

Chapter 7: Role of the jan sunwai in strengthening Panchayati Raj

“Who elected the Sarpanchs and made them powerful?
We have voted for the Sarpanchs, and we will not let them exploit us.”

(Chunni Bai, 25 December 2015)

7.1 Introduction

This chapter examines how the principles and practices of the MKSS prototype of the jan sunwai have strengthened the panchayati raj in Rajasthan. The examination is pertinent because of the synchronicity between the origin of the jan sunwai and the provision of constitutional status to the panchayati raj under the 73rd Constitutional Amendment Act. The jan sunwai dealt with the functions that were devolved to the local bodies under the Panchayati Raj Act 1993. The jan sunwai reviewed the panchayat expenditure and investigated the reasons for the delay in delivery of welfare services, the majority of which were administered by the panchayat. Thus, there was significant interaction and overlaps between the panchayat bodies that were mandated by the Constitution and the jan sunwai, which was organised by civil society.

The rationale underlying this examination is the thesis that panchayati raj institutions have thrived in various states, where civil society have been supportive of the local bodies. Examples include the Sastra Sahitya Parishad in Kerala, Action Aid in Odisha and MKSS in Rajasthan (Mathur 2013, 49).¹ It has been argued that a cooperative relationship between civil society organisations and panchayats is conducive for the democratisation of governance at the local level (Mathur 2013, 60).

This chapter demonstrates that the jan sunwai as a civil society intervention strengthened the panchayati raj system by mobilising people for engaging in public forums and thus revitalising the deliberative bodies such as the gram sabha and ward

¹ In some cases though, the non-governmental organisations have undermined the panchayati raj (Mathur 2013, 122–23).

sabha. The jan sunwai strengthened the panchayati raj by developing the political capacity of the poor, illiterate women and persons from the scheduled castes and tribes for contesting elections to local bodies and engaging with the representatives of the State at different levels.

The chapter is divided into four sections. Section one outlines the historical trajectory of the panchayati raj in India and Rajasthan. It lists the steps taken by the State to provide constitutional status to the panchayats since independence. Section two discusses the institutional weaknesses and the challenges in implementing implementation panchayati raj, with a focