMK, part of the UPA at that time) from Dharmapuri, Tamil Nadu state, brought the attention of the house to the fact that, "Just a couple of days ago the President of Russia quoted the functioning of our democracy to justify his own actions in his country. This being the stature of our country, I think this Bill will actually help the image of our country in the international arena".[495]

These examples display a subtle, if critical shift in the framing of the argument for an FoI legislation. If earlier the argument invoked 'a worldwide trend' and was attempting to play 'catch-up' with 'advanced' democracies, a competitive spirit and an aspiration to be recognised as a global leader and assume a position at the international high-table had now entered the framing of the argument. "One of the most important enabling conditions [for the RTI to be enacted was] India's aspirations to now become part of the so-called developed nations. This is an important trigger that has allowed RTI to actually evolve the way it did... Therefore you have different classes responding to this. The political elite wanting to now become the part of the league of nations, to be acceptable as a governable society, because good governance has now become the talk of the town... The aspiration[s] of... the ones who are brokering power... They are in many respects opinion makers. They are the people who will provide the quotable quotes. This is a fairly large section in Delhi and state capitals. They are the ones who are moving globally, both physically and aspirationally. When I move

[494] Lok Sabha debate titled "Discussion on the Right to Information Bill, 2004. (Not concluded)." Statement made on 10 May 2005 at 1423 hours. Emphasis added. Available through the Lok Sabha website http://loksabha.nic.in/. Accessed 20 June 2011.
[495] Ibid.

globally, I would like to be considered from a nation that has arrived. I have everything else that indicates that I have arrived. I probably have more wealth than the average person in that place. I have all that much more power, I have all that much more luxury, but I still don't have the recognition of being part of a nation that has arrived. I'm still considered an inferior nation."[496] The RTI Act was thus no longer merely an instrument to empower hapless citizens against the whims of an arbitrary state. It also had to shoulder the onerous responsibility of showcasing the vibrancy and depth of Indian democracy to the world. This resonates with Sudipta Kaviraj's critique of "the cognitive, the political, and the moral legitimacy of the whole institutional regime constructed after Independence" that arises (at least to some extent) from the fact that "the Indian elite was more concerned about justifying its initiatives to external audiences than to its own" (Kaviraj, 2010: 34).

'Looking Out' or 'Forcing In'?

While this chapter will return later to the issue of such aspirations and their larger implications, the above discussion does provides ample evidence to suggest that both civil society as well as government actors were consciously looking 'outward' (facilitated to a certain extent by international actors) to seek input from the international experience on FoI. However, this cannot be considered as surprising in itself. Given that the Constitution drafting exercise at independence itself was the result of such an approach, this could be seen as a fairly benign process, even if it problematises the 'creation myth' of the RTI Act in the dominant narrative. However, other processes were also concurrently at play, which do not quite subscribe to the genteel image of progressive actors *voluntarily* looking beyond India's shores to learn from others.

[496] Interview with WKI942, 1 December 2009.

An early clue in this direction can be discerned in the enactment of state level FoI laws in India that preceded the national FoI Act of 2002 and the RTI Act of 2005. The specific case relates to the southern state of Karnataka. "[The CHRI] had a major role to play in Karnataka, where there was no people's movement for RTI, but ADB [Asian Development Bank] was giving a loan, and they said, 'conditionality' - have an RTI law. So B.K. Chandrashekhar who was the Information Minister, he knew CHRI was working [on this issue], and he called [them] over, and they sat and drafted the law, not a terribly good law, but definitely not as bad as the Tamil Nadu one."[497] As a result, the Karnataka Right to Information Act was enacted in 2000. Soon after, in 2001, the President of the Asian Development Bank recommended the grant of a loan of USD 200 million for "infrastructure projects in specified infrastructure sectors in four selected Indian states: Andhra Pradesh, Gujarat, Karnataka, and Madhya Pradesh".[498] Being financed under the Private Sector Infrastructure Facility (PSIF) project of the ADB, the "Access Criteria to PSIF II Financing" included the "Adoption of policy on transparency in the awarding of bids and concessions for individual projects".[499] In stating the rationale for granting the loan to Karnataka, the ADB highlighted that "Karnataka has in place the Rights [*sic*] to Information Act as well as Transparency in Public Procurement Act".[500]

A similar logic also played out at the national level, albeit in less obvious ways. An important element that informs the allocation of World Bank funds (lent at preferential rates for low-

[497] Interview with SCT844, 20 October 2009.
[498] "Report and Recommendation of the President to the Board of Directors on Proposed Loans to Infrastructure Leasing and Financial Services Limited and Industrial Development Bank of India and Proposed Technical Assistance Grant to India for the Private Sector Infrastructure Facility at State Level Project", Asian Development Bank, November 2001. Document number IND:34262. The five sectors under this project were power, roads, ports, airports and water supply and sewerage.
[499] Ibid.
[500] Ibid. Of the four states that were a part of this specific loan programme, only Gujarat did not have an FoI legislation at that point. However, on the point of transparency, the argument for Gujarat was made by stating that "The GIDA [Gujarat Industrial Development Authority] provides the procedures for selection through the process of competitive public bidding. This was prepared with the assistance of ADB TA 2716-Institutional Strengthening of Gujarat Infrastructure Board".

income countries) under its International Development Association (IDA) programme is based on its Country Policy and Institutional Assessment (CPIA) framework. The CPIA rating for India in 2003 included a section on "Transparency, Accountability and Corruption in the Public Sector" where it stated that "Corruption remains a significant problem. India ranked 71 out of 102 in the Transparency International's Corruption Perceptions index... With the passage of the Freedom of Information legislation in March 2003 [*sic*], the GoI has followed in the path of some leading states and taken a significant step forward in improving the legal framework for transparency and this increase in rating reflects that... The effective implementation of this act will remain a major challenge in the next several years..."[501] With rewards such as 'increased ratings' in the CPIA framework on offer, it comes as no surprise that the Ministry of Finance sent several missives to the DoPT seeking its input on the status of the implementation of the FoI Act to be able to respond to the assessment exercise of the World Bank.[502]

International actors (particularly IFIs) applying subtle, when not overt, coercion was reiterated by several senior civil servants. "The World Bank started [influencing the process] on a more global scale. [It started with] the misuse of funds in Africa, then increasingly it started spreading, that must have passed on here. [There were] World Bank conditionalities and an emphasis on governance. Many of these things start because the World Bank goes to a country, finds that there are governance issues in the report, they say why not have an integrity pact... The effect of many of these international best practices came in procurement. But this is part of overall reforms at a world global level, where governance is a major

[501] CPIA India 2003 document appended to letter from Ranjit Bannerji, Joint Secretary (FB), Department of Economic Affairs, Ministry of Finance, to Keshav Desiraju, Joint Secretary, DoPT, dated 12 February 2004. Reference DO No. 2/1/2003-F.B.II.

[502] Of course, this does not mean that the enactment of the RTI Act was solely responsible for the World Bank lending greater sums of money to India over successive years (India was the second-largest borrower of IDA funds in 2011). However, it also cannot be disregarded that this specific concern was a part of the assessment exercise and would therefore have had a role to play in the disbursement process.

component of growth. Governance has become an agenda now. In the 11th Plan we've talked about it. In the 10th Plan we mention this governance issue. This became an important issue."[503] This statement also points to the support such reforms had within the civil service, an assertion that was reaffirmed by others.[504] "In the public policy making process, the role of the bureaucrat is now limited. But not absolutely negligible, because a lot of bureaucrats have been saying what the World Bank, the IMF, the WTO, other countries have been saying, and selling reform has been something many civil servants have done... [And] the IMF favoured [having an RTI], the WTO favoured it, and the [World] Bank, because there were allegations of corruption within the Bank, and at that time the Bank was going through quite a few corruption scandals. Transparency International also spared no effort in indicating that we were amongst the most corrupt nations. They were players, but they weren't prime movers".[505]

Whether or not these institutions were *primarily* responsible for the national RTI Act to be enacted is a moot point. However, that they had a direct influence on the 'climate' that allowed the idea of the RTI Act to blossom as it did was affirmed even by activists who were part of the leadership within the 'movement' space. "RTI is part of the transparency agenda that the World Bank was pushing for... There [was also] growing pressure from funding agencies like DfID [Department for International Development, the external development agency of the UK], who are big funders, who are no longer thinking of the money that they have as dole, now their money is more difficult to come by, so therefore you would like to get your money's worth."[506] "I think perhaps around 30%-40% of the contribution for bringing the Act was the World Bank and the international community's pressure on the government,

[503] Interview with EFD094, former civil servant, 24 November 2009. References to good governance and the RTI within the 10th and 11th Plan documents were highlighted in Table 5.2.
[504] Some reasons behind this support were discussed in Chapter 5.
[505] Interview with FSQ974, former civil servant, 24 November 2009.
[506] Interview with WKI942, 1 December 2009.

which most of us normally don't like to acknowledge. My own perception is that the Prime Minister of India unfortunately is fairly influenced by these factors. The World Bank and various international organisations were pressing to get in more transparency, less corruption. This is part of a worldwide agenda they have - they want to do business, they want these as essentials."[507]

The evidence above clearly suggests that the process that led to the enactment of the RTI Act in India in 2005 did *not* take place in an international vacuum. Similar laws and experiences of other countries were indeed a part of the potpourri of influences that impacted the process. These influences played their part primarily in two phases. First, advocates lobbying for a law on freedom of information, whether within the government or civil society actors, used examples of other countries (specifically democracies) to argue for the *need* for such a law. In this early phase, the invocation of other examples was framed within a context of strengthening the country's democratic credentials, particularly in comparison to 'advanced' democracies. Here, FoI as an idea was conflated with democracy as the political ideal and the argument essentially proposed that no country could meaningfully claim to be democratic unless it possessed an FoI law. In the second phase, the discourse changed in a subtle way. The focus was no longer on proving 'democratic points'. The 'success' of Indian democracy was now an established reality and was being celebrated as such. Consequently, the argument for an FoI legislation in this phase was framed in the context of India having 'arrived' on the international scene, and the enactment of a much 'better' law provided that much more credibility to such claims. At the same time, the specifics of the law that made it a 'better' one were also impacted through consistent (if selective) comparisons made with similar laws that existed in other countries, even as there was at least some pressure from international

[507] Interview with YXR734, 18 November 2009. The influence of the market imperative is discussed in greater detail later in this chapter.

actors on the Indian government to enact an FoI legislation. In any event, the above discussion can now unequivocally propose that the 'outside' did have an influence on the RTI Act in India both in terms of enacting such a law in the first instance, as well as on the content of the law.

However, a valid critique of this assertion could be that such an occurrence is not necessarily exceptional. International influences, particularly in the form of international 'standards' and 'norms' being used instrumentally to create, support and redefine rights-based agendas by actors at the national level is hardly a rare phenomenon. Local actors have consistently used international conventions and agendas to buttress their arguments across a wide range of issues, in India as well as elsewhere (Levitt and Merry, 2009; Liu, 2006). Scholars have also documented and unpacked the ways in which international norms are diffused across countries (Elkins and Simmons, 2005; Relly, 2009; Roberts, 2003; Simmons et al, 2006). External pressure brought to bear in the production of domestic legislation is hardly an unknown phenomenon (Ferguson, 1990; Ghosh, 1997; Kiely, 1998; Roberts, 2003; Rodan, 2004; Santiso, 2001). However, even as these phenomena cannot be considered as exceptional, there appears to be a consensus around the fact that in such processes of the diffusion of norms, at least some degree of vernacularisation does take place (Merry, 2006; Risse et al, 1999). To understand the nature and extent of international influences on the RTI Act in India better, it may thus be of some value to examine the degree of vernacularisation that took place in the process. In this context, examining the substantive aspects of the Indian RTI Act in comparison with international norms may provide important clues towards understanding the relationship between *ghare* and *baire* better, and by extension allow us to understand the reasons behind the silence on this issue in the dominant narrative.

The Content of the RTI Act 2005: *How* 'Local' is It?

What is common to most national FoI laws is their conceptual underpinnings, which tend to emanate from the freedom of expression guarantees that many constitutions across the world claim to espouse.[508] In this context, it is instructive to note that a leading international NGO whose work is focused on FoI research and advocacy is called Article 19, after article 19 of the Universal Declaration of Human Rights (UDHR) which states that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".[509] With this as the main element of coherence in the conceptual framework within which FoI laws across the world have been drafted, some formulations of a 'model' law or 'guiding principles' of a 'good' FoI law have been developed and largely accepted by a majority of FoI advocates across the world.[510] The substantive elements of national laws are often judged against these principles[511] and can be summarised as follows:[512]

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[508] This is not necessarily true for all FoI laws. However, making, at the very least, a customary reference to freedom of expression in the context of FoI laws has become *de rigueur* in practically all literature related to FoI.

[509] See http://www.un.org/en/documents/udhr/index.shtml#a19. Accessed 10 October 2010. In addition, Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which is an international treaty, reemphasises this. In the context of the international diffusion of norms related to FoI, there is an almost poetic circularity in the free movement of the idea *of* the free movement of ideas.

[510] See Banisar (2006) and Mendel (1999, 2008).

[511] It may be noted however, that only a handful, if that, of large-scale comparative surveys of FoI laws exist, and until more original comparative research is carried out, especially of a kind that questions the normative nature of these principles, the available global perspective for researchers to draw on will remain quite limited and homogeneous. Such a singularly limited perspective also reinforces a kind of 'first-mover advantage', in that the same perspective is continually repeated and replicated both by researchers and advocacy groups (both new and old) thus turning it into an axiomatic and uncontested truth. This also points to a larger concern of the FoI agenda being formulated and developed by a small number of actors at the global level.

[512] See Mendel (2008), pp 31-42. In this book published by UNESCO (first edition in 2003), Mendel prefaces the principles with the following text. "ARTICLE 19 has published a set of principles, *The Public's Right To Know: Principles on Freedom of Information Legislation* (the ARTICLE 19 Principles), setting out best practice standards on right to information legislation. These Principles are based on international and regional law and standards, evolving State practice (as reflected, *inter alia*, in national laws and judgments of national courts) and the general principles of law recognised by the community of nations… This chapter is organised around the nine primary principles set out in *The Public's Right To Know*" (Mendel, 2008: 30-31). Interestingly, a closer look at the Article 19 document (published in 1999) referred to reveals that Mr. Mendel is also the author of the

1. Maximum disclosure
2. Obligation to publish
3. Promotion of open government
4. Limited scope of exceptions
5. Processes to facilitate access
6. Costs
7. Open meetings
8. Disclosure takes precedence
9. Protection for whistleblowers

When the Indian legislation is compared to these principles, a revealing picture of the relationship between international standards and the RTI Act 2005 begins to emerge.

Table 6.2: Comparison of the RTI Act 2005 to international principles of a 'good' RTI Act

International Principle	**Indian RTI Act 2005**
Maximum disclosure: Freedom of information legislation should be guided by the principle of maximum disclosure.	Broadly, this holds true in terms of geographical scope, what constitutes information, and what the citizen is entitled to access. The Act is applicable to all public authorities at all levels of government (except for the state of Jammu and Kashmir due to its special status within the Indian constitution), and all bodies substantially financed by the government are also covered within the Act's ambit. However, private entities are outside the purview of the Act.
Obligation to publish: Public bodies should be under an obligation to publish key information.	Each Public Authority is obliged to publish a host of information including its functions and duties, the powers and duties of its officers and employees, the procedure followed in its decision-making process, and the particulars of all plans, proposed expenditures, and reports on disbursements made. All of this information is to be updated annually.

same, which is a good example of how a set of ideas emanating from a limited number of sources can be reinforced by repetition, even as greater legitimacy is provided by creating an impression of multiplicity of sources. It should be noted that Mr. Mendel has also authored several reports on FoI for the World Bank. Not surprisingly, a model freedom of information law proposed by the World Bank largely corresponds to these principles. See http://www1.worldbank.org/publicsector/LearningProgram/Judicial/ModelFOILaw.doc. Accessed 10 February 2012.

Promotion of open government: Public bodies must actively promote open government.	Section 26 of the Act states that state and central governments must promote the Act.
Limited scope of exceptions: Exceptions should be clearly and narrowly drawn and subject to strict "harm" and "public interest" tests.	Clauses relevant to this principle are present in the Act, but open to interpretation. Exemptions include typical categories related to national security, foreign affairs and commercial interests. However, a public interest override exists for all exemptions.
Processes to facilitate access: Requests for information should be processed rapidly and fairly and an independent review of any refusals should be available.	The Public Information Officer (PIO) must respond within 30 days to each application. In cases related to life and liberty, the time limit is 48 hours. The first review is carried out by the relevant public authority (for which the maximum time allowed for taking a decision is 45 days) and the second by an independent Information Commission (which has no time limit).
Costs: Individuals should not be deterred from making requests for information by excessive costs.	While the Act allows each state and the central government to fix its own fees and charges, it states that these must be 'reasonable'. However, those who have been categorised as "Below Poverty Line" do not need to pay any fees. A majority of states and the central government have fixed the charges as INR 10/- (USD 0.22) for each application, and INR 2/- (USD 0.04) per page for photocopies. Further, if the information is provided *after* the 30-day time limit, *no* charges need to be paid by the applicant.
Open meetings: Meetings of public bodies should be open to the public.	This is not mandatory under the RTI Act 2005. However, Section 4 (vii) and (viii) of the Act makes it obligatory for each public authority to publish the particulars of any arrangement that exists for public consultations on matters of policy and implementation, whether meetings of boards, councils, committees and other bodies consisting of two or more persons are open to the public, and whether the minutes of such meetings are accessible to the public.
Disclosure takes precedence: Laws which are inconsistent with the principle of maximum disclosure should be amended or repealed.	While no laws inconsistent with the RTI Act 2005 have been repealed, Section 22 of the Act overrides the provisions of the Official Secrets Act, 1923, and also any other Act or instrument with which there might be any conflict.
Protection for whistleblowers: Individuals who release information on wrongdoing - whistleblowers - must be protected.	No specific reference is made to whistleblowers in the Act.

The table above thus shows an uncanny overlap between international norms and the Indian RTI Act. However, some elements of vernacularisation do exist in the RTI Act, which are not quite captured in the table above. These relate to financial sanctions on erring officials (discussed in Chapter 5), bringing security agencies within the ambit of the law when there are "allegations of corruption and human rights violations" (Section 24(1) of the RTI Act 2005), and the expansion of the responsibilities of Public (and Assistant Public) Information Officers to assist applicants who may be illiterate or otherwise need help in filing an application. In this instance therefore, vernacularisation appears to have *extended* international standards rather than diluted them, a phenomenon that is not particularly common in the context of the diffusion of rights-based norms. Uncommon as this may be, what is clear from the above analysis is that the Indian RTI Act appears to be an excellent extant example of the normative ideal within the international discourse on FoI-related legislation.[513] The Platonic ideal, at least in this instance, seems to have been surpassed by its more earthly representation.

It can thus be proposed that international influences not only played a significant role in the enactment of the RTI Act in India in 2005, but did so very substantially. The normative ideal as represented by the principles above appears to have found an exemplary manifestation in the Indian RTI Act. However, this finding points to a deep disjuncture between the dominant narrative's seemingly wilful ignorance of the influence of international processes and actors on the Indian experience and the existence of contradictory findings within alternate bodies of evidence. If the Indian law displays all that is good and noble in commonly accepted international principles of freedom of information (in fact taking it further), why is it that the dominant narrative denies any linkages between the two so pointedly? Almost all the actors

[513] This is articulated as such by a wide array of experts. One such example is the "RTI Rating" study, which will be discussed in detail later in this chapter.

involved in producing the dominant narrative - activists, the media, civil servants, politicians, as well as researchers (who constitute the policy elite) - appear to display a collective amnesia of sorts when it comes to acknowledging the illumination provided by 'lamps lit' in other parts of the world. Some clues towards unravelling this puzzling phenomenon could perhaps be gleaned by analysing the bases of this normative ideal and understanding the causal impulses underlying it, and then assessing their relationship with the political and social context extant in India in this period. Examining this is essential not only for the specifics of the case at hand, but this may also provide critical perspectives on the reasons behind the global rise of FoI laws within the last two decades, a phenomenon within which the Indian case is squarely located.

The Bases of the Normative Ideal of an FoI Law

Despite their taking on such widespread acceptance, only a limited literature has attempted to examine the crucible of ideas from which the normative ideal of FoI legislation has emanated. In its most direct form, it has been argued that these principles "are based on international and regional law and standards, evolving State practice (as reflected, *inter alia*, in national laws and judgments of national courts) and the general principles of law recognised by the community of nations" (Mendel, 2008: 30-31). Other scholars acknowledge these principles in their analysis of the spectacular global rise of FoI legislation, finding causality in the international acceptance of democracy as *the* political ideal. "In many instances, nations sought a dramatic way to repudiate the secrecy of collapsed authoritarian regimes and signal their new alliance with the remaining superpower, and the constitutional or statutory recognition of a right to information was an effective way of doing this" (Roberts, 2006: 15); "A number of paradigmatic changes sweeping the globe have

undoubtedly contributed to growing acceptance of the right to information. These include the transitions to democracy, albeit more or less successful, that have occurred in several regions of the world since 1990" (Mendel, 2008: 4); and "The fall of the Berlin Wall and the subsequent crumbling of the USSR led to a rush of laws in the former communist world, starting with the Ukraine and Hungary in 1992 and moving through the region to Serbia in 2004. George Soros's Open Society Institute funded national and international organisations across Central and Eastern Europe and took the lead in promoting transparency as an essential component in the development of democracy" (Banisar, 2005: 81) are some examples of such a view. The normative ideal of an FoI law in this sense, largely draws its sustenance from the perspective that the "movement [for access to information] is creating a new norm, a new expectation, and a new threshold requirement for any government to be considered a democracy" (Blanton, 2002b: 56). Apart from this major trope, other factors that have supported this phenomenal growth of FoI laws, as well as contributed to the establishment of the principles of a 'good' FoI legislation have also been identified. These include the changes in and spread of information technologies (Mendel, 2008); 'globalisation', including the efforts of a transnational networked civil society actors (Blanton, 2002; Roberts, 2003; Ackerman and Sandoval-Ballesteros, 2006; Relly, 2009); and the role of international financial institutions (Roberts, 2003).

While all of the above are plausible factors that influenced the establishment of the normative ideal of an FoI law (which in turn significantly impacted the Indian RTI Act), there is perhaps one foundational element which has been largely neglected in the existing literature. This relates to the existential principle underlying the imagination (and subsequent production and assessment) of FoI laws. A commonly accepted definition of an FoI law is that it "gives citizens, other residents, and interested parties the right to access documents held by the

government without being obliged to demonstrate any legal interest or "standing"" (Ackerman and Sandoval-Ballesteros, 2006: 93). Thus, an FoI law, *by definition*, should only apply to institutions of the state. This conceptual delimitation is reflected in the Indian case as well. The almost self-congratulatory tone of the letter from the Secretary of the DoPT in his note to all other Secretaries to the government upon the enactment of the RTI Act in 2005 suggests the extent to which the establishment in India had internalised such a definition. "The ambit [of the RTI Act] covers the two Houses of Parliament, State legislatures, the Supreme Court / High Court / Subordinate Courts including their administrative offices, Constitutional Authorities like Election Commission, Comptroller and Auditor General, Union Public Service Commission etc. **Only domestic and foreign private bodies working within the country have been excluded from the purview of the Act.**"[514]

Another revealing manifestation of such a conception of FoI laws (and how this relates to the Indian case) can be found in a recent study that ranked FoI legislation in 89 countries of the world.[515] Given the immense overlap between the Indian RTI Act and the established international principles of a 'good' FoI law, it is unsurprising that the study adjudged the Indian law to be the second best amongst the legislation surveyed.[516] However, it is in examining the methodology of this study that further clues about the framing of the international principles themselves, and consequently their relationship with the Indian law,

[514] Letter from A.N. Tiwari, Secretary (Personnel), to all Secretaries to the Government of India, dated 27 May 2005. File reference number D.O. No. 34012/4/(s)/2005-Estt(B). Emphasis in original.

[515] See http://www.rti-rating.org/results.html. Accessed 10 February 2012. The study was carried out by two international NGOs working on human rights issues, Access Info Europe and the Centre for Law and Democracy. Unsurprisingly, the ubiquitous Mr. Mendel heads the latter. In yet another example of how a small group of people appear to be defining the global agenda on FoI, the Executive Director of Access Info Europe is Helen Darbishire, who was previously with Article 19 and the George Soros funded Open Society Initiative, and is the author of another World Bank Institute paper titled "Proactive Transparency: The future of the right to information? A review of standards, challenges, and opportunities" published in 2010. Incidentally, the paper states that Darbishire is the "current Chair of the FOI Advocates [FOIA] Network", while the FOI network website lists Mr. Mendel as the Chair of the Steering Committee. See http://www.foiadvocates.net/en/about-foianet. Accessed 20 June 2012.

[516] The Serbian law stood first, while the Indian law shared honours with the Slovenian one at the number two position. The next large country was Mexico at number seven. The South African law, despite its visionary approach in the context of FoI laws, managed to attain only the twelfth spot.

can be garnered. "At the heart of the methodology for applying the RTI Rating are 61 indicators. For each Indicator, countries earn points within a set range of scores (in most cases 0-2), depending on how well the legal framework delivers the Indicator, for a possible total of 150 points...[517] The Indicators are grouped into seven main categories, as follows:"[518]

Table 6.3: Weightages given to different indicators in the RTI Rating study

Section	**Maximum Points**
1. Right of Access	6
2. Scope	30
3. Requesting Procedures	30
4. Exceptions and Refusals	30
5. Appeals	30
6. Sanctions and Protections	8
7. Promotional Measures	16
Total score	**150**

Source: Global Right to Information Rating, Access Info Europe and Centre for Law and Democracy

Even as the rationale provided for according these weightages is debatable, examining the indicators under the 'Scope' category provides a key insight into the politics underlying the evolution of international 'standards'.[519] Of the 30 points that could potentially be 'scored' within this category, 20 points (across five indicators) are allocated to the applicability of the law to various organs of the state. However, a mere *two* additional points can be 'scored' if the legislation covers within its ambit "a) private bodies that perform a public function and b)

[517] Serbia 'scored' 135 points, while India and Slovenia tied at second place with 130 points.
[518] See http://www.rti-rating.org/methodology.html. Accessed 10 February 2012.
[519] "Each of the four central elements of a right to information system - Scope, Requesting Procedures, Exceptions and Refusals, and Appeals - are given an equal weighting of 30 points, while the other three elements have been allocated fewer points. In this way, the Indicators give appropriate weight to the different legal mechanisms needed to ensure respect for the right of access to information in practice." See http://www.rti-rating.org/methodology.html. Accessed 10 February 2012.

private bodies that receive significant public funding".[520] This means that while the Indian law 'scores' highly within this category, the South African law, which is quite unique (and radical) in incorporating *all* private entities within the ambit of its Act (in the exercise of *any* other rights of the citizens, and not limited to the context of private entities performing public functions or being publicly funded), would not be considered qualitatively better, all other things being equal. The study then serves as a stark (and 'quantifiable') example of an overwhelming bias within international norms on FoI legislation towards holding the *state* more transparent and accountable, while private entities (even when they perform public functions) are considered to be relatively peripheral to such concerns. Thus, in such an imagination of what a 'good' FoI law must be, the Indian RTI Act is celebrated and upheld as an example to be emulated as it is designed to hold the state to account very exigently, while a country that may desire to widen the ambit of its law further may end up being considered as an outlier.[521] It therefore comes as no surprise that the Cabinet note authored by the DoPT in January 1998 in the context of the FoI bill clearly stated that extending the Act to the private sector would be "fraught with grave implications for the national economy as it would affect the investment climate at a time when we are liberalising and opening the economy".[522]

Not only does such a normative framework exclude private entities from the ambit of this type of law, it goes even further in practice. In imagining and producing freedom of information as a democratic 'must-have', this framework invokes the noble ideals of democratic deepening, citizen participation, transparency and accountability - and then extends these privileges to the body corporate. "Providing citizens with open access to information is a cornerstone of good governance. Transparency is essential to allow citizens

[520] See http://www.rti-rating.org/xls/India.xls. Accessed 10 February 2012.
[521] In many important ways, this recalls the discussion in the preceding chapter on the exclusion of private entities from the Indian RTI Act, and reinforces the immense overlap between it and international 'norms'.
[522] Note for the Cabinet dated - January 1998, sent by DoPT. File reference no. 34011/1(s)/97-Estt.(B), DoPT.

and markets to hold institutions accountable for their policies and performance, to foster trust in government and minimize corruption" (World Bank, 2008: 1, emphasis added). "Access to information promotes the fight against corruption, decisively contributes to the establishment of transparency policies needed to strengthen democracies and respect for human rights, *promotes stable economic markets* and socioeconomic justice, and enables effective business practices."[523] It responds to the question of "How is [the right to access public information] a useful tool for companies?"[524] by exhorting such entities to partake of its bounty. "The right to access public information yields information related to regulations, decisions by government organizations and agencies (such as procurement plans, statistics, and market data), and other important trade information that many times only the government can generate. Exercising our right to know promotes economic development because it enables us to better plan business activities, favors legitimate competition, and reduces barriers to business operations, all of which in turn is beneficial for the country... The right to access public information is a cornerstone of the rule of law: it ensures participation in and checks on the body politic and favors the development of companies in the private sector, thereby laying the foundation for prosperity."[525] Citizenship, rights, benefits, participation, economic growth and prosperity thus come to rest (arguably through several leaps of faith) upon the normatively and morally irresistible mantle of *government* transparency.[526] Meanwhile, the

[523] A statement made by the Organization of American States quoted in the Report of the *Companies and the Right to Access Public Information* round-table held on 26 April 2007, in Buenos Aires, Argentina (emphasis added). The round-table was organised "as part of the joint effort by the civil rights association Asociación por los Derechos Civiles (ADC) and the British Embassy to make the private sector aware of the right to access public information. The World Bank Institute and the Inter-American Investment Corporation also supported and participated in the event". It is not surprising that five years prior to this round-table, the World Development Report of the World Bank for 2002 focused on "Building Institutions for Markets" stating that "Weak institutions - tangled laws, corrupt courts, deeply biased credit systems, and elaborate business registration requirements - hurt poor people and hinder development". See http://go.worldbank.org/YGBBFHL1Y0. Accessed 12 June 2012.

[524] Report of the *Companies and the Right to Access Public Information* round-table held on 26 April 2007 in Buenos Aires, Argentina.

[525] Ibid.

[526] Interestingly, similar impulses seem to have been at play over two centuries ago resulting in what is widely acknowledged to be the first modern FoI law, enacted in Sweden in 1766. The law was pioneered by Anders Chydenius, a clergyman-politician, and a strong votary of free trade. "In Chydenius's day, the leading debates

same founts of wealth and prosperity, while ostensibly contributing substantially to the larger social good, themselves remain outside the imagination of any such mechanism of transparency.

In practice (at least in some countries), this potential use of FoI laws has not been lost upon private entities. In the UK, Freedom of Information Ltd is a company that "exists to help you get the most from the UK's freedom of information (FoI) legislation... [It works] with companies seeking public sector contracts and commercial intelligence, pressure groups looking to influence public policy, and citizens who wish to exercise their right to open government... The FOIA is a fantastic tool for business, especially if your company is seeking public sector contracts."[527] "In the U.S. and Canada, which respectively adopted access laws in 1966 and 1983, it was expected that the legislation would primarily provide citizens with an ability to hold their governments to higher levels of accountability, which it has. But today the biggest users of those nations' laws are from the business sector, users who are either seeking government procurement contracts or are members of a regulated environment and are trying to divine their regulators' strategies... In the U.S., the federal government responded to 769,986 FOIA requests in 2004, an estimated 450,000 of which were filed by

concerned the trade monopolies enjoyed by wealthy Stockholm merchants that prevented the towns along the Gulf of Bothnia (specifically Chydenius's own Kokkola) from trading their pine-tar (essential for naval stores) or engaging in shipping and ship-building. As the mercantilist Hats party lost power to the more agrarian-centered Caps in the Swedish Diet in the mid 1760s during an extended period of parliamentary rule, the free trade debates opened other secrecy issues such as the closed committee of the Diet that made secret budgeting and foreign policy decisions, as well as the government's censorship regime - both of which became targets of Chydenius's polemics and parliamentary maneuvering. The culmination on 1 December 1766 was the first freedom of information statute, in the Freedom of the Press Act that stands as one of the four fundamental constitutional laws in Sweden" (Blanton, 2006: 82).

[527] From the website of the Freedom of Information Ltd. See http://www.freedomofinformation.co.uk. Accessed 15 June 2012.

businesses... In Canada in 2004 there were 25,207 access requests made to the federal government, of which 11,847, or 47 per cent, came from business."[528]

Although there are no similar statistics available for India, what can be safely said is that given the fine exemplar of international FoI norms that the Indian RTI Act is, it certainly appears to have ingratiated itself to this specific 'international' imagination of what an ideal FoI law must be. This thinking was also reflected in an intervention made by the senior Congress Party leader Pranab Mukherjee during the examination of the draft FoI bill by the Parliamentary Standing Committee in 2000 of which he was then Chair. "All over the world, with globalisation, international tendering, one of the major complaints is, lack of transparency, not only in India, but in advanced countries also... Always, in cases of purchases, agreements and contracts -- whether it is overseas contract or any other international bidding -- there will be multiple parties. Therefore... there is a need for providing all the relevant information... I am not talking of small contracts, but of major contracts."[529]

Such a focus on reimagining the role of the state primarily as a facilitator for markets is not new in the Indian context, and is part of a larger international project of reforming the state, not least by judging its 'efficiency' against business principles. "This started in the beginning because of a need for good governance, [against] corruption. NDA had come after some time, they wanted to show results. All the initiatives started [around then] - the Citizen Charter initiative. What are all these? All these initiatives are in the way of making [the government] more accountable. There was no public pressure for Citizen's Charters. How did it come?

[528] From "Access to Information - The Commercial Side" an unpublished paper by Roderick Macdonell, "a long-time journalist and media development consultant, [who] was a consultant at the World Bank for five years, where he participated in access-to-information initiatives in Nigeria and Sierra Leone".
[529] Proceedings of the Department-Related Parliamentary Standing Committee on Home Affairs, held at 1500 hours on 23 October 2000 in Committee Room 'A', Parliament House Annexe, New Delhi, pp. 23-24.

Because there was a feeling in the political class, supported by the civil servants that we need to bring in more accountability. This [the RTI Act] is a part of this initiative that continued."[530] Citizen Charters, pioneered amongst others by the World Bank, came into the Indian administrative lexicon in the mid-1990s. A central element of this initiative was the repositioning of the citizen as a 'client' or 'consumer' in her relationship with the state. "The emphasis of the Citizens' Charter is on citizens as *customers* of public services" (ARC, 2009: 33, emphasis added). Much influenced by the New Public Management thinking that had come to dominate discussions on administrative reforms at this time, such arguments were located within the vocabulary of more 'efficient' business practices and management. "Total Quality Management [TQM] is no longer restricted to manufacturing operations in India, but is expected to permeate all sectors with a customer interface... The Department of ARPG [Administrative Reforms and Public Grievances] has made an arrangement with the Quality Division of the Confederation of Indian Industry (CII) to introduce TQM practices in the centre and states and to evaluate current initiatives in organisations like the Department of ARPG, Delhi Sales Tax Department and the Department of Defence Accounts" (Sundaram, 2004: 147-148). Unsurprisingly, such initiatives of reimagining the state in the image of market principles were instituted soon after the launch of the economic liberalisation project in 1991.

Thus, the international influence on the enactment of the RTI Act in India can trace its roots at least in part to the discourse that underpinned the reform process that was launched in the early 1990s. "From 1991 onwards, this liberalisation question has been there. When you talk about liberalisation, the first thing which comes is that procedure should be liberalised, and unnecessary controls should be given up. The concepts of a more open society were floating

[530] Interview with EFD094, 24 November 2009.

around. Take this whole business of [the] money laundering act. It is not so that suddenly the Indian government decided that there should be a money laundering law. Nations kept on debating for maybe twenty years that we need to have a broad law, which is an overarching law across countries to tackle problems like money laundering. The moment you say that, it means a kind of liberalisation across boundaries in very core areas like money, the movement of dollars, the financial markets. Basically what are you doing? You are opening up your information systems. We have also become a part of that system now, in a much deeper sense than what was going on earlier. The transparency of systems, the transparency of economic interplays. These are not things that we can say came domestically. The whole of WTO is exactly this."[531]

With one of the foundational principles of the WTO being to establish a transparent and predictable international trade regime, the Indian RTI Act thus shares much of its conceptual bases with the larger international project of imagining the world as a single seamless market. In this context, it is perhaps not a coincidence that India joined the WTO as a founder-member in 1995, and it was around this very time that the idea of 'freeing' *government* information began to take root and become more acceptable, not least within government circles.[532] In this context, it is interesting to note that an overwhelming 74 countries of the 84

[531] Interview with NXW937, 17 December 2009. It is interesting to note that in the case of the RTI, pressures from international financial institutions intersected with the international rights-based framework quite conveniently. This was not only visible in the 'grassroots' demand located in the context of livelihood rights (as highlighted in Chapters 3 and 4), but also in other international fora such as the United Nations Commission on Human Rights. The Ministry of External Affairs sought a brief on "legislation on Freedom of Information and its salient features" from DoPT to "present a coordinated picture of GOI's efforts to secure the rights of citizens and their promotion and protection" for the 59th Session of the Commission on Human Rights held in Geneva from 17 March - 25 April 2003. Letter from Deepa Gopalan Wadhwa, Joint Secretary (UNES), Ministry of External Affairs, to Keshav Desiraju, Joint Secretary, DoPT, dated 17 March 2003. Reference no. UI/352/57/02, Ministry of External Affairs.

[532] Readers may recall (as highlighted in Chapter 5) that the 1991-1996 period was one where there was a stable government at the centre which ran its full term, and was also the period when the Congress party was to have enacted an FoI legislation if it had followed up on the promises made in its 1991 manifesto. However, this period saw practically *no* activity on the FoI front within the government. On the other hand, 1991 saw a concentrated push towards economic liberalisation.

that have enacted and enforced FoI laws are members of the WTO.[533] Further analysis of the mapping between the WTO members, observers (which is the stage prior to full membership) and non-members, is also revealing.[534] Of the ten countries that have FoI laws but are not members of WTO, eight are currently negotiating to become members of the WTO.[535] In other words, if one was to look at 'FoI-compliant' countries in conjunction with WTO membership (including observer status), it appears that almost all countries that have FoI laws are members of or observers to the WTO. This picture is reemphasised when one looks at the set of 50 countries that are considering enacting an FoI legislation. Again, almost all countries are either members of or observers to the WTO.[536] However, while the WTO does not impose any specific requirement to enact an FoI law upon member countries, it does demand that certain transparency procedures related to trade be put in place so that other member governments as well as private investors are able to access relevant government information, ostensibly to ensure that trade is carried out predictably, transparently and efficiently.[537]

On the face of it, few could argue against such a proposition. However, the argument needs to be made at a more subtle level. The WTO as an organisation would be loath to either see itself, or be described as operating on coercive principles. Consensus is the defining thematic within which the organisation locates itself. And yet, the fact of the rise of the WTO is itself

[533] The WTO currently has 153 members and 31 observers. See http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm. Accessed 10 September 2010.
[534] See Annexure VI for a comparative table mapping countries with FoI laws with WTO membership.
[535] These are Azerbaijan, Bosnia-Herzegovina, the Cook Islands, Kazakhstan, Kosovo, Montenegro, Russia, Serbia, Tajikistan and Uzbekistan. The Cook Islands and Kosovo are the only two territories where FoI laws exist but are neither members of the WTO nor observers. The status of Kosovo as a sovereign nation remains under debate, which is why it has not been granted observer status yet. However the political leadership of Kosovo has already indicated its interest in joining the WTO. If one was to take this into account, the overlap would be almost complete, save a small island nation.
[536] Nauru, Palestine and Zambia are the three territories which are considering enacting FoI laws but do not have member or observer status in the WTO.
[537] These include clauses in the General Agreement on Trade in Services (GATS), Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), and Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Agreement on Government Procurement. For a detailed analysis of how these relate to transparency and access to information, see Roberts (2003; 2006, Chapter 8).

an indicator of a larger homogenising of the global economic imagination, which is premised on liberal capitalist democracy and free markets, with the international debate and foreign policy negotiations located within the world of minutiae, but not questioning the overarching framework. The origins of this framework itself could perhaps be traced to the democratisation project and the concomitant push towards economic liberalisation in countries across the world. As noted in Chapter 1 of this thesis, the good governance agenda arose embedded in the 'third wave of democratisation'. Freedom of information formed a part of the good governance agenda, inspired by ideas of open and transparent government. Along with this distillation, as it were, of the political imagination of how a country should be governed, a flattening of the economic discourse was taking place in tandem, one which anointed free-market capitalism as *the* model of economic development in countries across the world. This was a period when a particular imagination of the world was being fashioned, where "the discipline of capital... would operate along rationalist principles based on full access to relevant public and private information" (Gill, 2000: 11, quoted in Roberts, 2000: 15). However, while there has indeed been a significant loosening of the strings around public information, releasing private information has in fact seen an opposite trend, with greater conservatism ruling the roost in the form of more stringent data protection regulations as well as a greater focus on intellectual property rights. The playing field has indeed been levelled, with a distinct tilt towards the market and the individual, the lead actors within a neoliberal imagination.[538] In this context, "Transparency's fundamental purpose is that of rendering greater discipline and accountability of policymakers and actors to the market. Forms of transparency that might increase the market's accountability to policymakers and citizens have been either marginal to, or completely outside, this framework... Yet this may

[538] Extending such concerns to develop the notion of the 'neoliberal state', Haque enumerates the following as its defining characteristics: "the minimal scope and diminished role of the state sector; the replacement of public ownership and control by private enterprise and management; the increased alliance between the state and private capital; the withdrawal of welfare programs and adoption of market-led goods and the transformation of public institutions based on businesslike structures and strategies" (Haque, 2008: 13-14).

well be the most significant feature of the neoliberal transparency drive: its potential to depoliticise an inherently political process that protects and advances certain interests to the exclusion of others" (Rodan, 2004: 2). It is within such a conceptual continuum that FoI legislation sits quite comfortably, for not only does it provide a useful tool which furthers (or 'deepens') liberal democracy on the moral-normative plane, but it also provides admirable support to the principles of the market economy that require information, particularly public information, to be available freely to maximise predictability, and of course, profitability.[539] As "one of the world's most comprehensive disclosure laws" (Florini, 2007: 9-10), the Indian RTI Act thus strengthens this imagination considerably - a willing comprador in the project of ring-fencing the state to the advantage of the market, both globally, as well in its own 'India Rising' coloured backyard. In doing so, it appears to strengthen the argument that neoliberalism itself is undergoing a transition from "'shallow neoliberalism' emphasising a minimal state to a 'deep neoliberalism' attempting to shape social relations and institutions to make markets more competitive" (Rodan, 2004: 6).

Returning 'Home'

It is at this juncture that it might be instructive to return to the silence of the dominant narrative on the influence of larger global processes on the evolution of the Indian RTI Act. As the discussion above shows, the RTI Act in its form, content, as well as its timing draws its sustenance from the same conceptual continuum that led to the launch of the economic liberalisation project in the late 1980s and early 1990s. At the same time, the push towards the market-led model of growth and development is a deeply contested idea in India, not least

[539] A telling example is another tool within the same continuum - Transparency International's Corruption Perceptions Index. Not only does it rank corruption levels in countries based on perceptions, but on the perceptions of *business leaders*, a majority of whom are located *outside* of that country. See Andersson et al (2009) for more details.

engendering cacophonous debate, but also spawning numerous (at times violent) resistance movements. 'Reforms by stealth' has been one strategy of the political elites to negotiate and circumvent this resistance.[540] A related but different strategy can be perhaps unearthed here, acknowledged by some activists. "For the government [acknowledging the influence of international actors and processes] is not good publicity, so the government would be reluctant to talk about it publicly. For the movement, it's not nice to believe that actually we only had a part role to play. We'd like to believe that *we* did it, *India* did it. When you have to attribute it to foreign countries, it doesn't look nice for the country, for the political class, for the movements, [or] for the civil society, who would like to take the entire credit. It hurts me somewhere to acknowledge that it wasn't even India, it was probably a foreign master telling me what to do and that's why we did it. None of us normally want to talk of it. You have to take too much away from our own contribution or what we'd like to believe."[541]

Here, YXR734 is pointing to a phenomenon that displays a peculiar joining of forces in the production of the silence on the influence of international processes and actors on the enactment of the RTI Act in India. Voices that sought to empower the vulnerable and the marginalised by advocating for greater government transparency appear to have willingly participated in the production of this silence in the narrative. Even if the politics of claiming credit is set aside, such an exercise in self-censorship could indeed be seen as supporting a larger cause - that of privileging a 'people's movement' - and in doing so strengthening the idea that ordinary citizens can force the government to respond to their demands. But at the same time, it also served another purpose. Participating in this veritable conspiracy of silence also accorded critical legitimacy to 'activist' voices. Premised existentially on a vociferous negation of anything 'foreign', be they ethereal ideas or earthly funds, activists could not

[540] See Jenkins (1999). By 'political', here I mean not just those who are in the formal political arena, but those wielding the power to influence social and economic processes, as well as those desirous to do so.
[541] Interview with YXR734, 18 November 2009. Emphasis in expression.

have publicly acknowledged that the conceptual bases of freedom of information, at least in part, lay in a specific imagination of the world that was antithetical to their own closely- and publicly-held beliefs and politics. The explanatory narrative thus *had* to be delinked and sanitised from any association with international influences for their own legitimacy to remain unthreatened.

However, this also meant that stronger and more politically canny forces endorsed, strengthened and reproduced this discourse as this in turn provided *them* with the legitimacy that would otherwise have had to be manufactured by other means.[542] Global processes (within which the ruling elites are deeply embedded) and pressures would have ensured that the government enacted an FoI legislation during this period in any event. That a 'people's movement' arose at the same time making just such a demand, allowed the government (with unequivocal support from the ruling elites, including the mainstream media) to 'accept' this demand and show itself to be an entity that was responsive and sensitive to the wishes of the 'masses', even as it pre-empted any potential allegations of succumbing to 'outside forces' - both of which strengthened its own legitimacy. Meanwhile, international actors (particularly IFIs), also endorsed and promoted the 'RTI Act as a bottom-up process' narrative in great earnest as it suited their own political interests. Acknowledging the coercive power of international actors over a large established democracy seeking great-power status does not make for good politics for either international actors or the government. As a respondent asserted, "This is what the World Bank would like to put across - that [the RTI Act] is now the aspiration of the masses. But this is not the aspiration of most masses".[543]

[542] Or pushed through by stealth. Foucault would have seen this as example of 'governmentality' at its insidious best.
[543] Interview with WKI942, 1 December 2009. The nature and extent of the 'people's movement' was discussed in Chapter 4.

Why independent academic researchers appear to have participated in the production of this discourse remains somewhat of a mystery. In part, this could be attributed to limiting their inquiry to campaign activist circles, which has only resulted in the reinforcement of the dominant narrative.[544] At the same time, a researcher commented, "I cannot afford to critique the activists or the process explicitly as I am dependent on the same people for carrying out future research".[545] Self-censorship, it would seem, is not the preserve of campaign activists only. The noble ideals underlying the production of 'knowledge' appear to be as susceptible to political compulsions as any other process of truth-making. Critically though, this complex interplay of interests and the production of the dominant discourse from within it, ensured that this most 'radical' of laws would remain circumscribed within the conceptual continuum referred to above, wherein the interests of the market could not be jeopardised.[546]

In this context, YXR734's agonised ruminations above do not necessarily recognise that the dichotomy between 'foreign' and 'domestic' is perhaps no longer very stark. The 'foreign master' is no longer the World Bank or the United States. There *is* a 'master', but one who is not necessarily 'foreign'. In the post-Cold War globalised logic of economic processes, this 'master' is a transnational ruling elite which is defined by the imagination of the world it shares with its own kind, in which individual nationalities are minor irritants. However, national identity does possess great value when invoked as an emotive symbol to further a nationalist aspiration to great-power status, which itself strengthens the selfsame imagination of market- and growth-led development as the only possible way forward - a project which is served well by 'freeing' government information. In this context, an insightful comment from a respondent provides a disturbing conclusion. "The truth doesn't create heroes. What civil society wants is heroes and heroines. And these heroes and heroines are the counter to the

[544] Some directions on why this should be so were discussed in Chapter 4.
[545] Interview with PSW309, 4 April 2012.
[546] Hence, even private entities performing public functions lie outside the ambit of the Indian RTI Act.

other side of a total collapse of civility in governance. You need these counter-heroes, you continuously need [them]... This is the irony of what is happening - that you are having one Act after the other that is declaring rights when your governance frame is completely collapsing; where the whole nation is in the grips of a new lumpen elite, no longer a lumpen proletariat, who have the reins of government in their hands. Therefore you get into government to hush up illegality."[547]

In Conclusion

In sum, it can now be suggested that international influences had more than a peripheral role to play in the process that led to the enactment of the RTI Act in India on several counts. First, invoking the examples of countries that already had such legislation formed an important weapon in the arsenal of those advocating for an RTI-related law in India from at least the mid-1980s. As the thinking within the government began to take on its own momentum, the international experience was regularly invoked and used as politically expedient to justify the positions of the government on the more substantive aspects of such a law. However, even as laws of other countries informed the development of different clauses of the FoI Act in India, the larger need for enacting an FoI legislation was at least partially framed within an aspirational desire to be counted as an 'advanced' democracy, especially within government circles. In this sense, not only was the RTI Act produced as a tool that had instrumental value (in terms of reducing corruption, empowering citizens etc.), but also as something which had acquired important symbolic value in the evolution of the meta-narrative of Indian democracy. The second way in which the international came to bear on the national was through the pressures of international institutions. By the mid-1990s (as

[547] Interview with WKI942, 1 December 2009. Big industrialists entering the Parliament (as reported in Chapter 5) are an emblematic example of this 'lumpen elite', which is part of a transnational business elite, directly assuming control over the state.

highlighted in Chapter 1 of this thesis), the good governance and new public management agendas had acquired impressive proportions, and a focus on the transparency and accountability of state institutions was deeply embedded within this discourse.[548] India was hardly immune to these international pressures, which had by now begun to link the lending policies of international financial institutions like the ADB and the World Bank to greater transparency in the functioning of public institutions. Furthermore, this was also the period during which the WTO was formed (of which India was a founder-member), which had placed a related set of transparency obligations on signatory states.

But perhaps most importantly, these events and processes eventually draw their sustenance from the conceptual continuum circumscribed by two defining ideas, both of which saw a global rise concomitant with the evolution of the RTI Act in India (as well as in several other countries of the world) - the establishment of liberal capitalist democracy as *the* political and economic ideal, and the related recalibration of the role of the state vis-à-vis the market in the international development discourse. It could thus be proposed that even as the dominant explanatory narrative surrounding the Indian RTI Act is richly embellished with stories of pioneering reformers, valiant civil society, popular protests, truculent bureaucracies, epic struggles, and above all, the victory of openness over secrecy in a grand battle of ideas, perhaps these accounts can be traced to a space more ethereal, more omnipresent, and more global than thus far imagined. Looking back at that specific period of recent history, a singular vision of a particular kind of economic and political governance was being forged and was well on its way to acquiring hegemonic contours. The pillars of capitalist democracy and the supremacy of the market over the state had developed deep foundations, and the edifice of the global structure had transferred its weight onto them. In that context, the Indian

[548] This was emblematically manifested in the World Development Report of the World Bank in 1997, "The State in a Changing World", where it set out to examine "the role and effectiveness of the state: what it should do, how it should do it, and how it can improve in a rapidly changing world".

RTI Act could perhaps be seen as a richly detailed accoutrement to those pillars, providing them with both strength and beauty - the former through its insistence on democratic deepening, and the latter through its morally indisputable promise of openness and transparency. Form and content thus fused together, much like the Grecian urn, with a tantalising invitation to gaze upon it, even as the structure housing it grew to such vast proportions, that observers became oblivious to it.

Chapter 7

How Deep is My Democracy?

"Go to any post office or railway station in Tamil Nadu and try to extract information out of any employee there. You have to put up with "Get lost!" barked out a hundred times within a single minute. Never do these men realize they are public servants, or that their monthly salaries come from the tax payers."
– Extract from the Tamil short story *Vishamandiram* (1925)[549]

"We write in reference to the abovementioned application received by Mumbai International Airport Private Limited (MIAL) under the Right to Information Act, 2005 (the "Act") requesting for information relating to various government notifications. MIAL is not a public authority under the provisions of the Act and therefore the Act does not apply to MIAL."
– Letter from MIAL, 18 December 2007[550]

When 'Kalki' R. Krishnamurthy wrote *Vishamandiram* in 1925, India was a very different place. A railway station was public property. A railway official was a public servant. Public servants seemed to be routinely dismissive of ordinary citizens. Citizens would gripe privately, writers would critique such happenings with "the zeal of the reformer" (Krishnamurthy, 1999: 18), but most accepted this as the way of the world.

Eighty years later, the way of the world was to change dramatically. The Right to Information Act of 2005 gave citizens the legally enforceable *right* to seek government-held information. Public servants could no longer disdainfully disregard citizens' requests for information. They were bound by law, on fear of personal sanctions, to respond to requests for information in a time-bound manner. The reformist zeal appeared to have won in the end, eight decades notwithstanding.

[549] From *Vishamandiram* (The Poison Cure), a Tamil short story by 'Kalki' R. Krishnamurthy, originally published in the Tamil magazine *Navashakti* in 1925. Translation by Gowri Ramnarayan. See Krishnamurthy (1999).
[550] Letter from the "Authorised Signatory" of Mumbai International Airport Private Limited to Sanjay Ramesh Shirodkar dated 18 December 2007 with the subject "Application dated December 11, 2007 under the Right to Information Act, 2005".

However, other changes had also taken place in the intervening years. It was no longer clear what was public and what was private. If in 1925 the post office and the railway station were unequivocally 'public', in 2007 airports were insisting (albeit quite politely) that they were not. However, other things remained unchanged.[551] Much like the reviled railway employee of the early twentieth century, Mumbai International Airport Limited (MIAL) would not disclose any information to citizens in the twenty-first.[552]

Despite the word 'private' in its name, MIAL is an emblematic example of Public-Private Partnership (PPP) projects, particularly in the development of infrastructure such as ports, highways, and airports in India. In 2006, the government agency Airports Authority of India (AAI) leased 2000 acres of land (with an estimated market value of USD 9 billion) to MIAL, 74% of which is owned by the company GVK Airport Holdings Private Limited and its subsidiaries, for a nominal fee of INR 100 (~USD 2) per annum for thirty years extendable by another thirty. Further, "the State Government has waived stamp duty worth Rs. 200-250 crore [~USD 35-45 million] with respect to MIAL... Thus, MIAL clearly reaps the benefits of the substantial amounts received by way of waiver, equity, concessional land use inter alia which otherwise, will not be extended to a private incorporation by the Central Government without any reasons. Such contributions are crystal clear in themselves to affirm our conclusion as to how MIAL has received "substantial financing indirectly" by the funds provided by the appropriate Government."[553] In addition, "a consortium of banks, most of

[551] Including the fact that the concerns of ordinary folk continue to be articulated primarily by the socially privileged. 'Kalki' Krishnamurthy was of a similar social background as much of the leadership of the RTI movement.

[552] An uncannily similar case relates to Delhi International Airport Private Limited (DIAL), where despite it being declared a Public Authority by the Central Information Commission (CIC), it did not release any information to the applicant Lt. Col. (Retd.) Anil Heble. See CIC order No.CIC/OK/C/2006/00125 dated 17 January 2007. After stonewalling both the CIC as well as other requests for information for several years, DIAL obtained a stay order from the Delhi High Court in 2011 on the CIC decision. See "CIC order declaring DIAL a public authority stayed", *The Hindu* newspaper, 31 May 2011.

[553] Decision dated 30 May 2011 by Sushma Singh, Information Commissioner, Central Information Commission, on Complaint No. CIC/MA/C/2008/000195/SS.

them in the public sector, gave an infrastructure loan of Rs 4,200 crore [~USD 750 million] to MIAL".[554] For reasons such as these, along with the governance structure of MIAL, which includes government representatives, the Central Information Commission (CIC) on 30 May 2011 ruled that, "We find no hesitancy in declaring MIAL as a Public Authority... MIAL shall appoint a [Central Public Information Officer] CPIO and [First Appellate Authority] FAA within 30 days of the receipt of this order and shall also fulfill [*sic*] the mandate of Section 4(1) disclosure as mandated under the RTI Act, within two months of the receipt of this order."[555]

However, MIAL did *not* comply with this order and filed a writ petition in the Delhi High Court questioning the order of the CIC.[556] As is often the norm, several months and hearings later, the case still rests there pending a judgement.[557] As is also the norm, the staying power of a company like the MIAL with respect to the legal process is far greater than the individual citizen who had filed the application for information from MIAL in the first instance, and has had to "spend over 3 lakh rupees [~USD 5500] over the past 5 years on this issue".[558]

PPPs are only one type of entity doggedly resisting attempts to provide information to citizens. In recent years, several privately-owned hospitals (and schools) have been granted public land at nominal rates to set up their operations, with a contractual obligation to provide

[554] See "Why not sell the Taj, when we can do it with Mumbai airport?", *Firstpost* newspaper, 12 June 2012. http://www.firstpost.com/business/why-not-sell-the-taj-when-we-can-do-it-with-mumbai-airport-340529.html. Accessed 10 July 2012.
[555] Decision dated 30 May 2011 by Sushma Singh, Information Commissioner, Central Information Commission on Complaint No. CIC/MA/C/2008/000195/SS. Section 4(1) of the RTI Act pertains to certain categories of information about the structure and functioning of a public authority that must be proactively and regularly placed in the public domain.
[556] Writ Petition (Civil) 4341/2011 in the Delhi High Court.
[557] The next hearing is scheduled for 19 October 2012 according to Sanjay Ramesh Shirodkar, the respondent in the case. Telephone interview on 26 July 2012. A former judge of the Delhi High Court has suggested that "the court was so much up to its neck in arrears that it would take 466 years to clear the gigantic backlog". From "At 5 minutes per case, Delhi high court clears 94,000 in 2 years", *The Times of India* newspaper, 30 May 2012.
[558] Telephone interview with Sanjay Ramesh Shirodkar, 26 July 2012.

at least 25% of their services free of cost to people belonging to 'economically weaker sections' (EWS).[559] On 28 October 2009, Rakesh Gupta "filed an information request with the Income Tax (IT) Department to inspect the IT Assessment records of 20 [such] hospitals in order to ascertain their financial position vis-à-vis their commitment to serve the EWS segments of society".[560] His application was rejected by the Public Information Officer, as well as the First Appellate Authority. "The IT Department has refused to allow inspection and access to copies of assessment records on grounds of commercial confidence, fiduciary relationship and personal information protected under Section 8(1)(d), (e) and (j) of the RTI Act respectively."[561] The case now rests with the CIC, which has yet to schedule a date for a full-bench hearing. In the event that the CIC rules in favour of the plaintiff, it is almost certain that the matter will be taken to the High Court by the respondents, including the concerned hospitals which are third parties to the case - another example of "the ferocity with which the private sector is trying to exclude itself and its doings from the public view".[562]

The cases above highlight the larger context within which this research is located. No doubt India has changed much in the last eighty years. At the same time, the pace of these changes has intensified tremendously over the last two decades. It would appear that the oceans are being churned again, throwing up several unresolved dichotomies - the public and the private, the powerful and the vulnerable, the civil and the political, the state and the market, the state and the citizen, and the global and the national - all within an overarching framework of

[559] "For the purpose of identifying the economically weaker sections and low income groups, the family income limit of INR 1,20,000 [~USD 2400] per annum, irrespective of the location, is prescribed." Reserve Bank of India, 20 July 2012. See http://rbidocs.rbi.org.in/rdocs/notification/PDFs/19072012RG.pdf. Accessed 28 July 2012.
[560] Email of 2 July 2012 from Venkatesh Nayak, Programme Coordinator, Access to Information Programme, Commonwealth Human Rights Initiative, New Delhi, to several RTI-related networks.
[561] Ibid.
[562] Email communication from Justice P.B. Sawant, 29 July 2012.

democracy.[563] While these dichotomies have been examined in the preceding chapters, in this concluding chapter I will attempt to locate them within the organising questions that were identified in the opening chapter of this thesis.

How and why was the RTI Act enacted in India at the time that it was?

How and why did it take the specific form that it did?[564]

Having examined several bodies of evidence in the preceding chapters, an attempt may now be made to ascertain the causal factors that led to the enactment of the RTI Act in 2005. Thus far, the investigation has followed a pattern of moving outwards from the local. It began by problematising the role of the grassroots in the dominant narrative, then examined the role of the state (at the national level) in the process, and finally focused on the impact of international processes. I will invert the order here, not to privilege any particular factor to a greater degree, but to provide a counterpoise to the narrative as it currently exists, and in that, offer a more evenly balanced perspective on the 'story of the RTI Act' in India.

With the end of the Cold War, the early 1990s saw the unassailable rise of two normative ideals within the global discourse - liberal democracy as the only acceptable form of political organisation of a country, and free-market capitalism as the definitive form of economic growth and development. This is not to say that these ideals displayed homogeneous contours in the larger discourse, advocacy efforts, or in practice. However, contestation was largely

[563] This metaphor traces its roots to the episode of *samudra manthan* (literally, churning of the oceans), which appears in the *Bhagavata Purana*, the *Mahabharata* and the *Vishnu Purana*, all texts within the larger Hindu tradition. In sum, the episode speaks of a collaborative effort of the *devas* (demigods), representing 'good', and the *asuras* (demons), representing 'evil', to obtain *amrit* (the nectar of immortality) by churning the oceans (*ksheersagar*, or the Milky Way galaxy). Eventually, with the support and guidance of Vishnu, only the *devas* manage to obtain it and subsequently defeated the *asuras* in battle. By likening the RTI Act to *amrit,* interesting analogies could be drawn between the process and the *samudra manthan* episode, but perhaps this would be best left to a different work.

[564] I am addressing both these questions together as the issues involved are deeply intertwined.

relegated to quibbling over the paths towards, and the degree of adherence to, these normative ideals. Emblematic manifestations of this discourse took the form of the 'third wave of democratisation' in the case of the former. In the case of the latter, this meant greater integration and expansion of the world's markets (the establishment of the WTO in 1995 being an exemplary event), as well as the reimagining of the role of the state (including the rise of the good governance and new public management agendas). Further, with the geopolitical compulsions of the Cold War no longer in play, donor countries, as well as influential IFIs which predictably functioned as their handmaidens, could vocalise the rhetoric of democratisation and anti-corruption within the international development discourse with renewed vigour (as well as conditionalities on aid), as the fear of recalcitrant regimes going over to the 'other side' had been thwarted. It was within this discursive continuum of democracy, 'less state, more market', and anti-corruption that the idea of freedom of information grew as an indisputable desirable - both to prove a country's democratic credentials, and to allow markets to function in a more predictable and profitable manner.

India proved to be fertile ground for this discourse to flourish in, as this period saw the unleashing of unprecedented forces of economic and social change. Beginning in the mid-1980s, the project to liberalise the economy (understood iconically as beginning in 1991) was launched within a familiar vocabulary. The state was to focus on developing regulatory frameworks, while the production of goods (whether public or otherwise) and the delivery of services was to be increasingly handed over to the market. This vision was premised on the simplistic thesis of 'a rising tide lifts all boats'; deeper integration with international economic processes would result in a high-growth path that would lead to greater and quicker development for all.

Some perspectives have suggested that the economic liberalisation project was launched in India as part of an 'elite revolt'.[565] To what extent this holds true is not directly relevant to this thesis. However, what is clear is that by the 1990s, several decades of affirmative action policies had meant that the traditional bastion of the urban, educated, upper caste, upper middle class elite - the higher civil services - had been significantly democratised. This also meant that this elite fraction had to relocate to other spaces, and the liberalisation project, concomitant with an explosive growth in the media, provided (or created) the avenues for this exodus. The state was no longer the preferred destination for the next generation of this elite fraction of the middle class. Multinational companies, large corporates, investment banks, and the mainstream (primarily English language) media became the spaces of choice for this elite. In sum, this meant that just as the state was beginning to disengage from several of its previously-held responsibilities, this elite was disengaging from the state.

It was in this social and economic context that the idea of freedom of information as an essential marker of a modern democracy began to find greater traction in India. This is not to say that progressive and reformist elements within the state (or civil society) had not attempted to introduce greater government transparency prior to the 1990s. However, all previous attempts had been successfully stymied as until then the elite fraction of the middle class was still vested in the state, and therefore greater government transparency *at that point in time* would have been anathema to it. With the powers and privileges necessary to maintain its supremacy, this elite possessed the wherewithal to resist any such demands. As the social composition of the higher civil service changed, the elite moved out of it, leading to two outcomes. First, with the flight of this elite, the ability of the bureaucracy to successfully resist pressures from above or below was reduced significantly. This was also informed in

[565] Discussed in Chapter 5.

part by the political class steadily wresting greater power from the permanent bureaucracy. Second, this elite, including the media, now no longer had a conflict of interest with the voices that were clamouring for greater transparency, as long as they were limited to *government* transparency. However, now that this elite had moved to an increasingly globalised corporate India, it would not allow demands for greater transparency to be extended to the private sector. In this sense, it is unsurprising that the imagination of freedom of information in the Indian context overlaps significantly with its origins in the international discursive continuum mentioned above. This also points to changes taking place in the functional spaces where power resides. Whereas power earlier resided in the politician-business-bureaucrat troika, the latter has been increasingly marginalised. The interests of the political class and big business appear to be coalescing rapidly, a crude manifestation of which is the increasing number of 'high net-worth' businessmen who are becoming MPs, often through the Rajya Sabha.

As these international and national processes unfolded, international pressures and trends would have ensured that an FoI legislation of some sort would have been enacted in India during this period. However, the ruling elite could not have publicly acknowledged that the impetus behind enacting an FoI legislation had arisen outside national boundaries and was part of a larger project of privileging the market over the state. In a context where an aspiration to great-power status was being produced by a globally mobile urban middle class, fuelled as it was by a high GDP-growth rate from the late 1990s onwards and greater international attention being showered upon a potentially gargantuan market, such an acceptance would have resulted in political hara-kiri for those in power. That at this juncture a geographically limited rural struggle emerged demanding just such a right meant that the enactment of the RTI Act could now be produced as an emblematic event showcasing the

resilience and depth of Indian democracy. This served the purposes of several actors. For international actors, promoting the grassroots aspect of the Indian experience absolved them, at least in the case of India, of using any coercive tactics on the government to enact an RTI law (although evidence does suggest otherwise). For the government, endorsing such a narrative resulted in increased legitimacy as it could now position itself as a progressive and sensitive entity that responded positively to popular demands from below (and in doing so, deflect attention from its other, not so 'popular' actions). For activists, the benefits were obvious. Focusing on the 'grassroots' element in the process provided them legitimacy and visibility, as well as a strengthening of the belief that social policies could be positively impacted by pressures from below. It must however be noted that the state endorsed and celebrated the grassroots narrative (for example, through the NAC) only *after* the imagination of the RTI Act had been aligned with the internationally accepted normative ideal of FoI legislation - one that did not directly include the private sector within its ambit. Activists, it would appear, had used a political strategy of compromise to good effect.[566] At the same time, the RTI Act of 2005 does display some substantive characteristics that suggest that the impact of the grassroots struggle did not play itself out only on the symbolic and political planes. However, these characteristics (such as personal financial sanctions on erring officials and an obligation on the state to facilitate the usage of the Act by the poor and the illiterate) remain circumscribed within the larger international imagination of what an FoI legislation can be *allowed* to do. The focus remains on the state, even as several 'public' functions are being systematically parcelled out to private entities.

None of this is to say that the role of the grassroots in the enactment of the RTI Act in 2005 is merely a manufactured myth. However, its role has been exaggerated, perhaps for important

[566] This recalls Ashis Nandy's fears, "Conformity can never be as dangerous as tamed, defanged, predictable dissent, for such dissent allows dominance to turn into hegemony" (Nandy, 2012: 43).

political reasons. The sheer dominance of a singular narrative (that also ignores political compromises made along the way) has also meant that a depoliticised understanding of the process has come to colonise the explanatory narrative around the RTI Act in India. This depoliticised perspective is strengthened by the propensity of the dominant narrative to disregard the play of power premised on social class in the spaces where social movements intersect with the policy process. These silences or partial truths may indeed serve a larger purpose of promoting an idealised vision of the importance of 'non-party political processes' in processes of social change. However, not acknowledging uncomfortable truths perhaps may cause more harm to the much vaunted ideal of democratic deepening in the longer term. If the 'success' of a grassroots-based struggle is premised on the usual suspects - resources, privileges, networks, access to centres of power, and political compromises with the dominant ideology, then there is little to distinguish such a process from any other. This is profoundly ironical, as these are precisely the strategies that social activists often point to (admittedly belonging to a different order of magnitude) when critiquing the actions of other interest groups.

Depoliticisation aside, a valid critique of such an analysis could highlight the positive impacts of the RTI Act, both in the context of anti-corruption, as well as the changes it brings about in the citizen-state relationship. It cannot be contested that the Act has indeed empowered citizens to hold the government to account. Celebrated examples range from marginalised citizens receiving their entitlements from an arbitrary state (for example getting their ration cards or passports without having to pay speed-money), or the exposing of large scandals such as those related to the 2G spectrum scam and the Commonwealth Games in 2010, in part due to the usage of the RTI Act by the media or NGOs. However, such examples need to be nuanced further. Receiving ration cards or passports on time and without having to pay

bribes is something that could have been ensured by enacting a strong legislation on public service delivery, as has seemingly been done to good effect in the state of Bihar.[567] As far as RTI-informed large-scale exposés are concerned, these have been few and far between, and as several senior civil servants pointed out, the RTI Act can at best uncover a paper trail, and grand corruption typically does not take place on files. "Has corruption reduced because of [the RTI Act]? I don't see it. All that it has meant is that you have access to record, but [you have] to prove the difference between the record and the reality. That's why I don't think it has changed things much. People are a bit cautious now, but they are still making money, a lot of money."[568] In addition, major scams have often enough been exposed *prior* to the enactment of the RTI Act, which suggests that the RTI Act is not necessarily *essential* for instances of grand corruption to come to light.

In any event, to what extent the RTI Act has impacted corruption is not the focus of this thesis. What can be proposed is that the popular discourse that celebrates the role of the RTI Act to unearth the perfidy of the state and its functionaries has generally been limited to *exposing* corruption. It does not, for example, go on to say that while the state is corrupt, and there is a pressing need for it to be made transparent, accountable and efficient, it is also *necessary*. It thus, perhaps unwittingly, reiterates the trope that defines the state as a venal, arbitrary and corrupt entity that hinders growth and development, and further proposes that the production and delivery of public goods and services must therefore be handed over to the market. By halting at merely exposing corruption, the popular discourse around the RTI Act

[567] In Bihar, "The Right to Service Act 2011, implemented on August 15, 2011, had made it mandatory for the state government and its agencies to extend services to people within a stipulated time frame. Officials failing to meet the deadline can face penalties ranging from INR 500 to 5,000 [~USD 10 to 100] and dismissal form [*sic*] service, in extreme cases. The Act currently covers 30 services and 10 departments" (One World Foundation India, 2011: 3).
[568] Interview with N.C. Saxena, 15 October 2010, New Delhi.

thus strengthens those voices that privilege the market over the state, with its axiomatic, unquestioned promise of efficiency.

Another positive impact that advocates of the RTI Act often highlight relates to it changing the citizen-state relationship in a fundamental way. This could be considered as largely true, at least in a theoretical sense. However, this contention also needs to be nuanced further. If the state is in retreat, then to what extent can the RTI Act be considered as an example of a greater equalisation of power? As the location of power shifts inexorably to 'market forces' that definitively influence government policies, political processes and social norms, is it possible for the citizen to effectively exercise her sovereignty, armed (or not) with the RTI Act (PPPs being an emblematic example of this process)?[569] This remains an unresolved and complex question that requires deeper investigation.

In sum, it could indeed be suggested that the RTI Act was enacted at the time that it was and in the manner that it was because the 'climate was right'. The international, the national, and the local came together to give impetus to an idea whose 'time had come'. However, it is not being argued that this process was a linear one, and that the international impacted the national, which in turn impacted the local. In this sense, tracing the roots of an idea to a single space or event is a Sisyphean task. The demand for freedom of information had seen sporadic, oftentimes unconnected articulations across the international, national and local spheres. For example, early national laws that had been enacted in some countries prior to the 1990s; the efforts of early reformers within the government during the 1960s in India; sympathetic Supreme Court judgements spanning the 1970s and 1980s; the environmental movement-led demands for greater freedom of information in the 1980s; the academia-

[569] As a respondent (who has unsuccessfully used the RTI Act to prise out information from PPPs) put it, "There is no point farting against thunder. No one will hear you." Telephone interview with SDX475, 28 July 2012.

inspired efforts of the V.P. Singh government in the late 1980s; and the grassroots struggle of the 1990s are but some of the examples that have been highlighted in the preceding pages of this thesis. However, none of these events were necessary or sufficient in themselves. Not only was a specific historically-informed concatenation of such events necessary, it was essential that the political, economic and social impulses underlying them had to harmonise in a manner that ensured that the distribution of power was not compromised in any fundamental way. The fact that the final form that the RTI Act eventually took was restricted to the state and left the market to its own devices strengthens this argument from the other direction. A 'strong' RTI Act can be imagined only within a context of transparency mechanisms applicable to the state. The market, and those who benefit from its ascendance, cannot be held to account in any similar way. If power is the ability to direct economic, social and political processes towards maintaining the status quo, then indeed power appears to be relocating to the functional space of the market, even as its inhabitants retain their social attributes.

What does this tell us about the nature of the democratic process in India?

The dominant narrative that explains the evolution (and subsequent usage) of the RTI Act in India consistently celebrates it as an example of the democratic process at work at the level of the local and the quotidian *outside* of the well-established practices of procedural democracy. The grassroots struggle and the *jan sunwais* that were its important constituents; popular protests; alliance-building activities to elicit wide-ranging support; the formation of a national-level umbrella coalition and its extraordinarily successful lobbying efforts; the victory of the collective over stiff bureaucratic resistance; and the influence of the periphery on the core through new institutional arrangements such as the NAC, have all been produced

as inspiring instances of popular political mobilisation and the quotidian exercise of citizenship in the democratic process, and how these can achieve great successes in bringing about large-scale social and political change in contemporary India. In this context, the narrative around the RTI Act in India has also been produced as an example of a maturing political system where the collective voice *can* prevail over powerful interest groups, and resonates well with scholarship that celebrates the deepening of Indian democracy.[570]

However, this research has argued that while indeed there is some credence to this version of events, the reality of the democratic process in India is perhaps more complex and less edifying than has been claimed by this narrative. Insights from two key respondents point to the limitations of this celebratory discourse. "One definition of political development [is that] individuals, and their whims and fancies and powers start declining, and systems start taking over. In that sense India is not very politically developed... and you'll find that actually the impact of an individual is very high in our system... You have a system which is still not mature, where individuals can do a lot of good, and do a lot of harm. Once the system matures, the ability of an individual to do that much good or that much harm becomes less."[571] "Something comes about because of almost random circumstances... You want tax reform, and suddenly somebody who you know becomes the Finance Minister, so you can go and tell him. And therefore because *he* has become the Finance Minister and not somebody else, [another] fellow is not able to get access to him, [and an] equally valid proposition that he wanted to advance, doesn't get a hearing... It's an informal society, a freewheeling society. We should not look for formal structures... Change is actually brought about by somebody knowing somebody. The announcement of a change may come about because somebody knows somebody, but whether the change will take place will depend upon whether the

[570] An emblematic example being Kohli (2002b).
[571] Interview with Shekhar Singh, 13 January 2009, New Delhi. This contention finds significant resonances in Harberger (1993).

system is ripe enough or rotten enough for that change to come about."[572] In this context, who these 'somebodies' are and their position in the social hierarchy become defining elements in the process.

Further, a popularly-held belief, particularly in the context of bringing about 'progressive' social policies in India, is that the impetus for bringing in such changes more often than not comes from spaces (whether through individuals or the collective) that are outside the formal institutions of the state. This is not necessarily true. The experience of the RTI Act shows that changes can and do arise from within the state apparatus, although typically through reform-orientated individuals within it. However, whether or not such policies are truly progressive, audacious or radical is an altogether different question.

We thus come to a difficult conundrum. If 'progressive' social policies are primarily brought about through random, informal, individual-led actions that are definitively impacted by social hierarchy and class, which are themselves attributes of the accident of birth, to what extent can this be seen as the democratic process at work?[573] The experience of the RTI Act reminds us that the democratic process, in a substantive, redistributive, and bottom-up manner has not yet taken very deep roots in India. Procedural democracy aside, the ability of the individual to exercise her citizenship in quotidian ways continues to be circumscribed by deeply entrenched hierarchies of class and caste, both critical markers of power.[574] Seen through the lens of the experience of the RTI Act, perhaps the democratic process (of which the movement space is an important constitutive element) in India displays both oligarchical as well as feudal characteristics. The former manifests itself in the fact that the most

[572] Interview with Arun Shourie, 28 November 2009, New Delhi.
[573] A pithy and evocative example such processes lies in a statement made by one of Harriss' respondents, a civil society activist and former IAS officer, "Only the poor agitate; the rich operate" (Harriss, 2006: 445).
[574] This is not a problem exclusive to India. Overcoming class and race barriers in exercising citizenship in substantive ways is a significant problem in 'advanced' democracies as well.

influential spaces for articulating the concerns of the poor and the marginalised is peopled by a chosen few. That these spaces are accessible only to those who are already in possession of the social attributes of power points to the feudal aspects of this process. At the same time, the fact that both the state and civil society actors are obliged to derive part of their legitimacy (at the very least in form) from the 'popular' and the 'vernacular' means that the normative ideal of the democratic process continues to draw its sustenance from the unwashed masses. This highlights an "incompatibility between the institutional logic of democratic forms and the logic of popular mobilization" (Kaviraj, 2010: 32), pointing to deep fissures that continue to impact the evolution of the postcolonial state.

At the same time, the experience of the RTI Act also points to the fact that the democratic process appears to be structurally circumscribed by ideas that are civil in nature.[575] Political ideas and demands that fundamentally question the distribution of power are either defanged and 'civilised' (as in the case of the RTI Act by exempting new locations of power from within it), or deemed illegal (such as the Maoist upsurge) only to be quashed by the state with force. Deepening democracy thus remains an infinitely incomplete project. Even as political mobilisation and participation have increased, even as spaces for making claims have expanded, and even as the expression of dissent has become more frequent and more visible, redistribution and equalisation of power has not yet occurred in a meaningful or widespread way.

[575] As discussed in Chapter 4.

How does this improve our understanding of debates on democratic deepening, the location and exercise of power, and the relationship between these?

'Deepening democracy' has been commonly understood as "the political project of developing and sustaining more substantive and empowered citizen participation in the political process" (Gaventa, 2006: 7). A typology of the same was reviewed in the opening chapter of this thesis, including civil society democracy, participatory democracy, deliberative democracy, the intensification of citizenship, and the expansion of the sites and frequency of the exercise of accountability.

On the face of it, the experience of the RTI Act in India, both in its process and outcome, cuts across and strengthens all of these intersecting and overlapping conceptual categories. Ennobling notions of 'empowerment', 'participation', 'citizenship' and 'accountability' come to rest very comfortably (and comfortingly) within the RTI Act. However, this thesis has argued that both the process and outcome were definitively impacted by the location and exercise of power, leading to the enactment of an RTI Act of a particular kind at a specific point in time. This raises several questions about the conflation of the RTI Act with the democratic deepening project. To what extent are citizens empowered if the direction and substance of political processes are significantly impacted by existing social hierarchies? Who is able to participate in these processes, and to what extent? Should citizenship be imagined only vis-à-vis the state, especially in a context where the boundaries between the activities of the state and the market are becoming increasingly blurred? [576] Is accountability to be understood only with respect to the state, or should it be reimagined in terms of holding *power* to account, the state being but one location of power? By problematising these

[576] This has been articulated as 'state effects', which are "never obtain[ed] solely through national institutions or in governmental sites" (Trouillot, 2001: 125).

conceptual categories, this thesis has attempted to temper the celebratory discourse surrounding the relationship between the RTI Act and democratic deepening.

This is not say that the democratic deepening project in India has not benefited at all from the experience of the RTI Act. If the government can be held to account on an everyday basis even by limited sections of society, this could indeed be seen as tiny roots reaching down tentatively in an attempt to entrench themselves in democratic soil, and this must be seen as reason enough to celebrate. However, several fears bring such celebrations back down to earth. The attributes of this 'democratic soil' must be assessed, for if the soil itself is being thinned out, roots can only go so deep. No doubt the practice of democracy over the past six decades has resulted in several profound (and positive) changes in the Indian social and political landscape. Amongst others, there has been significant political empowerment of several historically subordinate classes and communities, mostly realised through large-scale political mobilisations. However, if these continuing changes are to be seen through the lens of the experience of the RTI Act, the bases on which social and policy changes are being wrought are not necessarily being forged within the realm of popular politics. More insidious processes seem to be at work - processes that are more dependent on big capital than ever before, that emanate from existing social and economic hierarchies and entrench them further, that are 'civil' in what they demand and how they demand it, that systematically co-opt voices of dissent, that cannily influence the process of truth-making, and finally, that strengthen existing structures of power even as they convincingly claim to redistribute it.

Directions for Future Research

Limited as every research project is, this one too must attempt to seek continued relevance by proposing areas for further research. The first relates to the usage and impact of the RTI Act, especially in the context of corruption. Who is using the RTI Act, and to seek what kind of information? Is the usage skewed towards any specific social or geographical group? To what extent has the Act and its usage impacted corruption in India? Has the impact been on petty corruption, or grand corruption, or both? In the states where legislation related to public service delivery exists, what has had a greater impact on providing citizens corruption-free services?

Such a line of questioning could also conduct a comparative analysis of the differences that may have occurred in the decision-making process before and after the enactment of the RTI Act. Has, for example, the RTI Act resulted in government functionaries becoming more circumspect in what they do and do not express on paper? This could potentially provide important insights into the impact of the RTI Act on administrative procedures, and by extension on the technologies of rule in India. The above could contribute significantly to a woefully under-researched question - do more transparent governments govern better?

A second area of potential research relates to changes occurring in the higher civil services of India. No comprehensive longitudinal study exists that examines the changes that have taken place in the social profile of the higher civil services over the past several decades. What is the nature of these changes, and what has been the impact of greater democratisation of the higher civil services on the governance of the country? Further, how has the role of the permanent bureaucracy, particularly the IAS, changed in the policy process over the past two

decades? Is there a relationship between the two? What impact has the apparent shift of power towards the political class had on the policy process specifically, and the architecture of democratic governance generally?

A third related area of research could examine the creation of new institutional arrangements that ostensibly exist to promote social policies, even as they circumvent established procedures of governance and law-making, such as the NAC. Such research would need to assess not only the extent to which this stated aim has been actualised, but also investigate its implications on the larger legal-administrative governance architecture.

Finally, given the profound changes taking place in contemporary India, a larger project that requires urgent attention must engage with some fundamental questions - who wields power in India today, what are its bases, how has this changed, if at all, over the last two decades, and what implications does this have on processes of social and political change? Investigating such questions is essential not only to develop a more sophisticated understanding of the practice of democracy in complex societies, but eventually contribute to achieving even a fraction of the promises it holds.

Back to the Future: Of Truth and Power in a Flawed World

In this discussion on the nature, location and exercise of power, it is perhaps serendipitous that the *nom de plume* of one of the earliest authors in India to have written about the propensity of public officials to withhold information is 'Kalki'.[577] *Kalki* is the name of the tenth avatar of Vishnu who is to take earthly form at the end of the current epoch, *kaliyug,* to rid the world of immorality and darkness. The defining characteristics of this epoch during which humanity sinks to its nadir, include:[578]

"Wealth alone will be considered the sign of a man's good birth, proper behavior and fine qualities. And law and justice will be applied only on the basis of one's power"[579]; "Success in business will depend on deceit"[580]; "A person will be judged unholy if he does not have money, and hypocrisy will be accepted as virtue"[581]; "Filling the belly will become the goal of life, and one who is audacious will be accepted as truthful"[582]; and "As the earth thus becomes crowded with a corrupt population, whoever among any of the social classes shows himself to be the strongest will gain political power."[583]

To what extent this holds true remains open to debate. However, if there is even an iota of truth in such a description of the contemporary world, then there is cause for concern - not merely for what this means for humanity, but for the sheer length of time this will continue for. Some versions of this cosmology suggest that *kaliyug* began at midnight on 18 February,

[577] Quoted at the commencement of this chapter.
[578] From the *Srimad Bhagavatam*, a text within the Hindu tradition. Translation by the Bhaktivedanta Book Trust. Available at http://vedabase.net/sb/12/2/en. Accessed 30 July2012. Relevant cantos and verses referenced below are based on this translation.
[579] SB 12.2.2
[580] SB 12.2.3
[581] SB 12.2.5
[582] SB 12.2.6
[583] SB 12.2.7

3102 BCE. Five thousand years may have passed since then, but the end, unfortunately, is not near - *kaliyug* is to last 432,000 years.

On a positive note, this does provide enough time to continue with the scholarly quest of understanding the nature of power. But in this epoch of darkness, the practice of scholarship too is suspect. During *kaliyug*, "one who is very clever at juggling words will be considered a learned scholar".[584]

In acknowledging this potential pitfall of any research, this thesis is reiterating the fact that it does not make any claims to clever articulations of *the* truth, but only one version of it. In that, it possesses only the modest hope of adding a minute drop to the vast ocean of knowledge that precedes it.

[584] SB 12.2.4

Bibliography

Abrahamsen, Rita (2000) *Disciplining Democracy: Development Discourse and Good Governance in Africa* (London: Zed Books).

Ackerman, Bruce (1992), *The Future of Liberal Revolution* (New Haven: Yale University Press).

Ackerman, J. (2004), "Co-Governance for Accountability: Beyond "Exit" and "Voice"", *World Development* 32(3): 447–463.

Ackerman, J.M. and I.E. Sandoval-Ballesteros (2006), "The Global Explosion of Freedom of Information Laws", *Administrative Law Review*, 58 (1): 85-130.

Advani, Rani (1995), "Judicial Pronouncements on Access to Information" (Ahmedabad: Consumer Education and Research Centre).

Agrawal, S.P. and J.C. Aggarwal (1990), *Lok Sabha and Vidhan Sabha Elections in India 1989 & 1990: Process and Results with comparative study of Manifestoes* (New Delhi: Concept Publishing Company).

Ala'i, P. (2008), "From the Periphery to the Center? The Evolving WTO Jurisprudence on Transparency and Good Governance", *Journal of International Economic Law*, 11 (4): 779-802.

Alexander, J.M. (2003), "Inequality, Poverty and Affirmative Action: Contemporary Trends in India", Paper prepared for the WIDER conference on "Inequality, Poverty and Human Well-being", 30-31 May 2003, United Nations University, Helsinki, Finland.

Anam, Shaheen (2011), "Evolution of the RTI Act in Bangladesh", in Shekhar Singh et al (eds.), *Transparent Governance in South Asia* (New Delhi: Indian Institute of Public Administration), 1-10.

Andersson, S. and P.M. Heywood (2009), "The Politics of Perception: Use and Abuse of Transparency International's Approach to Measuring Corruption", *Political Studies*, 57 (4): 746-767.

Aronowitz, S. (2003a), "A Mills Revival?", *Logos*, 2(3). Available online at http://www.logosjournal.com/aronowitz.htm. Accessed 10 January 2011.

Aronowitz, S. (2003b), *How Class Works: Power and Social Movement* (New Haven: Yale University Press).

Article 19, Centre for Policy Alternatives, Commonwealth Human Rights Initiative and Human Rights Commission of Pakistan (2001), "Global Trends on the Right to Information: A Survey of South Asia", Article 19, CHRI, CPA and HRCP, London, Colombo, New Delhi and Lahore.

Asociación por los Derechos Civiles, World Bank Institute and Inter American Investment Corporation (2007), "Companies and the Right to Access Public Information", Report of a round table held on April 26, 2007, Buenos Aires, Argentina.

Avritzer, L. (2002), *Democracy and the Public Space in Latin America* (Princeton: Princeton University Press).

Balasubramaniam, J. (2011), "Dalits and a Lack of Diversity in the Newsroom", *Economic and Political Weekly*, 46(11): 21-23.

Bakshi, Rajni (1998), *Bapu Kuti: Journeys in Rediscovery of Gandhi* (New Delhi: Penguin Books).

Banisar, D. (2005), "The Irresistible Rise of a Right", *Index on Censorship*, 34(3): 79-84.

Banisar, D. (2006), *Freedom of Information around the World 2006: A Global Survey of Access to Government Information Laws* (London: Privacy International).

Barik, R.K. (2004), "Social Background of Civil Service: Some Depressing Trends", *Economic and Political Weekly*, 39(7): 623-626.

Barton, Allan D. (2006), "Public Sector Accountability and Commercial-in-Confidence Outsourcing Contracts", *Accounting, Auditing & Accountability Journal*, 19(2): 256-271.

Barya, J.-J. B. (1993), "The New Political Conditionalities of Aid: An Independent View from Africa", *IDS Bulletin*, 24: 16-23.

Baviskar, A. (1995), *In the Belly of the River: Tribal Conflicts over Development in the Narmada Valley* (New York: Oxford University Press).

Baviskar, A. (2007), "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).

Beetham, D. (1999), *Democracy and Human Rights* (Cambridge: Polity Press).

Bellver, Ana, Marcos Mendiburu and Maria Poli (2008), "Strengthening Transparency and Accountability through Access to Information" (Washington DC: The World Bank).

Benbabaali, D. (2008), "Questioning the Role of the Indian Administrative Service in National Integration", *South Asia Multidisciplinary Academic Journal* [Online], URL: http://samaj.revues.org/index633.html, Accessed 20 March 2012.

Bennett, Colin J. (1997), "Understanding Ripple Effects: The Cross National Adoption of Policy Instruments for Bureaucratic Accountability", *Governance: An International Journal of Policy and Administration*, 10(3): 213-233.

Bhaduri, Amit (2005), "Guarantee Employment and the Right to Information", *Economic and Political Weekly*, 40(4): 267-269.

Birchall, C. (2011), "Introduction to 'Secrecy and Transparency': The Politics of Opacity and Openness", *Theory, Culture and Society*, 28: 7-25.

Blanton, T. (2002a), "The Openness Revolution: The Rise of a Global Movement for Freedom of Information", *Development Dialogue* 2002:1, 7-21.

Blanton, T. (2002b), "The World's Right to Know", *Foreign Policy*, 131: 50-58.

Blomkvist, Hans and Ashok Swain (2001), "Investigating Democracy and Social Capital in India", *Economic and Political Weekly*, 36(8): 639-643.

Bourdieu, Pierre (1984), *Distinction: A Social Critique of the Judgement of Taste* (London: Routledge).

Bovens, Mark (2010), "Two Concepts of Accountability: Accountability as a Virtue and as a Mechanism", *West European Politics*, 33(5), 946-967.

Box, Richard C., Gary S. Marshall, B. J. Reed and Christine M. Reed (2001), "New Public Management and Substantive Democracy", *Public Administration Review*, 61(5): 608-619.

Brass, Paul R. (1990), *The Politics of India Since Independence* (Cambridge: Cambridge University Press).

Burnell, P. (1997), "The Changing Politics of Foreign Aid - Where to Next?", *Politics*, 17: 117-125.

Caiden, G.E. (1988), "The Problem of Ensuring the Public Accountability of Public Officials", in J.G. Jabbra and O.P. Dwivedi (eds.), *Public Service Accountability: A Comparative Study* (West Hartford: Kumarian Press), 17-38.

Centre for Policy Research (1990), "Report of the Workshop on Freedom of Information and Official Secrecy held at the Centre for Policy Research, New Delhi on March 21-22, 1990" (New Delhi: Centre for Policy Research).

Chamaria, A., J. Kumar and Y. Yadav (2006), "Survey of the Social Profile of the Key Decision Makers in the National Media" (New Delhi: Centre for the Study of Developing Societies).

Chambers, R. (1994a), "The origins and practice of participatory rural appraisal", *World Development*, 22 (7): 953-969.

Chambers, R. (1994b), "Participatory rural appraisal (PRA): analysis and experience", *World Development*, 22(9): 1253-1268.

Chambers, R. (1997), *Whose Reality Counts? Putting the First Last* (London: Intermediate Technology Publications).

Chandhoke, N. (2001), "The 'Civil' and the 'Political' in Civil Society", *Democratization*, 8(2): 1-24.

Chandhoke, N. (2003), *The Conceits of Civil Society* (New Delhi: Oxford University Press).

Chandhoke, N. (2011), "Our Latest Democratic Predicament", *Economic and Political Weekly*, 46(19): 17-21.

Chandra, Bipan, Mridula Mukherjee and Aditya Mukherjee (2000), *India Since Independence* (New Delhi: Penguin Books).

Chatterjee, P. (2004), *The Politics of the Governed: Reflections on Popular Politics in Most of the World*, (New York: Columbia University Press).

Chatterjee, P. (2008a) "Classes, Capital and Indian Democracy", *Economic & Political Weekly*, 43(46): 89-93.

Chatterjee, P. (2008b), "Democracy and Economic Transition in India", *Economic and Political Weekly*, April 19, 2008, 53-62.

Chatterjee, Upamanyu (2000), *The Mammaries of the Welfare State* (New Delhi: Penguin Books).

Chaturvedi, T.N. (ed.) (1980), *Open Government in India* (New Delhi: Indian Institute of Public Administration).

Chaudhuri, Shubham (2006), "What difference does a constitutional amendment make? The 1994 Panchayati Raj Act and the attempt to revitalize rural local government in India", in Pranab Bardhan and Dilip Mookherjee (eds.), *Decentralization and Local Governance in Developing Countries: A Comparative Perspective* (New Delhi: Oxford University Press), 153-201.

Chavez, Christina (2008), "Conceptualizing from the Inside: Advantages, Complications, and Demands on Insider Positionality", *The Qualitative Report*, 13(3): 474-494.

Cheung, Anthony B.L. (2005), "The Politics of Administrative Reforms in Asia: Paradigms and Legacies, Paths and Diversities", *Governance: An International Journal of Policy, Administration, and Institutions*, 18(2): 257–282.

Chhibber, Pradeep (1999), *Democracy without Associations: Transformation of Party Systems and Social Cleavages in India* (Ann Arbor: University of Michigan Press).

Chibber, Vivek (2006), "On the Decline of Class Analysis in South Asian Studies", *Critical Asian Studies*, 38(4): 357-387.

Chopra, Rohit (2003), "Neoliberalism as Doxa : Bourdieu's Theory of the State and the Contemporary Indian Discourse on Globalization And Liberalization", *Cultural Studies*, 17(3): 419-444.

Clarke, Robin (2002), *New Democratic Processes: Better Decisions, Stronger Democratic Democracy* (London: Institute for Public Policy Research).

Cohen, Jean and Andrew Arato (1992), *Civil Society and Political Theory* (Cambridge, Mass.: MIT Press).

Cohen, J. (1997), "Deliberation and Democratic Legitimacy" in J. Bohman and W. Rehg (eds.), *Deliberative Democracy: Essays on Reason in Politics* (Cambridge, Mass.: MIT Press), 67-91.

Cohen, J. and Archon Fung (2004), "Radical Democracy", *Swiss Political Science Review*, 10 (4): 23-34.

Collier, David and Steven Levitsky (1997), "Democracy with Adjectives: Conceptual Innovation in Comparative Research", *World Politics*, 49(3): 430-451.

Commonwealth Human Rights Initiative (2004), "Detailed Analysis of the Indian Right to Information Bill 2004 & Recommendations for Amendments" (New Delhi: Commonwealth Human Rights Initiative).

Commonwealth Human Rights Initiative (2012), "A Rapid Study of Information Commissions Established Under the Right to Information Laws in India" (New Delhi: Commonwealth Human Rights Initiative).

Cooke, B. and Uma Kothari (eds.) (2001), *Participation: The New Tyranny?* (London: Zed Books).

Corbridge, S.E. and J. Harriss (2000), *Reinventing India: Liberalization, Hindu Nationalism and Popular Democracy* (Cambridge: Polity Press).

Corbridge, S.E. and S. Kumar (2002), "Community, corruption, landscape: tales from the tree trade", *Political Geography*, 21: 765-788.

Corbridge, S.E., G. Williams, M. Srivastava and R. Veron (2005), *Seeing the State: Governance and Governmentality in India* (Cambridge: Cambridge University Press).

Corbridge, S.E., John Harriss and Craig Jeffrey (2013) (forthcoming), *India Today: Economy, Politics and Society* (Cambridge: Polity Press).

Cornwall, A. and J. Gaventa (2001), "From Users and Choosers to Makers and Shapers: Repositioning Participation in Social Policy', IDS Working paper no. 127 (Brighton: Institute of Development Studies).

Cornwall, A. and Vera Schattan P. Coelho (2004), "New Democratic Spaces?", *IDS Bulletin*, 35(2) (Brighton: Institute of Development Studies).

Cornwall, A. and Vera Schattan P. Coelho (eds.) (2007), *Spaces for Change?: The Politics of Citizen Participation in New Democratic Arenas* (London: Zed Books).

Crenson, Matthew and Benjamin Ginsberg (2002), *Downsizing Democracy: How America Sidelined its Citizens and Privatized its Public* (Baltimore: Johns Hopkins University Press).

Dagnino, E. (2005), "We all have rights...but: Contesting concepts of citizenship in Brazil" in N. Kabeer (ed.), *Inclusive Citizenship: Meanings and Expressions* (London: Zed Books), 149-163.

Dahl, Robert A. (1971), *Polyarchy: Participation and Opposition* (New Haven: Yale University Press).

Dahl, Robert A. (1989), *Democracy and its Critics* (New Haven: Yale University Press).

Darbishire, H. (2010), "Proactive Transparency: The Future of the Right to Information? A Review of Standards, Challenges, and Opportunities" (Washington DC: World Bank Institute).

Das, S.K. (1995), "Disempowerment of Indian Bureaucracy: A Class Analysis", *Economic and Political Weekly*, 30(2): 119-122.

Das, S.K. (1998), *Civil Service Reform and Structural Adjustment* (New Delhi: Oxford University Press).

Das, S. K. (2001), *Public Office, Private Interest: Bureaucracy and Corruption in India* (New Delhi: Oxford University Press).

Day, P. and R. Klein (1987), *Accountabilities: Five Public Services* (London: Tavistock).

Desai, I.P. (1984), "Western Educated Elites and Social Change in India", *Economic and Political Weekly*, 19(15): 639-647.

Deshpande, Ashwini (2005), "Affirmative Action in India and the United States", Background paper for the World Development Report 2006 (Washington DC: The World Bank).

Dey, Nikhil (2010), "Remarks: "The Will and the Way" - Part I", *India Review*, 9(2): 266-270.

Diamond, Larry, Juan Linz and Seymour Martin Lipset (eds.) (1989), *Democracy in Developing Countries (Volume 3): Asia* (Boulder: Lynne Rienner).

Diamond, L.J. (1994), "Rethinking civil society: toward democratic consolidation", *Journal of Democracy*, 5(3): 4-17.

Di Palma, Giuseppe (1990), *To Craft Democracies: An Essay on Democratic Transitions*, (Berkeley: University of California Press).

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

Doornbos, M. (2001), "'Good Governance': The Rise and Decline of a Policy Metaphor?", *Journal of Development Studies*, 37(6): 93-108.

Dreze, Jean, Reetika Khera and Mazdoor Kisan Shakti Sangathan (2007), "Muster Roll Watch: Guidelines for Verification of NREGA Muster Rolls", available on the official website of the National Rural Employment Guarantee Act. http://nrega.nic.in/Nrega_guideline/Toolkit/Mustroll_watch.pdf. Accessed 17 September 2012.

Dryzek, J. (2001), "Legitimacy and economy in deliberative democracy", *Political Theory*, 29(5): 651-669.
Ebrahim, Alnoor and Edward Weisband (eds.) (2007), *Global Accountabilities: Participation, Pluralism, and Public Ethics* (New York: Cambridge University Press).

Editorial (2005), "Power to the People", *Economic and Political Weekly*, 40(21): 2115-2116.

Editorial (2008a), "Auditing the Right to Information Act", *Economic and Political Weekly*, 43(18): 6.

Editorial (2008b), "The National Advisory Council Experiment", *Economic and Political Weekly*, 43(15): 7.

Editorial (2009), "The Right to Know", *Economic and Political Weekly*, 44(48): 6.

Elkins, Z. and B. Simmons (2005), "On Waves, Clusters, and Diffusion: A Conceptual Framework", *The Annals of the American Academy of Political and Social Science*, 598(1): 33-51.

Escobar, Arturo (1995), *Encountering Development: The Making and Unmaking of the Third World* (Princeton: Princeton University Press).

Farquharson, Karen (2005), "A Different Kind of Snowball: Identifying Key Policymakers", *International Journal of Social Research Methodology*, 8(4): 345-353.

Ferguson, J. (1990), *The Anti-Politics Machine: Development, De-politicisation and Bureaucratic Power in Lesotho* (Cambridge: Cambridge University Press).

Fernandes, Leela (2000), "Restructuring the New Middle Class in Liberalizing India", *Comparative Studies of South Asia, Africa and the Middle East*, 20(1&2): 88-112.

Fernandes, Leela (2006), *India's New Middle Class: Democratic Politics in an Era of Economic Reform* (Minneapolis: University of Minnesota Press).

Fernandes, Leela and Patrick Heller (2006), "Hegemonic Aspirations", *Critical Asian Studies*, 38(4): 495-522.

Florini, Ann (ed.) (2007), *The Right to Know* (New York: Columbia University Press).

Foley, Michael W. and Bob Edwards (1996), "The Paradox of Civil Society", *Journal of Democracy*, 7(3): 38-52.

Foucault, Michel (1980), *Power/Knowledge: Selected Interviews and Other Writings 1972-1977* (London: Harvester Wheatsheaf).

Foucault, Michel (1991), "Governmentality", in Graham Burchell, Colin Gordon and Peter Miller (eds.), *The Foucault Effect: Studies in Governmentality* (London: Harvester Wheatsheaf), 87-104.

Fox, Jonathan (1994), "The Difficult Transition from Clientelism to Citizenship: Lessons from Mexico", *World Politics*, 46(2): 151-184.

Fox, Jonathan (2007), "The Uncertain Relationship Between Transparency and Accountability", *Development in Practice*, 17(4): 663-671.

Fox, J. and L.D. Brown (eds.) (1998), *The Struggle for Accountability: The World Bank, NGOs and Grassroots Movements* (Cambridge, Mass.: MIT Press).

Freedom House (2011), *Freedom in the World Report 2010* (Washington DC: Freedom House).

Fukuyama, F. (2001), "Social capital, civil society and development", *Third World Quarterly*, 22(1): 7-20.

Fuller, C.J. and Veronique Benei (eds.) (2000), *The Everyday State and Society in Modern India* (New Delhi: Social Science Press).

Fung, Archon, Mary Graham and David Weil (2007), *Full Disclosure: The Perils and Promise of Transparency* (New York: Cambridge University Press).

Fung, Archon and Eric Olin Wright (2001), "Deepening Democracy: Innovations in Empowered Participatory Governance", *Politics & Society*, 29(1): 5-41.

Gallie, W. B. (1956), "Essentially Contested Concepts", *Proceedings of the Aristotelian Society*, 56: 167-198.

Gandhi, M. K. (1946), "Panchayats in Independent India", *Harijan*, 28 July 1946.

Ganguly, Sumit, Larry Diamond and Marc F. Plattner (eds.) (2007), *The State of India's Democracy* (Baltimore: Johns Hopkins University Press).

Ganguly-Scrase, Ruchira and Timothy J. Scrase (2009), *Globalisation and the Middle Classes in India: The social and cultural impact of neoliberal reforms* (Oxford: Routledge).

Gauri, V. (2009), "Public Interest Litigation in India: Overreaching or Underachieving?", Policy Research Working Paper 5109 (Washington DC: The World Bank).

Gaventa, John (2006), "Triumph, Deficit or Contestation?: Deepening the 'Deepening Democracy' Debate", Working Paper 164 (Brighton: Institute of Development Studies).

Ghosh, Arun (1997), "Advice without Accountability", *Economic and Political Weekly*, 32(41): 2574-2577.

Ghosh, P.S. (1997), "Positive Discrimination in India: A Political Analysis", *Ethnic Studies Report*, 15(2): 135-172.

Goel, S.L. (ed.) (2009), *Right to Information: Present Status and Issues*, Special number of the Indian Journal of Public Administration, Vol. 55, No. 3, July - September 2009.

Goetz, A.M. and R. Jenkins (2001), "Hybrid Forms of Accountability: Citizen Engagement in Institutions of Public Sector Oversight in India", *Public Management Review*, 3(3): 363-383.

Goetz, A.M. and R. Jenkins (2002), "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).

Goetz, A.M. and R. Jenkins (2005), *Reinventing Accountability: Making Democracy Work for Human Development* (Basingstoke: Palgrave Macmillan).

Goodin, R.E. (2000), "Democratic deliberation within", *Philosophy & Public Affairs*, 29(1): 81-109.

Gothoskar, Sujata and Vijay Kanhere (1992), "Asserting Right to Information", *Economic and Political Weekly*, 27(26): 1324.

Goyal, Santosh (1989), "Social Background of Officers in the Indian Administrative Service", in Francine R. Frankel and M.S.A. Rao (eds.), *Dominance and State Power in Modern India* (Delhi: Oxford University Press), 425-433.

Goyal, Santosh (undated), "Social Background of Indian Corporate Executives", unpublished paper downloaded from the website of the Institute for Studies in Industrial Development, New Delhi. Available at: http://isidev.nic.in/pdf/santosh2.pdf. Accessed 13 March 2012.

Grenfell, Michael (ed.) (2008), *Pierre Bourdieu: Key Concepts* (Durham: Acumen).

Griffith, Alison I. (1998), "Insider/Outsider: Epistemological Privilege and Mothering Work", *Human Studies*, 21: 361-76.

Grindle, M.S. (2000), *Audacious Reforms: Institutional Invention and Democracy in Latin America* (Baltimore: Johns Hopkins University Press).

Grindle, M.S. (2004), *Despite the Odds: The Contentious Politics of Education Reform* (Princeton: Princeton University Press).

Grindle, M.S. (2007a), *Going Local: Decentralization, Democratization and the Promise of Good Governance* (Princeton: Princeton University Press).

Grindle, M. S. (2007b), "Good Enough Governance Revisited", *Development Policy Review*, 25 (5): 553-574.

Grindle, Merilee S. and John W. Thomas (1991), *Public Choices and Policy Change: The Political Economy of Reform in Developing Countries* (Baltimore: Johns Hopkins University Press).

Gudavarthy, Ajay and G. Vijay (2007), "Antinomies of Political Society: Implications of Uncivil Development", *Economic and Political Weekly*, 42(29): 3051-3059.

Guha, Ramachandra (1999), "The independent journal of opinion", *Seminar*, Number 481, September 1999.

Guha, Ramachandra (2007), *India After Gandhi: The History of the World's Largest Democracy* (New Delhi: Picador India).
Gupta, Akhil (1995), "Blurred Boundaries: The Discourse of Corruption, the Culture of Politics, and the Imagined State", *American Ethnologist*, 22(2): 375-402.

Gusterson, H. (1997), "Studying Up Revisited", *PoLAR: Political and Legal Anthropology Review*, 20(1): 114-119.

Gutmann, Amy and Dennis Thompson (2004), *Why Deliberative Democracy?* (Princeton: Princeton University Press).

Habermas, J. (1987), *The Theory of Communicative Action, Vol. 2* (Translated by T. McCarthy) (Boston: Beacon Press).

Habermas, J. (1991), *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge, Mass.: MIT Press).

Habermas, J. (1996), "Three Normative Models of Democracy", in S. Benhabib (ed.), *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton: Princeton University Press).

Haque, M.S. (2001), "Recent Transition in Governance in South Asia: Contexts, Dimensions, and Implications", *International Journal of Public Administration*, 24(12): 1405-1436.

Haque, M.S. (2008), "Global Rise of Neoliberal State and its Impact on Citizenship: Experiences in Developing Nations", *Asian Journal of Social Science*, 36: 11-34.

Harberger, A.C. (1993), "Secrets of Success: A Handful of Heroes", *The American Economic Review*, 83(2): 343-350.

Harriss, J. (2006), "Middle-Class Activism and the Politics of the Informal Working Class: A Perspective on Class Relations and Civil Society in Indian Cities", *Critical Asian Studies*, 38(4): 445-465.

Harriss, J. (2007), "Antinomies of Empowerment: Observations on Civil Society, Politics and Urban Governance in India", *Economic and Political Weekly*, 42(26): 2716-2724.

Harriss-White, Barbara (2003), *India Working: Essays on Society and Economy* (Cambridge: Cambridge University Press).

Harvey, W. S. (2011), "Strategies for conducting elite interviews", *Qualitative Research*, 11(4): 431-441.

Heller, P. (2000), "Degrees of Democracy: Some Comparative Lessons from India", *World Politics*, 52(4): 484-519.

Heller, P. (2009), "Democratic Deepening in India and South Africa", *Journal of Asian and African Studies*, 44: 123-149.

Herring, R.J. and Rina Agarwala (2006), "Introduction", *Critical Asian Studies*, 38(4): 323-356.

Hertz, R. and J. Imber (1993), "Fieldwork in Elite Settings: Introduction", *Journal of Contemporary Ethnography*, 22(1): 3-6.

Herzfeld, Michael (1992), *The Social Production of Indifference: Exploring the Symbolic Roots of Western Bureaucracy* (Chicago: University of Chicago Press).

Higley, John and Richard Gunther (eds.) (1992), *Elites and Democratic Consolidation in Latin America and Southern Europe* (New York: Cambridge University Press).

Hirsch, Eric L. (1986), "Sacrifice for the Cause: Group Processes, Recruitment, and Commitment in a Student Social Movement", *American Sociological Review*, 55(2): 243-254.

Hirschmann, A.O. (1994), "Social Conflicts as Pillars of Democratic Market Society", *Political Theory*, 22(2): 203-218.

Hirschmann, D. (1999), "Development Management versus Third World Bureaucracies: A Brief History of Conflicting Interests Source", *Development and Change*, 30(2): 287-306.

Ho, Karen (2009), *Liquidated: An Ethnography of Wall Street* (Durham, North Carolina: Duke University Press).

Holt, L. (1993), "Rationality is hard work: an alternative interpretation of the disruptive effects of thinking about reasons", *Philosophical Psychology*, 6(3): 251-266.

Hood, Christopher (1991), "A Public Management for all Seasons?", *Public Administration*, 69(1): 3-19.

Hood, Christopher (2010), "Accountability and Transparency: Siamese Twins, Matching Parts, Awkward Couple?", *West European Politics*, 33(5): 989-1009.

Houtzager, P., Adrian Gurza Lavalle and Arnab Acharya (2003), "Who Participates? Civil Society and the New Democratic Politics in Sao Paulo, Brazil", Working Paper 210 (Brighton: Institute of Development Studies).

Huntington, Samuel P. (1989), "The Modest Meaning of Democracy", in Robert A. Pastor (ed.), *Democracy in the Americas: Stopping the Pendulum* (New York: Holmes and Meier).

Huntington, S. (1992), *Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press).

Huque, S.H. (1994), "Public Administration in India: Evolution, Change, and Reform", *Asian Journal of Public Administration*, 16(2): 249-259.

Huque, A.S. (2001), "Governance and Public Management: The South Asian Context", *International Journal of Public Administration*, 24(12): 1289-1297.

Isin, E. and P. Wood (1999), *Citizenship and Identity* (London: Sage Publications).
Jain, R.B. (2001), "Towards Good Governance: A Half Century of India's Administrative Development", *International Journal of Public Administration*, 24(12): 1299-1334.
Jasper, James M. (1997), *The Art of Moral Protest: Culture, Biography and Creativity in Social Movements* (Chicago: Chicago University Press).

Jayal, N.G. (2008), "New Directions in Theorising Social Accountability?", *IDS Bulletin*, 38(6): 105-110 (Brighton: Institute of Development Studies).

Jayal, Niraja Gopal and Pratap Bhanu Mehta (eds.) (2010), *The Oxford Companion to Politics in India* (New Delhi: Oxford University Press).

Jenkins, J. Craig (1983), "Resource Mobilization Theory and the Study of Social Movements", *Annual Review of Sociology*, 9: 527-553.

Jenkins, R. (1999), *Democratic Politics and Economic Reforms in India* (Cambridge: Cambridge University Press).

Jenkins, R. (2002), "The emergence of the governance agenda: sovereignty, neo-liberal bias and the politics of international development" in V. Desai and Robert Potter (eds.), *The Companion to Development Studies* ((New York: Oxford University Press), 485-489.

Jenkins, R. (2004), "Introduction", *India Review*, 3(4): 257-268.

Jenkins, R. (2006), "Democracy, Development and India's Struggle Against Corruption", *Public Policy Research*, 13(3): 147-155.

Jenkins, R. (2007), "Civil Society Versus Corruption", *Journal of Democracy*, 18(2): 55-69.

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

Johnson, Craig (2003), "Decentralisation in India: Poverty, Politics and *Panchayati Raj*, Working Paper 199 (London: Overseas Development Institute).

Joseph, K.P. (1987), "Public Accountability and Audit in India", *Economic and Political Weekly*, 22(22): M67-M75.

Kakar, S. and K. Kakar (2007), *The Indians: Portrait of a People* (New Delhi: Penguin Books).

Karlekar, Hiranmay (2007), "60 Years of India's Independence and Democracy", *Strategic Analysis*, 31(6): 985-996.

Katzenstein, Mary, Smitu Kothari and Uday Mehta (2002), "Social movement politics in India: institutions, interests and identities", in Atul Kohli (ed.), *The Success of India's Democracy* (New Delhi: Foundation Books), 242-269.

Kaufmann, Daniel, Aart Kraay and Massimo Mastruzzi (2007), "Governance Matters VI: Aggregate and Individual Governance Indicators, 1996–2006" (Washington DC: The World Bank).

Kaul, Mohan (1997), "The New Public Administration: management innovations in government, *Public Administration and Development*, 17: 13-26.

Kaushik, P.D. (2005), "Panchayati Raj Movement in India: Retrospective and Present Status" in Bibek Debroy and P.D. Kaushik (eds.), *Emerging Rural Development through Panchayats* (New Delhi: Academic Foundation).

Kaviraj, S. (ed.) (1997), *Politics in India* (New Delhi: Oxford University Press).

Kaviraj, S. (2010), *The Imaginary Institution of India: Politics and Ideas* (New York: Columbia University Press).

Kelly, Rita Mae (1998), "An Inclusive Democratic Polity, Representative Bureaucracies, and the New Public Management", *Public Administration Review*, 58(3): 201-208.

Kidambi, S. (2008), "Right to Know, Right to Live: Building a campaign for the right to information and Accountability" (Minneapolis: The Center for Victims of Torture).

Kiely, Ray (1998), "Neo liberalism revised? A critical account of World Bank concepts of good governance and market friendly intervention", *Capital & Class*, 20(64): 63-88.

Kilby, Patrick (2007), "Is Empowerment Possible Under a New Public Management Environment? Some Lessons from India", *International Public Management Journal*, 7(2): 207–225.

Kochanek, Stanley A. (1996), "Liberalisation and Business Lobbying in India", *The Journal of Commonwealth & Comparative Politics*, 34(3): 155-173.

Kohli, A. (2002a), "Introduction", in Atul Kohli (ed.), *The Success of India's Democracy* (New Delhi: Foundation Books), 1-20.

Kohli, A. (ed.) (2002b), *The Success of India's Democracy* (New Delhi: Foundation Books).

Kohli, A. (2006a), "Politics of Economic Growth in India, 1980-2005 Part I: The 1980s", *Economic and Political Weekly*, 41(13): 1251-1259.

Kohli, A. (2006b), "Politics of Economic Growth in India, 1980-2005 Part II: The 1990s and Beyond", *Economic and Political Weekly*, 41(14): 1361-1370.

Kohli, A. (2012), *Poverty Amid Plenty in the New India* (Cambridge: Cambridge University Press).

Kothari, Rajni (1970), *Politics in India* (New Delhi: Orient Longman).

Krishna, A. (2010), "Continuity and change: the Indian administrative service 30 years ago and Today", *Commonwealth & Comparative Politics*, 48(4): 433-444.

Krishnamurthy, 'Kalki' R. (1999), *Kalki: Selected Stories* (Translated by Gowri Ramnarayan) (New Delhi: Penguin Books).

Kulkarni, Ashwini (2008), "Governance and the Right to Information in Maharashtra", *Economic and Political Weekly*, 43(35): 15-17.

Kumar, Dharma (1992), "The Affirmative Action Debate in India", *Asian Survey*, 32(3): 290-302.

Labaree, Robert V. (2002), "The risk of 'going observationalist': negotiating the hidden dilemmas of being an insider participant observer", *Qualitative Research*, 2(1): 97-122.

Lamble, S. (2003), "United States FoI laws are a poor model for statutes in other nations", *Freedom of Information Review*, Issue No. 106.

Lavalle, Adrian Gurza, Arnab Acharya and Peter P. Houtzager (2005), "Beyond Comparative Anecdotalism: Lessons on Civil Society and Participation from São Paulo, Brazil", *World Development*, 33(6): 951-964.

Lavalle, Adrián Gurza, Graziela Castello and Renata Mirandola Bichir (2008), "The Backstage of Civil Society: Protagonisms, Networks, and Affinities Between Civil Organisations in São Paulo", Working Paper 299 (Brighton: Institute of Development Studies).

Lemanski, C. and S. Tawa Lama-Rewal (2012), "The 'missing middle': class and urban governance in Delhi's unauthorised colonies", *Transactions of the Institute of British Geographers*, doi: 10.1111/j.1475-5661.2012.00514.x.

Levitt, P. and Sally Merry (2009), "Vernacularization on the ground: local uses of global women's rights in Peru, China, India and the United States", *Global Networks*, 9(4): 441-461.

Lijphart, A. (1996), "The Puzzle of Indian Democracy: A Consociational Interpretation", *American Political Science Review*, 90(2): 258-68.

Lindberg, S.I. (2009), "Accountability: The core concept and its subtypes" (London: Overseas Development Institute).

Linz, J. and Alfred Stepan (1996), *Problems of Democratic Consolidation* (Baltimore: Johns Hopkins University Press).

Lipset, S.M. (1959), "Some Social Requisites of Democracy: Economic Development and Political Legitimacy", *American Political Science Review*, 53(1): 69-105.

Liu, D. (2006), "When Do National Movements Adopt or Reject International Agendas? A Comparative Analysis of the Chinese and Indian Women's Movements", *American Sociological Review*, 71(6): 921-942.

Luckham, R., Anne-Marie Goetz and Mary Kaldor (2000), "Democratic Institutions and Politics in Contexts of Inequality, Poverty and Conflict: A Conceptual Framework", Working Paper 104 (Brighton: Institute of Development Studies).

Lynn Jr., L.E. (1998), "The New Public Management: How to Transform a Theme into a Legacy", *Public Administration Review*, 58(3): 231-237.

Lynn Jr., L.E. (2001), "Globalization and Administrative Reform: What is happening in theory?", *Public Management Review*, 3(2): 191-208.

Macdonnell, Roderick (undated), "Access to Information - The Commercial Side", unpublished paper by a journalist and former consultant to the World Bank.

Maheshwari, S.R. (1981), *Open Government in India* (New Delhi: Indian Institute of Public Administration).

Maheshwari, S.R. (1993), *Administrative Reform in India* (New Delhi: Jawahar Publishers & Distributors).

Maheshwari, S.R. (1994), *Indian Administration - An Historical Account* (New Delhi: Jawahar Publishers and Distributors).

Maheshwari, S.R. (2005), *Public Administration in India: The Higher Civil Service* (New Delhi: Oxford University Press).

Mander, Harsh and Abha Joshi (1999), "The Movement for Right to Information in India: People's Power for the Control of Corruption", Paper presented at the conference on Pan Commonwealth Advocacy, Harare, January 1999.

Manin, B., E. Stein and J. Mansbridge (1987), "On Legitimacy and Political Deliberation", *Political Theory*, 15(3): 338-368.

Manor, J. (2004), "Democratisation with Inclusion: Political Reforms and People's Empowerment at the Grassroots", *Journal of Human Development*, 5(1): 5-29.

Manor, J. (2010a), "Introduction", *Commonwealth & Comparative Politics*, 48(4): 401-403.

Manor, J. (2010b), "What do they know of India who only India know? The uses of comparative politics", *Commonwealth & Comparative Politics*, 48(4), 505-516.

Marcus, George E. (1983), "Elites: Ethnographic Issues", Paper for the School of American Research Advanced Seminar Series (Albuquerque: University of New Mexico Press).

Marshall, M.G. and Benjamin R. Cole (2009), *Global Report 2009: Conflict, Governance, and State Fragility* (Washington DC: Center for Systemic Peace and Center for Global Policy, George Mason University)

Marshall, T.H. (1950), *Citizenship and Social Class* (Cambridge: Cambridge University Press).

Mazdoor Kisan Shakti Sangathan (2001), "Dossier on Right to Information", Developing Source Material on Human Rights Education Series (Bangalore: Karnataka Women's Information and Resource Centre).

Mazdoor Kisan Shakti Sangathan (2005), "The Problem", in "Speaking Truth to Power: A Symposium on People's Right to Information", *Seminar*, 551, July 2005.

Mazdoor Kisan Shakti Sangathan (2010), "Story of the MKSS: a process of peoples' political mobilisation for democratic rights", unpublished paper downloaded from the MKSS website.

McClean, Tom (2010), "Who pays the piper? The political economy of freedom of information", *Government Information Quarterly*, 27: 392–400.

McDowell, L. (1998), "Elites in the City of London: Some Methodological Considerations", *Environment and Planning*, 30(12): 2133-2146.

Mendel, T. (1999), "The Public's Right To Know: Principles on Freedom of Information Legislation" (London: Article 19).

Mendel, T. (2004), "Parliament and Access to Information: Working for Transparent Governance", Conclusions of a Commonwealth Parliamentary Association - World Bank Institute Study Group on Access to Information, held in partnership with the Parliament of Ghana, 5-9 July 2004 (Washington DC: World Bank Institute).

Mendel, T. (2008), *Freedom of Information: A Comparative Legal Survey* (Paris: UNESCO).

Merriam, Sharan B., Juanita Johnson-Bailey, Ming-Yeh Lee, Youngwha Kee, Gabo Ntseane and Mazanah Muhamad (2001), "Power and positionality: negotiating insider/outsider status within and across cultures", *International Journal of Lifelong Education*, 20(5): 405-416.

Merry, S.E. (2006), *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: Chicago University Press).

Michels, Robert (2001), *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (Translated by Edan and Cedar Paul) (Kitchener: Batoche Books).

Mikecz, Robert (2012), "Interviewing Elites: Addressing Methodological Issues", *Qualitative Inquiry*, 18(6): 482-493.

Mills, C. Wright (2000), *The Power Elite* (New York: Oxford University Press).

Mishra, Neelabh (2003), "People's Right to Information Movement: Lessons from Rajasthan", Discussion Paper Series - 4, Human Development Resource Centre (New Delhi: UNDP).

Mitra, Subrata K. (2002), "Making local government work: local elites, *panchayati raj* and governance in India", in Atul Kohli (ed.), *The Success of India's Democracy* (New Delhi: Foundation Books), 103-126.

Mitra, Subrata (2008), "Elite Agency and Governance in Changing Societies: India in Comparative Perspective", *Asian Journal of Political Science*, 16(1): 1-23.

Mitra, Subrata (2010), "Symbiosis, re-use and evolution: administrators, politicians, citizens, and governance in post-colonial India", *Commonwealth & Comparative Politics*, 48(4), 457-478.

Mkandawire, T. (2007), "'Good governance': the itinerary of an idea", *Development in Practice*, 17(4-5): 679-681.

Mohanty, Bidyut (1995), "Panchayati Raj, 73rd Constitutional Amendment and Women", *Economic and Political Weekly*, 30(52): 3346-3350.

Mooij, J. and V. de Vos (2003), "Policy Processes: An Annotated Bibliography on Policy Processes, with Particular Emphasis on India" (London: Overseas Development Institute).

Mooij, J. (2007), "Is There an Indian Policy Process? An Investigation into Two Social Policy Processes", *Social Policy and Administration*, 41(4): 323-338.

Mooij, J. and Stéphanie Tawa Lama-Rewal (forthcoming), "Class in Metropolitan India: The Rise of the Middle Classes".

Moon, Bruce E. and William J. Dixon (1985), "Politics, the State, and Basic Human Needs: A Cross-National Study", *American Journal of Political Science*, 29(4): 661-694.

Moore, Jr. Barrington (1966), *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World* (Harmondsworth: Penguin Books).

Moyser, George and Margaret Wagstaffe (1987), "Studying elites: Theoretical and methodological issues', in George Moyser and Margaret Wagstaffe (eds.), *Research Methods for Elite Studies* (London: Allen and Unwin).

Mukherji, P.N. (2007), "Mahatma Gandhi and the Legacy of Democratic Decentralisation in India", paper presented at a seminar on "The Legacy of Gandhi: A 21st Century Perspective", Institute of South Asian Studies, National University of Singapore.

Mukherji, Rahul (2009), "The State, Economic Growth, and Development in India", *India Review*, 8(1): 81-106.

Mulgan, Richard (2000), "'Accountability': An Ever Expanding Concept", *Public Administration*, 78(3): 555-573.

Mustonen, Juha (ed.) (2006), *The World's First Freedom of Information Act: Anders Chydenius' Legacy Today* (Kokkola: Anders Chydenius Foundation).

Nandy, A. (2012), "Theories of Oppression and Another Dialogue of Cultures", *Economic and Political Weekly*, 47(30): 39-44.

Narayan, Deepa, Robert Chambers, Meera Shah and Patti Petesch (2000), *Voices of the Poor: Crying Out for Change* (Washington DC: World Bank).

Navlakha, S. (1989), *Elite and Social Change: A Study of Elite Formation in India* (New Delhi: Sage Publications).

Nayar, B.R. (2009), *The Myth of the Shrinking State: Globalization and the State in India* (New Delhi: Oxford University Press).

Newell, P. and S. Bellour (2002), "Mapping Accountability: origins, contexts and implications for development", IDS Working Paper 168 (Brighton: Institute of Development Studies).

Newell, P. and Joanna Wheeler (eds.) (2006), *Taking Accountability into Account: The Debate So Far* (London: Zed Books).

Nilekani, Nandan (2010), *Imagining India* (London: Penguin Books).

Niranjan, Oulac (2005), "Right to Information and the Road to Heaven", *Economic and Political Weekly*, 40(47): 4870-4872.

Noorani, A.G. (1982), "The Right to Know", *Economic and Political Weekly*, 17(46-47): 1859-1860.

Noorani, A.G. (1985), "Ban on Information", *Economic and Political Weekly*, 20(34): 1416.

Noorani, A.G. (1986), "Right to Know or Freedom of Information", *Economic and Political Weekly*, 21(31): 1337.

Noorani, A.G. (1996), "The Press Council's Bill on Right to Information", *Economic and Political Weekly*, 31(51): 3283.

Noorani, A.G. (1998), "Law on Right to Information", *Economic and Political Weekly*, 33(45): 2826.

Normanton, E. L. (1966), *The Accountability and Audit of Governments* (Manchester: Manchester University Press).

Noronha, Frederick (2001), "Perils of Knowing: Right to Information Act, 1997", *Economic and Political Weekly*, 36(32): 3021-3023.

Obe, A. (2007), "The Challenging Case of Nigeria", in Ann Florini (ed.), *The Right to Know* (New York: Columbia University Press), 143-175.

O'Donnell, Guillermo and Philippe C. Schmitter (1986), *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore: Johns Hopkins University Press).

O'Donnell, Guillermo (1993), "On the State, Democratization and Some Conceptual Problems: A Latin American View with Glances at Some Postcommunist Countries", *World Development*, 21(8): 1355-1359.

Oldfield, A. (1990), *Citizenship and Community: Civic Republicanism and the Modern World* (London: Routledge).

O'Loughlin, M.G. (1990), "What is bureaucratic accountability and how can we measure it?", *Administration and Society*, 22(3), 275-302.

Olson, J.P. (2008), "The Ups and Downs of Bureaucratic Organization", *Annual Review of Political Science*, 11: 13-37.

One World Foundation India (2011), "Citizens' Right to Public Service: Documentation of Best Practice" (New Delhi: One World Foundation India).

Oriola, Temitope and Kevin D. Haggerty (2012), "The Ambivalent Insider/Outsider Status of Academic 'Homecomers': Observations on Identity and Field Research in the Nigerian Delta", *Sociology*, 46(3): 540-548.

Ostrander, S. (1993), "'Surely You're Not in This Just to Be Helpful': Access, Rapport, and Interviews in Three Studies of Elites", *Journal of Contemporary Ethnography*, 22(1): 7-27.

Ostry, S. (1998), "China and the WTO: The Transparency Issue", *UCLA Journal of International Law and Foreign Affairs*, Spring/Summer 1998, 1-22.

Parkinson, J. (2006), *Deliberating in the Real World: Problems of Legitimacy in Deliberative Democracy* (Oxford: Oxford University Press).

Pavarala, Vinod (1993), "Corruption as a Site for Contested Meaning: Elite Constructions in India", *Qualitative Sociology*, 16(4): 405-422.

Pedersen, J.D. (1992), "State, bureaucracy and change in India", *Journal of Development Studies*, 28(4): 616-639.

Peled, Roy and Yoram Rabin (2011), "The Constitutional Right to Information", *Columbia Human Rights Law Review*, 42(2): 357-401.

Peters, B. Guy and John Pierre (1998), "Governance Without Government? Rethinking Public Administration", *Journal of Public Administration Research and Theory*, 8(2): 223-243.

Peters, B. Guy (2004), "Governance and Public Bureaucracy: New Forms of Democracy or New Forms of Control?", *The Asia Pacific Journal of Public Administration*, 26(1): 3-15.

Piotrowski, Suzanne (2010), *Transparency and Secrecy: A Reader Linking Literature and Contemporary Debate* (Plymouth: Lexington Books).

Piper, Laurence and Bettina von Lieres (2011), "Expert Advocacy for the Marginalised: How and Why Democratic Mediation Matters to Deepening Democracy in the Global South", Working Paper Volume 2011 Number 364 (Brighton: Institute of Development Studies).

Plesner, Ursula (2011), "Studying Sideways: Displacing the Problem of Power in Research Interviews With Sociologists and Journalists", *Qualitative Inquiry*, 17(6): 471-482.

Pollitt, C. (1995), "Justification by Works or by Faith? : Evaluating the New Public Management", *Evaluation*, 1: 133-154.

Potter, David (1986), *India's Political Administrators 1919-1983* (Oxford: Clarendon Press).

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

Przeworski, Adam, Michael E. Alvarez, Jose Antonio Cheibub and Fernando Limongi (2000), *Democracy and Development: Political Institutions and Well-Being in the World, 1950-1990*, (New York: Cambridge University Press).

Puddephatt, A. (2009), "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).

Putnam, Robert (2000), *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster).

Puri, Ellora (2004), "Civil and Political Society: A Contested Relationship", *Economic and Political Weekly*, 39(32): 3593-3594.

Puri, Mukesh (2004), "Profile of Entrants to Civil Services, 1997-2004", *The Administrator*, XLVII: 132-145.

Radin, B.A. (2007), "The Indian Administrative Service (IAS) in the 21st Century: Living in an Intergovernmental Environment", *International Journal of Public Administration*, 30: 1525-1548.

Rawls, J. (1971), *A Theory of Justice* (Cambridge, Mass.: Belknap Press).

Rawls, J. (1993), *Political Liberalism* (New York: Columbia University Press).

Rawls, J. (1997a), "The Idea of Public Reason", in J. Bohman and W. Rehg (eds.), *Deliberative Democracy: Essays on Reason in Politics* (Cambridge, Mass.: MIT Press).

Rawls, J. (1997b), "The Idea of Public Reason Revisited", *University of Chicago Law Review*, 64(3): 765-807.

Relly, J.E. (2009), "The diffusion of access-to-information legislation: A cross-national contextual analysis", Paper submitted to the Communication Law & Policy Division of the International Communication Association, Chicago.

Rhodes, R.A.W. (1996), "The New Governance: Governing without Government", *Political Studies*, 44(4): 652-667.

Rice, G. (2010), "Reflections on interviewing elites", *Area*, 42(1): 70–75.

Richards, D. (1996), "Elite Interviewing: Approaches and Pitfalls", *Politics* 16(3): 199-204.

Risse, T., S. Ropp and K. Sikkink (eds.) (1999), *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press).

Roberts, A. (2003), "Three patterns in the diffusion of transparency rules: Money, guns and human rights", Available at SSRN: http://ssrn.com/abstract=1439722.

Roberts, A. (2006), *Blacked Out: Government Secrecy in the Information Age* (New York: Cambridge University Press).

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

Robertson, Jennifer (2002), "Reflexivity Redux: A Pithy Polemic on "Positionality"", *Anthropological Quarterly*, 75(4): 785-792.

Rodan, G. (2004), "Neoliberalism and Transparency: Political Versus Economic Liberalism", Working Paper No. 112, Asia Research Centre (Perth: Murdoch University).

Romzek, Barbara S., and Melvin J. Dubnick (1987), "Accountability in the Public Sector: Lessons from the Challenger Tragedy", *Public Administration Review*, 47(3): 227-238.

Ross, Michael (2006), "Is Democracy Good for the Poor?", *American Journal of Political Science*, 50(4): 860–874.

Roy, Bunker (1996), "Right to Information: Profile of a Grass Roots Struggle", *Economic and Political Weekly*, 31(19): 1120-1121.

Roy, Bunker (1997a), "Transparency in the Voluntary Sector: A First Step", *Economic and Political Weekly*, 32(48): 3055-3056.

Roy, Bunker (1997b), "Where Does All the Money Go? People's Struggle for Information", *Economic and Political Weekly*, 32(28): 1688-1689.

Roy, Aruna and Nikhil Dey (2002), "Fighting for the Right to Know in India", *Development Dialogue*, 1: 77-90.

RTI Assessment & Analysis Group (RAAG) and National Campaign for People's Right to Information (NCPRI) (2009), "Safeguarding the Right to Information: Report of the People's RTI Assessment 2008: Revised Executive Summary & Draft Agenda for Action" (New Delhi: RAAG and NCPRI).

Rudolph, L.I. and S.H. Rudolph (1987), *In Pursuit of Lakshmi: The Political Economy of the Indian State* (Chicago: University of Chicago Press).

Rudra, Ashok (1989), "Emergence of the Intelligentsia as a Ruling Class in India", *Economic and Political Weekly*, 24(3): 142-150.

Sandal, M. (1998), *Liberalism and the Limits of Social Justice* (Cambridge: Cambridge University Press).

Sankaran, S.R. (2010), "The Rebirth of the National Advisory Council", *Economic & Political Weekly*, 45(34): 10-12.

Santiso, Carlos (2001), "Good Governance and Aid Effectiveness: The World Bank and Conditionality", *The Georgetown Public Policy Review*, 7(1): 1-22.

Santos, Boaventura de Sousa (1998), "Participatory Budgeting in Porto Allegre: Toward a Redistributive Democracy", *Politics and Society*, 26(4): 461–510.

Santos, Boaventura de Sousa (ed.) (2005), *Democratizing Democracy* (London: Verso).

Sartori, Giovanni (1970), "Concept Misformation in Comparative Politics", American Political Science Review 64(4): 1033-1053.

Saxena, N.C. (2010), "The IAS officer - predator or victim?", *Commonwealth & Comparative Politics*, 48(4): 445-456.

Saxena, Prabodh (2009), "Public Authority and the RTI", *Economic and Political Weekly*, 44(16): 13-16.

Schedler, Andreas (1999), "Conceptualizing Accountability," in Andreas Schedler, Larry Diamond and Marc F. Plattner (eds.), *The Self-Restraining State: Power and Accountability in New Democracies* (Boulder: Lynne Rienner).

Schumpeter, Joseph (1947), *Capitalism, Socialism and Democracy* (New York: Harper, 1947).

Seligman, Adam (1992), *The Idea of Civil Society* (New York: The Free Press).

Sen, Amartya (1981), *Poverty and Famines: An Essay on Entitlement and Deprivation*, (New York: Oxford University Press).

Sen, Amartya (1999), *Development as Freedom*, (New York: Alfred A. Knopf).

Shah, Ghanshyam (2004), *Social Movements in India*: *A Review of Literature* (New Delhi: Sage Publications).

Shah, Ghanshyam (2011), "Social Movements in India", *Economic and Political Weekly*, 46(21): 33-35.

Shah, M. and P. Shah (1991), "A Study on the Access to Information in U.S., Canada and U.K. (Part I)", *Consumer Confrontation*, September-October 1991 (Ahmedabad: Consumer Education Research Centre).

Shah, M. and P. Shah (1992a), "A Study on the Access to Information in U.S., Canada and U.K. (Part II)", *Consumer Confrontation*, January-February 1992 (Ahmedabad: Consumer Education Research Centre).

Shah, M. and P. Shah (1992b), "A Study on the Access to Information in U.S., Canada and U.K. (Part III)", *Consumer Confrontation*, March-April 1992 (Ahmedabad: Consumer Education Research Centre).

Sharma, Aradhana (2006), "Crossbreeding Institutions, Breeding Struggle: Women's Employment, Neoliberal Governmentality, and State (Re)Formation in India", Division II Faculty Publications, Paper 40 (Middletown: Wesleyan University).

Sharma, Pradeep (2004), "Civil Society and Right to Information: a Perspective on India's Experience", Oslo Governance Centre (Oslo: UNDP).

Shin, Doh Chull (1994), "On the Third Wave of Democratization: A Synthesis and Evaluation of Recent Theory and Research", *World Politics*, 47(1): 135-170.

Shourie, Arun (1990), *Individuals, Institutions, Processes: How One May Strengthen the Other* (New Delhi: Penguin Books).

Simmons, B. A., F. Dobbin and G. Garrett (2006), "Introduction: The International Diffusion of Liberalism", *International Organization*, 60: 781-810.

Singh, Kavaljit (1990), "Peoples' Struggle for Information" (Letter to the Editor), *Economic and Political Weekly*, March 24, 1990, 578.

Singh, Shekhar (2007), "India: Grassroots Initiatives" in Ann Florini (ed.), *The Right to Know* (New York: Columbia University Press), 19-53.

Singh, Shekhar (2011), "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.

Singh, Shekhar, Prashant Sharma, Vikram Chand, Stephanie de Chassy, Marcos Mendiburu, Venkatesh Nayak, Pranab Benerji, Usha Munjoo Munshi and Sunil Dutt (eds.) (2011), *Transparent Governance in South Asia* (New Delhi: Indian Institute of Public Administration).

Skopcol, T. (2003), *Diminished Democracy: From Membership to Management in American Civic Life* (Norman: University of Oklahoma Press).

Soni, V. (2008), "A Portrait of Public Administration in India: Challenges of Governance in the World's Largest Democracy", *Public Administration Review*, November-December 2008, 1158-1161.

Spivak, G.C. (1988), "Can the Subaltern Speak?", in C. Nelson and L. Grossberg (eds.), *Marxism and the Interpretation of Culture* (London: Macmillan).

Sridharan, E. (2004), "The Growth and Sectoral Composition of India's Middle Class: Its Impact on the Politics of Economic Liberalization", *India Review*, 3(4): 405-428.

Srivastava, K.M. (2009), *The Right to Information: A Global Perspective* (New Delhi: Lancer Publishers and Distributors).

Srivastava, Manoj (2005), "Crafting Democracy and Good Governance in Local Arenas: Theory, Dilemmas, and Their Resolution through the Experiments in Madhya Pradesh, India?", Working Paper 60, Crisis States Programme (London: London School of Economics and Political Science).

Srivastava, Meetika (2009), "A Study of Administrative Reforms in India - with particular reference to the RTI Act, 2005", Available at SSRN: http://ssrn.com/abstract=1461773.

Subramaniam, V. (1971), *Social Background of India's Administrators* (New Delhi: Publications Division, Ministry of Information and Broadcasting, Government of India).

Sundar, Nandini (1999), "Unpacking the 'Joint' in Joint Forest Management", *Development and Change*, 31: 255-279.

Sundaram, P.S.A. (2004), *Profile of the Public Service of India: Current Good Practices and New Developments in Public Service Management* (London: Commonwealth Secretariat).

Szekely, I. (2007), "Central and Eastern Europe: Starting from Scratch" in Ann Florini (ed.), *The Right to Know* (New York, Columbia University Press), 116-142.

Tarrow, S. (1994), *Power in Movement: Collective Action, Social Movements and Politics* (Cambridge: Cambridge University Press).

Taylor, Jodie (2011), "The intimate insider: negotiating the ethics of friendship when doing insider research", *Qualitative Research*, 11(1): 3-22.

Tendler, Judith (1998), *Good Government in the Tropics* (Baltimore: Johns Hopkins University Press).

Thakur, R. (1981), *Elite Theory and Administrative System* (New Delhi: Sterling Publishers).

Therry, L.D. (2005), "The Thinning of Administrative Institutions in the Hollow State", *Administration & Society*, 37(4): 426-444.

Tjønneland, Elling (1998), "Aid, development and politics in Southern Africa: A critical look at new conditionalities in official development assistance", *Development Southern Africa*, 15(2): 185-200.

Tilly, C. and S. Tarrow (2007), *Contentious Politics* (Boulder: Paradigm Publishers).

Trouillot, M. (2001), "The Anthropology of the State in the Age of Globalization: Close Encounters of the Deceptive Kind", *Current Anthropology*, 42 (1): 125-138.

United Nations Development Programme (1997), *Governance for Sustainable Human Development* (New York: UNDP).

United Nations Development Programme (2002), *Human Development Report 2002: Deepening Democracy in a Fragmented World* (New York: Oxford University Press).

United Nations Development Programme (2003), "Access to Information: UNDP's engagement and a guide to key actors", Bureau for Development Policy, Democratic Governance Group (New York: UNDP).

United Nations Development Programme (2004), "Right to Information: Practical Guidance Note", Bureau for Development Policy, Democratic Governance Group, Oslo Governance Centre (Oslo: UNDP).

United Nations Office on Drugs and Crime (2004), "United Nations Convention Against Corruption" (New York: United Nations).

United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) (undated), "What is good governance", Available on the UNESCAP website, URL: http://www.unescap.org/pdd/prs/projectactivities/ongoing/gg/governance.asp. Accessed 10 August, 2012.

Upadhya, C. and A.R. Vasavi (2006), *Work, Culture, and Sociality in the Indian IT Industry: A Sociological Study* (Bangalore: School of Social Sciences, National Institute of Advanced Studies).

Upadhya, C. (2007), "Employment, Exclusion and 'Merit' in the Indian IT Industry", *Economic and Political Weekly*, 42(20): 1863-1868.

van Gool, S.M. (2008), "Untouchable Bureaucracy: Unrepresentative Bureaucracy in a North Indian State", unpublished PhD thesis, University of Leiden.

Varshney, A. (1998), "Why Democracy Survives", *Journal of Democracy*, 9(3): 36-50.

Varshney, Ashutosh (2000), "Is India Becoming More Democratic?", *The Journal of Asian Studies*, 59(1): 3-25.

Varshney, Ashutosh (ed.) (2004), *India and the Politics of Developing Countries: Essays in the Memory of Myron Weiner* (New Delhi: Sage Publications).

Vleugels, R. (2010), "Overview of all FOI laws", *Fringe Special*, September 16, 2010.

Vleugels, R. (2011), "Overview of all FOI laws", *Fringe Special*, October 9, 2011.

Wainwright, H. (2004), "Civil Society, Democracy and Power: Global Connections", in Helmut Anheier, Marlies Gasius and Mary Kaldor (eds.), *Global Civil Society* (London: Sage Publications).

Wainwright, H. (2003), *Reclaim the State: Experiments in Popular Democracy* (London: Verso).

Walzer, M. (1998), "The Concept of Civil Society", in M. Walzer (ed.), *Towards a Global Civil Society* (Providence: Berghahn Books).

Warren, Mark (1992), "Democratic Theory and Self-Transformation", *American Political Science Review*, 86: 8-23.

Warren, Mark (1996), "What Should We Expect from More Democracy?: Radically Democratic Responses to Politics", *Political Theory*, 24(2): 241-270.

Webb, M. (2010a), "Boundary Paradoxes: The Social Life of Transparency and Accountability Activism in Delhi", unpublished PhD thesis, Department of Social Anthropology, University of Sussex.

Webb, M. (2010b), "Success stories: rhetoric, authenticity, and the right to information movement in north India", *Contemporary South Asia*, 18(3): 293-304.

Weiner, M. (1967), *Party Building in a New Nation: The Indian National Congress* (Chicago: Chicago University Press).

Weiner, Myron (1989), *The Indian Paradox: Essays in Indian Politics* (New Delhi: Sage Publications).

Weiss, Thomas G. (2000), "Governance, good governance and global governance: conceptual and actual challenges", *Third World Quarterly*, 21(5): 795-814.

Welch, E.W. and W. Wong (2001), "Effects of Global Pressures on Public Bureaucracy: Modeling a New Theoretical Framework", *Administration & Society*, 33(4): 371-402.

Whitton, J.B. (1949), "The United Nations Conference on Freedom of Information and the Movement against International Propaganda", *The American Journal of International Law*, 43: 73-87.

Williams, Glyn (2004), "Evaluating participatory development: tyranny, power and (re)politicisation", *Third World Quarterly*, 25(3): 557-578.

Wolfe, R. (2003), "Regulatory transparency, developing countries and the WTO", *World Trade Review*, 2(2): 157-182.

Wood, E.M. (1990), "The Uses and Abuses of 'Civil Society'", *The Socialist Register*, 26: 60-84.

Woods, Ngaire (2000), "The Challenge of Good Governance for the IMF and the World Bank Themselves", *World Development*, 28(5): 823-841.

World Bank (1992), *Governance and Development* (Washington, DC: The World Bank).

World Bank (1996), *World Development Report 1996: From Plan to Market* (New York: Oxford University Press).

World Bank (1997), *World Development Report 1997: The State in a Changing World* (New York: Oxford University Press).

World Bank (2000), *World Development Report 2000-01: Attacking Poverty* (New York: Oxford University Press).

World Bank (2002): *World Development Report 2002: Building Institutions for Markets* (New York: Oxford University Press).

World Bank (2003), *World Development Report 2004: Making Services Work for Poor People* (New York: Oxford University Press).

World Bank (2004), "Legislation on freedom of information: trends and standards", PREM (Poverty Eradication and Economic Management) notes, Number 93 (Washington DC: The World Bank).

World Bank (2007), "Strengthening World Bank Group Engagement on Governance and Anti- Corruption" (Washington DC: The World Bank).

Young, I. (2001), "Activist challenges to deliberative democracy", *Political Theory*, 29(5): 670-690.

Zittel, Thomas and Dieter Fuchs (eds.) (2007), *Participatory Democracy and Political Participation: Can participatory engineering bring citizens back in?* (Abingdon: Routledge).

Government Documents[585]

Aggarwal, K. (undated), "Transparency in Government", Document attached to note from Y.G. Parande, Director, DoPT, Government of India, dated 7 January 1997 to all members of the Shourie Committee. File reference no. 34011/1(s)/97-Estt.(B).

Central Information Commission (2006), *Annual Report 2005-06*, New Delhi: Ministry of Personnel, Public Grievances and Pensions.

Government of India (1961), "Complete Transaction of Business Rules upto Amendment Series no. 62", New Delhi, Cabinet Secretariat.

Government of India (1997a), "Approach Paper to the Ninth Five-Year Plan (1997-2002)", New Delhi: Planning Commission.

Government of India (1997b), "Report of the Working Group on Right to Information and Promotion of Open and Transparent Government", New Delhi: Ministry of Personnel, Public Grievances and Pensions.

[585] Communications, letters, office memoranda, departmental orders, file notings etc. have been referenced within the main body of the thesis as they are too numerous to be presented in the bibliography.

Government of India (1997c), "Right to Information Bill, 1997 (Press Council - NIRD Bill of 1997)", Hyderabad: National Institute of Rural Development.

Government of India (1998), *Ninth Five-Year Plan, 1997-2002*, New Delhi: Planning Commission.

Government of India (2001), "Approach Paper to the Tenth Five Year Plan (2002-2007)", New Delhi: Planning Commission.

Government of India (2002), *Tenth Five Year Plan 2002-2007, Volume I: Dimensions and Strategies*, New Delhi: Planning Commission.

Government of India (2005), "Right to Information Act 2005", *The Gazette of India, Extraordinary*, Part II, Section 1, No. 25, June 21, 2005.

Government of India (2006), "Right to Information: Master Key to Good Governance", First report of the Second Administrative Reforms Commission, New Delhi: Second Administrative Reforms Commission.

Government of India (2010), "Civil Services Survey - A Report", New Delhi: Ministry of Personnel, Public Grievances and Pensions, Department of Administrative Reforms & Public Grievances.

Government of India (2011), *Handbook on writing Cabinet notes*, New Delhi: Cabinet Secretariat.

Lal Bahadur Shastri National Academy of Administration (1995), "Right to Information: A preliminary set of readings", Workshop on Right to Information, 7th and 8th October 1995, Mussoorie: Lal Bahadur Shastri National Academy of Administration.

Lal Bahadur Shastri National Academy of Administration (2011), "Profile of the Officer Trainees of the 86th Foundation Course", Mussoorie: Lal Bahadur Shastri National Academy of Administration.

Lok Sabha Secretariat (1989), "Constituent Assembly Debates", Vol. VII (4 Nov. 1948 - 8 Jan. 1949), reprint, New Delhi: Lok Sabha Secretariat.

Lok Sabha Secretariat (2009), "Demarcation of Responsibilities in Government of India", New Delhi: Lok Sabha Secretariat.

PricewaterhouseCoopers (2009), "Final Report: Understanding the "Key Issues and Constraints" in implementing the RTI Act", Report Commissioned by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India, New Delhi.

Rajya Sabha Secretariat (2001), "Seventy Eighth Report on Freedom of Information Bill, 2000 (Presented to the Rajya Sabha on 25 July, 2001)", Department Related Parliamentary Standing Committee on Home Affairs, New Delhi: Parliament of India, Rajya Sabha Secretariat.

Rajya Sabha Secretariat (2005), "Third Report on the Right to Information Bill, 2004 (Presented to the Rajya Sabha on 21 March, 2005)", Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, New Delhi: Parliament of India, Rajya Sabha Secretariat.

Union Public Service Commission (2010), *60th (2009-10) Annual Report* (New Delhi: Union Public Service Commission).

Annexures

Annexure I

The Right to Information Act, 2005

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

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.

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 organization 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.

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;

(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.

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—

(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.

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,—

(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.

(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 secton 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.

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.

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.

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.

(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:

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.

(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 there from 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 misbehavior.

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.

(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.

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.

(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

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:—

(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.

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.

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

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.

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.

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.

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.

(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.

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.

(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.

(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.

(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:

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.

31 The Freedom of Information Act, 2002 is hereby repealed.

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

solemnly affirm

that I will bear true faith and allegiance to the 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.

Annexure II

State-Level RTI Laws

Table A.II.1: Overview of state-level RTI laws

State	Name of Act	Date of Enactment	Date of Notification
Tamil Nadu	Tamil Nadu Right to Information Act, 1997	4 May 1997	5 May 1997
Goa	Goa Right to Information Act, 1997	29 October 1997	2 December 1997
Rajasthan	Rajasthan Right to Information Act, 2000	11 May 2000	28 June 2000
Karnataka	Karnataka Right to Information Act, 2000	10 December 2000	7 February 2001
Delhi	Delhi Right to Information Act, 2001	14 May 2001	16 May 2001
Assam	Assam Right to Information Act, 2001	1 May 2002	7 May 2002
Madhya Pradesh	Madhya Pradesh Jankari ki Swatantrata Adhiniyam, 2002	24 January 2003	31 January 2003
Maharashtra	Maharashtra Right to Information Act, 2002	10 August 2003	11 August 2003
Jammu and Kashmir[586]	Jammu and Kashmir Right to Information Act, 2004	5 January 2004	7 January 2004

Background notes on state-level RTI laws enacted prior to the national Right to Information Act, 2005[587]

Source: Commonwealth Human Rights Initiative (CHRI), New Delhi

Tamil Nadu

Tamil Nadu was the first state in India to enact an access law, namely the Tamil Nadu Right to Information Act 1997. The Act was passed by the Legislative Assembly in the first half of 1997, received the assent of the Governor on 4 May 1997 and was notified the following day. It is notable that the government initiated the process of developing a law. There was no civil society movement advocating for the right to information in the State.

[586] The Jammu and Kashmir Right to Information Act, 2004 was replaced by the Jammu and Kashmir Right to Information Act, 2009 on 20 March 2009.

[587] The background for each of the state-level laws has been quoted from the website of the CHRI. See http://www.humanrightsinitiative.org/programs/ai/rti/india/states/default.htm. Accessed 10 October 2011.

Goa

The Goa Right to Information Act 1997 was the second right to information law enacted in India, after Tamil Nadu. It was passed on 31 July 1997 and received Governor's assent on 29 October 1997. It is notable that the development of the law was the result of Government initiative and not a civil society campaign. However, while the Government was responsible for initiating the Bill, civil society, led by the Goa Union of Journalists, was active in responding to the shortcomings in the Act as initially passed. Journalists protested in the Assembly against penal provisions they feared could be used against the Press. Consequently, the objectionable provisions were amended by the Government soon after the initial enactment of the law.

Rajasthan

The Mazdoor Kisan Shakti Sangathan (MKSS) spearheaded the right to information movement in Rajasthan - and subsequently, throughout India. MKSS famously used the right to information as tool to draw attention to the underpayment of daily wage earners and farmers on government projects, and more generally, to expose corruption in government expenditure. Initially, MKSS lobbied government to obtain information such as muster rolls (employment and payment records) and bills and vouchers relating to purchase and transportation of materials. This information was then crosschecked at Jan Sunwais (public hearings) against actual testimonies of workers. The public hearings were incredibly successful in drawing attention to corruption and exposing leakages in the system. They were particularly significant because of their use of hard documentary evidence to support the claims of villagers.

Over time, the media and the government paid increasing attention to the results of the Jan Sunwais. Consequently, greater attention was focused on the importance of the right to information as a means for increasing transparency and accountability, as well as empowering poor people. Although MKSS was able to obtain some information from Government during the early 1990s, it was not easy. The difficulties experienced by MKSS in trying to access information reinforced the importance of a comprehensive right to information law for Rajasthan.

On 5 April 1995, the Chief Minister of Rajasthan announced in the Legislative Assembly that his Government would be the first in the country to provide access to information to citizens on all local developmental works. However, no action was taken for months. Exactly a year later on 6 April 1996, MKSS started an indefinite Dharna (protest demonstration) in Bewar town. Their immediate demand was that the State Government pass Executive Orders to provide a limited right to information in relation to local development expenditure. The government responded by issuing Orders to inspect relevant documents on payment of fees. However, the Order was rejected by civil society as ineffective because it did not allow taking photocopies of documents.

On 6 May 1996, one month later, the Dharna was extended to Jaipur, the state capital. The Dharna was strongly supported by the people of the State. On 14 May 1996, the Government responded, announcing the establishment of a committee to look into the practical aspects of implementing right to information within two months. In response, MKSS called off the Dharna. Unfortunately, Government interest again lapsed, such that in May 1997 another series of Dharnas commenced, which continued for 52 long days. At the end of this time, the

Government announced that the Government had already notified the right to receive photocopies relating to local level government functions six months earlier! Civil society was taken by surprise - through all their discussions with Government it was the first time they had been told about the order providing access to information to people.

In 1998, during the State elections the Opposition Party promised in its election manifesto to enact a law on right to information if it came to power. Following their election, the Party appointed a committee of bureaucrats, headed by Mr P.N. Bhandari, a Secretary of the Rajasthan Government, to draft a bill on the right to information. As the Committee was comprised only bureaucrats, stong objections were raised by civil society organisations, following which the members of MKSS and National Campaign for Peoples Right to Information were invited to assist in drafting the bill.

MKSS and NCPRI conducted a host of consultations in each divisional headquarters of the State. Drawing on the input from these consultations, a draft civil society Right to Information Bill was prepared, which was then submitted to the Committee. The Committee drew on the citizens draft Bill for its recommendations, but refused to accept the Bill in toto.

The Rajasthan Right to Information Act 2000 was eventually passed on 11 May 2000, but only came into force on 26 January 2001 - after the rules were framed. The Act in its final form retained many of the suggestions of the RTI movement, but diluted others. Activists in the state have stated that it is stronger that some state Acts, like Tamil Nadu, but lags behind those of Goa, Karnataka and Delhi.

Karnataka

The Karnataka Government took steps to make information available to the public as far back as 1997. From that time, many Government departments issued Executive Orders to provide access to information on developmental projects undertaken by their Departments and to keep relevant records open for inspection or available for copying for a nominal fee.

On 25 August 2000, the Executive Orders were supplemented by the Right to Information Ordinance. The Ordinance was brought in because the Karnataka Government recognised it was necessary to enact a comprehensive law to ensure openness, transparency and accountability in government administration as a matter of priority. As the State Assembly was not in session at the time this policy decision was made, the Governor passed an Ordinance on the matter as a first step.

The Karnataka Right to Information Act 2000 was enacted soon after by the State Assembly on 10 December 2000. Section 13 of the Karnataka Right to Information Act, 2000 explicitly repeals the Karnataka Right to Information Ordinance 2000 although it saves all actions taken under the Ordinance. Unfortunately, the Act was not properly operationalised until July 2002, when the Government of Karnataka notified the Karnataka Right to Information Rules.

Delhi

Until recently, Delhi was one of only 9 States in India to have enacted right to information laws. The Delhi Right to Information Act 2001 was passed on 16 May 2001 and came into force on 2 October 2001. About 119 departments have been brought under the preview of the Act.

Before enacting the Act, the Government of the National Capital Territory of Delhi formed a Working Group under the auspices of the Secretary Services, General Administration, Training, Administrative Reforms and Public Relations. The Working Group made recommendations to enact a law along the lines of the Goa Right to Information Act. The Working Group emphasised the value of setting up a Right to Information Council to oversee the implementation of the new right to information law. This suggestion was included in the Act as it was finally passed, although the effectiveness of the Delhi Right to Information Council in overseeing the Act and ensuring proper implementation was arguable.

The Delhi Public Grievances Commission (PGC) headed by Chairman, Shailaja Chandra was set up as the Appellate Authority to hear appeals under the Delhi Right to Information Act. Citizens could lodge complaints with the Commission via the PGC website.

Assam

Assam was until recently the only state in the North East which had enacted right to information legislation. The passage of the Assam Right to Information Act 2002 came as a surprise to most. The State Act was brought in so quietly that there was hardly any discussion on its content.

Madhya Pradesh

Madhya Pradesh was one of the first states in India to actively engage in securing the right to information for the public. In October 1996, the Commissioner of Bilaspur Division, Mr Harsh Mander, issued executive orders to give people in the districts of Bilaspur, Raigarh and Sarguja the right to scrutinise government records pertaining to the public distribution system.

In May 1997, at the same time that Tamil Nadu and Goa were passing right to information laws, the Madhya Pradesh Government also drafted a Right to Information Bill. On 30th April 1998 the assembly passed the bill by voice vote. Significantly, after passing the Bill in the State Assembly, the Government chose to send the Bill to the President of India for assent. Unfortunately, it appears that due to a disagreement about whether the states or the Centre have competence to enact right to information laws, Presidential assent was denied to the Bill and it was shelved.

As a solution, the State Government issued a number of Executive Orders from February 1998 which operated to allow access to information from close to 50 departments. The series of Executive Orders have been compiled by the Department of General Administration in a book titled ‘Janane Ka Haq’. The Executive Orders specifically identified a number of topics on which Departments were required to provide information to the public. The Orders also provided for appeals on non-disclosure decisions and penalties in accordance with the MP Civil Services Conduct Rules 1965 and the MP Civil Services Classification Control and Appeal Act 1966.

Despite the existence of the Executive Orders, the Madhya Pradesh Government in 2003 again decided to pursue legislation on the right to information in order to set up a more comprehensive access to information regime. Ultimately, on 24 January 2003 the Madhya Pradesh Jankari Ki Swatantrata Adhiniyam 2002 received the assent of the Governor and on 31 January 2003 was published in the Madhya Pradesh Gazette.

Maharashtra

In 2000, a sustained advocacy campaign by social activist Anna Hazare forced the Maharashtra Government to pass the Maharashtra Right to Information Act 2000. However, civil society groups were unhappy with the Act, criticising it for being too weak and demanding that it be replaced with better legislation.

In 2001, the Government formed a committee comprising senior serving and retired bureaucrats, such as former Union Home Secretary Dr Madhav Godbole, eminent jurists and Shri Anna Hazare, to prepare a draft of a Freedom of Information Bill.

Before the Committee could release its draft Bill, the Maharashtra Government repealed the Maharashtra Right to Information Act 2000 and replaced it with the Right to Information Ordinance 2002. The Ordinance was promulgated on 23 September 2002. However, the Ordinance lapsed on 23 January 2003 because, in accordance with Article 213(2) of the Constitution of India, an Ordinance must be converted into an Act within 6 weeks of the commencement of the next session of the Legislative Assembly following the enactment of an Ordinance. In this instance, the Maharashtra Government did not convert the Right to Information Ordinance in the winter session of the Legislative Assembly; hence it lapsed.

Public pressure to enact a law on right to information continued. Consequently, in the budget session of the legislature in March 2003, the Maharashtra Government passed the Maharashtra Right to Information Act which it then sent to the President of India for assent. The Act stalled, as no action was taken for months.

Finally, on 1 August 2003, Anna Hazare wrote a letter to Mr L.K. Advani, the Deputy Prime Minister of India requesting him to advise the Honourable President to give his assent to the Maharashtra Right to Information Act. Failing such action, Sri Hazare warned he would commence a fast unto death. No action was taken, and on 9 August 2003 Anna Hazare started his fast. Within one day, the Government responded. On 10 August 2003, the President of India gave his assent to the Maharashtra Right to Information Act 2002 and on 11 August 2003 the Maharashtra Government notified the Act in the Government Gazette. The Maharashtra Right to Information Rules, which were initially prepared under the Maharashtra Right to Information Ordinance, are equally applicable to Maharashtra Right to Information Act 2002.

Jammu and Kashmir

The Jammu and Kasmir Right to Information Act 2009 was passed by the State Legislature and it received the assent of the Governor on 20 March 2009. This law replaces an earlier law called the Jammu and Kashmir Right to Information Act passed by the State Legislature on 18 December 2003 and notified in the Government Gazette on 7 January 2004.The Government of Jammu and Kashmir has published the Jammu and Kashmir Right to Information Rules, 2009 on 20th July, 2009 .

Notably, due to the special constitutional position occupied by Jammu and Kashmir, the Central Right to Information Act 2005 is not applicable in Jammu and Kashmir. Civil society groups, activists and advocators of transparency and accountability had been advocating for the adoption of a progressive Information Access law in J&K. CHRI has worked closely with government and civil society organizations and activists in the campaign for enacting an Information Access Law in J&K.

Annexure III

Terms of Reference of the 'Working Group on Right to Information and Promotion of Open and Transparent Government'[588]

a. To examine the feasibility and need of either a full fledged Right to Information Act or its introduction in a phased manner to meet the needs of open and responsive Government.
b. To identify specific areas where Right to Information can be built into the working procedures and working system especially in large departmental undertakings including Railways, Telecommunications, Postal Services, Passports and Banking at the Central Government level.
c. To examine the internal working procedures with a view to introducing greater openness and transparency in handling of employee grievances and internal consultation.
d. To examine the rules framework with particular reference to existing Conduct Rules and Manual of Office Procedure with a view to introducing greater openness and transparency in Government working including dealing with employees.
e. To examine the nature and content of training to promote greater openness and more customer responsive public dealings.

[588] Office Memorandum dated 2 January 1997, DoPT. File reference no. 34011/1(S)/97-Estt. (B).

Annexure IV

The Freedom of Information Act, 2002

THE FREEDOM OF INFORMATION ACT, 2002

NO. 5 OF 2003

[6th January, 2003.]

An Act to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto. BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:-

CHAPTER I: PRELIMINARY

1. Short title, extent and commencement.-

(1) This Act may be called the Freedom of Information Act, 2002.
(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.

2. Definitions.-

In this Act, unless the context otherwise requires,-

(a) "appropriate Government" means in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled-
- (i) by the Central Government, the Central Government;
- (ii) by the State Government, the State Government;
- (iii) by the Union territory, the Central Government;

(b) "competent authority" means-
- (i) the Speaker in the case of the House of the People or the Legislative Assembly and the Chairman in the case of the Council of States or the Legislative Council;
- (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 created by or under the Constitution;
- (v) the administrator appointed under article 239 of the Constitution;

(c) "freedom of information" means the right to obtain information from any public authority by means of,-
- (i) inspection, taking of extracts and notes;

(ii) certified copies of any records of such public authority;
(iii) diskettes, floppies or in any other electronic mode or through print-outs where such information is stored in a computer or in any other device;

(d) "information" means any material in any form relating to the administration, operations or decisions of a public authority;

(e) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(f) "public authority" means any authority or body established or constituted,-
(i) by or under the Constitution;
(ii) by any law made by the appropriate Government, and includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government;

(g) "Public Information Officer" means the Public Information Officer appointed under sub-section (1) of section 5;

(h) "record" includes-
(i) any document, manuscript and file;
(ii) any microfilm, microfiche and facsimile copy of a document;
(iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
(iv) any other material produced by a computer or by any other device;

(i) "third party" means a person other than the person making a request for information and includes a public authority.

CHAPTER II: FREEDOM OF INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

3. Freedom of information.-

Subject to the provisions of this Act, all citizens shall have freedom of information.

4. Obligations on public authorities.-

Every public authority shall-

(a) maintain all its records, in such manner and form as is consistent with its operational requirements duly catalogued and indexed;

(b) publish at such intervals as may be prescribed by the appropriate Government or competent authority,-
(i) the particulars of its organisation, functions and duties;
(ii) the powers and duties of its officers and employees and the procedure followed by them in the decision making process;
(iii) the norms set by the public authority for the discharge of its functions;

(iv) rules, regulations, instructions, manuals and other categories of records under its control used by its employees for discharging its functions;
(v) the details of facilities available to citizens for obtaining information; and
(vi) the name, designation and other particulars of the Public Information Officer;

(c) publish all relevant facts concerning important decisions and policies that affect the public while announcing such decisions and policies;

(d) give reasons for its decisions, whether administrative or quasi-judicial to those affected by such decisions;

(e) before initiating any project, publish or communicate to the public generally or to the persons affected or likely to be affected by the project in particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interests of natural justice and promotion of democratic principles.

5. Appointment of Public Information Officers.-

(1) Every public authority shall for the purposes of this Act, appoint one or more officers as Public Information Officers.

(2) Every Public Information Officer shall deal with requests for information and shall render reasonable assistance to any person seeking such information.

(3) The Public Information Officer may seek the assistance of any other officer as he considers necessary for the proper discharge of his duties.

(4) Any officer whose assistance has been sought under sub-section (3), shall render all assistance to the Public Information Officer seeking his assistance.

6. Request for obtaining information.-

A person desirous of obtaining information shall make a request in writing or through electronic means, to the concerned Public Information Officer specifying the particulars of the information sought by him: Provided that where such request cannot be made in writing, the Public Information Officer shall render all reasonable assistance to the person making the request orally to reduce it in writing.

7. Disposal of requests.-

(1) On receipt of a request under section 6, the Public Information Officer shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information requested 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 and liberty of a person, the same should be provided within forty-eight hours of the receipt of the request: Provided further that where it is decided to provide the information on payment of any further fee representing the cost of providing the information, he shall send an intimation to the person making the request, giving the details of the fees determined by him, requesting him to deposit the 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 above.

(2) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.

(3) Where a request is rejected under sub-section (2), the Public Information Officer shall communicate to the person making request,-

(i) the reasons for such rejection;
(ii) the period within which an appeal against such rejections may be preferred;
(iii) the particulars of the appellate authority.

(4) 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. Exemption from disclosure of information.-

(1) Notwithstanding anything hereinbefore contained, the following information not being information relating to any matter referred to in sub-section (2), shall be exempted from disclosure, namely:-

(a) information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, strategic scientific or economic interest of India or conduct of international relations;
(b) information, the disclosure of which would prejudicially affect public safety and order, detection and investigation of an offence or which may lead to an incitement to commit an offence or prejudicially affect fair trial or adjudication of a pending case;
(c) information, the disclosure of which would prejudicially affect the conduct of Centre-State relations, including information exchanged in confidence between the Central and State Governments or any of their authorities or agencies;
(d) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;
(e) minutes or records of advice including legal advice, opinions or recommendations made by any officer of a public authority during the decision making process prior to the executive decision or policy formulation;
(f) trade or commercial secrets protected by law or information, the disclosure of which would prejudicially affect the legitimate economic and commercial interests or the competitive position of a public authority; or would cause unfair gain or loss to any person; and
(g) information, the disclosure of which may result in the breach of privileges of Parliament or the Legislature of a State, or contravention of a lawful order of a court.

(2) Subject to the provisions of clause (a) of sub-section (1), any information relating to any occurrence, event or matter which has taken place occurred or happened twenty-five 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-five years has to be computed, the decision of the Central Government shall be final.

9. Grounds for refusal to access in certain cases.-

Without prejudice to the provisions of section 8, a Public Information Officer may reject a request for information also where such request-

(a) is too general in nature or is of such a nature that, having regard to the volume of information required to be retrieved or processed would involve unreasonable diversion of the resources of a public authority or would adversely interfere with the functioning of such authority: Provided that where such request is rejected on the ground that the request is too general, it would be the duty of the Public Information Officer to render help as far as possible to the person making request to reframe his request in such a manner as ay facilitate compliance with it;

(b) relates to information that is required by law, rules, regulations or orders to be published at a particular time and such information is likely to be so published within thirty days of the receipt of such request;

(c) relates to information that is contained in published material available to public; or

(d) relates to information which would cause unwarranted invasion of the privacy of any person.

10. Severability.-

(1) If a request for access to information is rejected on the ground that it is in relation to information which is exempted from disclosure, then notwithstanding anything contained in this Act, access may be given to that part of the record which does not obtain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.

(2) Where access is granted to a part of the record in accordance with sub-section (1), the person making the request shall be informed,-

(a) that only part of the record requested, after severance of the record containing information which is exempted from disclosure, is being furnished; and

(b) of the provisions of the Act under which the severed part is exempted from disclosure.

11. Third party information.-

(1) Where a public authority 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 Public Information Officer shall, within twenty-five days from the receipt of a request, give written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof: 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 given by the Public Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within

twenty days from the date of issuance of notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Public Information Officer shall, within sixty 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 against the decision under section 12.

12. Appeals.-

(1) Any person aggrieved by a decision of the Public Information Officer may, within thirty days of receipt of such decision, prefer an appeal to such authority as may be prescribed: Provided that such authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) A second appeal against the decision under sub-section (1) shall lie within thirty days of such decision, to the Central Government or the State Government or the competent authority, as the case may be: Provided that the Central Government or the State Government or the competent authority, as the case may be, may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) The appeals referred to in sub-sections (1) and (2) shall be disposed of within thirty days of the receipt of such appeals or within such extended period, as the case may be, for reasons to be recorded in writing.

(4) If the decision of the Public Information Officer against which the appeal is preferred under sub-section (1) or sub-section (2) also relates to information of third party, the appellate authority shall give a reasonable opportunity of being heard to that party.

CHAPTER III: MISCELLANEOUS

13. Protection of action taken in good faith.-

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.

14. Act to have overriding effect.-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 1923), and any other law for the time being in force or in any instrument aving effect by virtue of any law other than this Act.

15. Bar of jurisdiction of courts.-

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.

16. Act not to apply to certain organizations.-

(1) Nothing contained in this Act shall apply to the intelligence and security organisations, specified in the Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government.

(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 there n 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 organisations which may be specified, by a notification in the Official Gazette, by a State Government from time to time.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

17. Power to make rules by Central Government.-

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(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) intervals at which matters referred to in sub-clauses (i) to (vi) of clause (b) of section 4 shall be published;
(b) the fee payable under sub-section (1) of section 7;
(c) the authority before whom an appeal may be preferred under sub-section (1) of section 12;
(d) any other matter which is required to be, or may be, prescribed.

18. Power to make rules by State Government.-

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(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 fee payable under sub-section (1) of section 7;

(b) the authority before whom an appeal may be preferred under sub-section (1) of section 12;
(c) any other matter which is required to be, or may be, prescribed: Provided that initially the rules shall be made by the Central Government by notification in the Official Gazette.

19. Rule making power by competent authority.-

(1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(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 fee payable under sub-section (1) of section 7;
(b) the authority before whom an appeal may be preferred under sub-section (1) of section 12;
(c) any other matter which is required to be, or may be, prescribed.

20. Laying of rules.-

(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 tha rule.

(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.

21. Power to remove difficulties.-

(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 necessary or expedient for removal of the difficulty: not inconsistent with the provisions of this Act s appear to it to be 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.

Annexure V

Profiles of NAC Members

Table A.V.1: Brief profiles of members nominated to the National Advisory Council[589]

Name	NAC1[590]	NAC2[591]	Sector	Education	Profile
Aruna Roy	Yes	Yes	Social Activist	MA, Delhi	Former IAS officer; Magsaysay Award winner
Jean Dreze	Yes	Yes	Development Economist	Essex; PhD, Delhi	Taught at LSE and the Delhi School of Economics; Visiting Professor at Allahabad University
N.C. Saxena	Yes	Yes	Agriculture, Rural Development	PhD, Oxford	Former IAS officer; Secretary Rural Development; Adviser, UNICEF India
A.K. Shiva Kumar	Yes	Yes	Development Economist	IIM Ahmedabad; PhD, Harvard	Adviser, UNICEF, India; Visiting Professor, Indian School of Business, Hyderabad; Teaches economics and public policy at Harvard's Kennedy School of Government

[589] As on 21 June 2011.
[590] National Advisory Council during the first United Progressive Alliance (UPA) government, 2004-09.
[591] National Advisory Council during the second (and current) United Progressive Alliance (UPA) government, 2009-present.

C.H. Hanumantha Rao	Yes		Agricultural Economist	Post-Doctoral Fellow, University of Chicago; PhD, Delhi	Former Director, Institute of Economic Growth; Former Member, Planning Commission; Former Member, Seventh and Eighth Finance Commissions
Madhav Chavan	Yes		Education	PhD, Ohio State University	Founder Director, Pratham
D. Swaminadhan	Yes		Education, Technology	India; PhD, Liverpool	Belongs to a Scheduled Tribe; Member, Planning Commission; Vice-Chancellor, Jawaharlal Nehru Technological University
Jairam Ramesh	Yes		Technology, Politician	IIT Mumbai; Carnegie-Mellon University; MIT	Member of Parliament, Rajya Sabha; Senior Congress Party member
Jayaprakash Narayan	Yes		Social activist; Politician	India	Former IAS officer
V. Krishnamurthy	Yes		Public Sector, Industry	India; PhD, Russia	Former Secretary, Ministry of Industries
Sam Pitroda	Yes		Technology	India; Chicago	Chairman and CEO of World-Tel Limited; Chairman National Knowledge Commission
Mrinal Miri	Yes		Education	PhD, Cambridge	Vice-Chancellor, Northeastern Hill University
Sehba Hussain	Yes		Community Development	Fulbright Scholar, University of Pennsylvania	Co-Founder and Self Employed Women's Association (SEWA), Lucknow; Formerly with UNICEF

M.S. Swaminathan		Yes	Agriculture	PhD, Cambridge	Member of Parliament, Rajya Sabha; Magsaysay Award winner; Former Director of the Indian Agricultural Research Institute; Director General of Indian Council of Agricultural Research; Secretary to the Government of India, Department of Agricultural Research and Education
Ram Dayal Munda		Yes	Education, Tribal issues	PhD, Chicago	Belongs to a Scheduled Tribe; Chief president of India Confederation of Indigenous and Tribal People; Former Vice Chancellor of Ranchi University
Narendra Jadhav		Yes	Education, Economics	PhD, Indiana University	Dalit; Member, Planning Commission
Harsh Mander		Yes	Social Activist	St. Stephen's College, Delhi	Former IAS officer
Pramod Tandon		Yes	Science and technology	Post-doctoral fellow, University of California	Vice-Chancellor, Northeastern Hill University
Deep Joshi		Yes	Rural development	MIT, USA; Sloan School of Management at MIT	Founder of Pradan; Magsaysay Award winner
Madhav Gadgil		Yes	Environment	PhD, Harvard	Lecturer, Harvard; Lecturer at UC Berkeley; Visiting Professor Stanford; Faculty of Indian Institute of Science

Farah Naqvi		Yes	Gender	Post-graduate degree, Columbia University	Co-founder of Nirantar; Board Member of Oxfam India
Anu Aga		Yes	Industry, Technology	Fulbright Scholar	Director, Thermax
Mirai Chatterjee		Yes	Health	Harvard; Johns Hopkins University	Director, SEWA

Annexure VI

FoI and the WTO

An overwhelming 74 countries of the 84 that have enacted and enforced FoI laws are members of the World Trade Organization (WTO).[592] Further analysis of the mapping between the WTO members, observers (which is the stage prior to full membership), and non-members is also revealing. Of the ten countries that have FoI laws but are not members of WTO, eight are currently negotiating to become members of the WTO.[593] In other words, if one was to look at 'FoI compliant' countries in conjunction with WTO membership (including observer status), it appears that almost all countries that have FoI laws are members of or observers to the WTO. This picture is reemphasised when one looks at the set of 50 countries that are considering enacting an FoI legislation. Again, almost all countries are either members of or observers to the WTO.[594]

Table A.VI.1: Relationship between FoI legislation and WTO membership status

Country	**Status of FoI Type Law[595]**	**Year Law Came into Force[596]**	**Year of joining / status with respect to WTO[597]**
Albania	In place	1999	2000
Angola	In place	2002	1996
Antigua & Barbuda	In place	2004	1995
Argentina	In place	2003	1995
Armenia	In place	2003	2003
Australia	In place	1982	1995
Austria	In place	1987	1995
Azerbaijan	In place	2005	Observer
Bangladesh	In place	2009	1995
Belgium	In place	1994	1995
Belize	In place	1994	1995
Bosnia-Herzegovina	In place	2002	Observer
Bulgaria	In place	2000	1996

[592] The WTO currently has 153 members and 31 observers. See http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm. Accessed 10 September 2010.
[593] These are Azerbaijan, Bosnia-Herzegovina, the Cook Islands, Kazakhstan, Kosovo, Montenegro, Russia, Serbia, Tajikistan and Uzbekistan. The Cook Islands and Kosovo are the only two territories where FoI laws exist but are neither members of the WTO nor observers. The status of Kosovo as a sovereign nation remains under debate, which is why it has not been granted observer status yet. However the political leadership of Kosovo has already indicated its interest in joining the WTO. If one was to take this into account, the overlap would be almost complete, save a small island nation.
[594] Nauru, Palestine and Zambia are the three territories which are considering enacting FoI laws but do not have member or observer status in the WTO.
[595] Data from Vleugels (2010).
[596] Ibid.
[597] Data from the WTO website, http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm. Accessed 10 September 2010.

Canada	In place	1983	1995
Chile	In place	2009	1995
China	In place	2008	2001
Colombia	In place	1888	1995
Cook Islands	In place	2009	
Croatia	In place	2003	2000
Czech Republic	In place	2000	1995
Denmark	In place	1970	1995
Dominican Republic	In place	2004	1995
Ecuador	In place	2004	1996
Estonia	In place	2001	1995
Finland	In place	1951	1995
France	In place	1978	1995
Georgia	In place	2000	2000
Germany	In place	2006	1995
Greece	In place	1986	1995
Guatemala	In place	2009	1995
Honduras	In place	2006	1995
Hungary	In place	1992	1995
Iceland	In place	1997	1995
India	In place	2005	1995
Indonesia	In place	2010	1995
Ireland	In place	1998	1995
Israel	In place	1999	1995
Italy	In place	1990	1995
Jamaica	In place	2003	1995
Japan	In place	2001	1995
Jordan	In place	2007	2000
Kazakhstan	In place	1993	Observer
Kosovo	In place	2003	
Kyrgyzstan	In place	2007	1998
Latvia	In place	1998	1999
Liechtenstein	In place	2000	1995
Lithuania	In place	2000	2001
Macedonia	In place	2006	2003
Mexico	In place	2003	1995
Moldova	In place	2000	2001
Montenegro	In place	2005	Observer
Nepal	In place	2007	2004
Netherlands	In place	1978	1995
New Zealand	In place	1983	1995
Nicaragua	In place	2007	1995
Norway	In place	1970	1995
Pakistan	In place	2002	1995
Panama	In place	2002	1997
Peru	In place	2003	1995
Poland	In place	2002	1995
Portugal	In place	1993	1995

Romania	In place	2001	1995
Russia	In place	2010	Observer
Serbia	In place	2004	Observer
Slovakia	In place	2001	1995
Slovenia	In place	2003	1995
South Africa	In place	2001	1995
South Korea	In place	1998	1995
Spain	In place	1992	1995
St. Vincent & Grenadines	In place	2003	1995
Sweden	In place	1766	1995
Switzerland	In place	2006	1995
Taiwan	In place	2005	2002
Tajikistan	In place	2002	Observer
Thailand	In place	1997	1995
Trinidad & Tobago	In place	2001	1995
Turkey	In place	2004	1995
Uganda	In place	2006	1995
Ukraine	In place	1992	2008
United Kingdom	In place	2005	1995
United States	In place	1967	1995
Uruguay	In place	2009	1995
Uzbekistan	In place	1997	Observer
Zimbabwe	In place	2002	1995
Afghanistan	Under consideration		Observer
Bahrain	Under consideration		1995
Barbados	Under consideration		1995
Belarus	Under consideration		Observer
Bolivia	Under consideration		1995
Brazil	Under consideration		1995
Burkina Faso	Under consideration		1995
Cambodia	Under consideration		2004
Cameroon	Under consideration		1995
Costa Rica	Under consideration		1995
Egypt	Under consideration		1995
El Salvador	Under consideration		1995
Ethiopia	Under consideration		Observer
Fiji	Under consideration		1996
Ghana	Under consideration		1995
Guyana	Under consideration		1995
Iran	Under consideration		Observer
Iraq	Under consideration		Observer
Kenya	Under consideration		1995
Kuwait	Under consideration		1995
Lebanon	Under consideration		Observer
Lesotho	Under consideration		1995
Liberia	Under consideration		Observer
Luxembourg	Under consideration		1995
Malawi	Under consideration		1995

Malaysia	Under consideration		1995
Maldives	Under consideration		1995
Mali	Under consideration		1995
Malta	Under consideration		1995
Mongolia	Under consideration		1997
Morocco	Under consideration		1995
Mozambique	Under consideration		1995
Nauru	Under consideration		
Nigeria	Under consideration		1995
Palestine	Under consideration		
Papua New Guinea	Under consideration		1996
Paraguay	Under consideration		1995
Philippines	Under consideration		1995
Rwanda	Under consideration		1996
Senegal	Under consideration		1995
Sierra Leone	Under consideration		1995
Solomon Islands	Under consideration		1996
Sri Lanka	Under consideration		1995
St. Kitts & Nevis	Under consideration		1996
Suriname	Under consideration		1995
Tanzania	Under consideration		1995
Vanuatu	Under consideration		
Vietnam	Under consideration		2007
Yemen	Under consideration		Observer
Zambia	Under consideration		1995
Algeria	No law		Observer
Andorra	No law		Observer
Bahamas	No law		Observer
Benin	No law		1996
Bhutan	No law		1995
Botswana	No law		1995
Brunei	No law		1995
Burundi	No law		1995
Cape Verde	No law		2008
Central African Republic	No law		1995
Chad	No law		1995
Comoros	No law		Observer
Congo, Dem. Rep. of	No law		1997
Congo, Rep. of	No law		1995
Cote d'Ivoire	No law		1995
Cuba	No law		1995
Cyprus	No law		1995
Djibouti	No law		1995
Dominica	No law		1995
East Timor	No law		
Equatorial Guinea	No law		Observer
Eritrea	No law		
Gabon	No law		1995

Gambia, The	No law		1996
Grenada	No law		1996
Guinea	No law		1995
Guinea-Bissau	No law		1995
Haiti	No law		1996
Kiribati	No law		
Laos	No law		Observer
Libya	No law		Observer
Madagascar	No law		1995
Marshall Islands	No law		
Mauritania	No law		1995
Mauritius	No law		1995
Monaco	No law		
Myanmar	No law		1995
Namibia	No law		1995
Niger	No law		1996
North Korea	No law		
Oman	No law		2000
Palau	No law		
Qatar	No law		1996
Samoa	No law		Observer
San Marino	No law		
Sao Tome & Principe	No law		Observer
Saudi Arabia	No law		2005
Seychelles	No law		Observer
Singapore	No law		1995
Somalia	No law		
St. Lucia	No law		1995
Sudan	No law		Observer
Swaziland	No law		1995
Syria	No law		Observer
Togo	No law		1995
Tonga	No law		2007
Tunisia	No law		1995
Turkmenistan	No law		
Tuvalu	No law		
United Arab Emirates	No law		1996
Vatican	No law		Observer
Venezuela	No law		1995
Western Sahara	No law		
Micronesia (Federated States of)	No law		

Figure A.VI.1: Countries with FoI legislation with reference to WTO membership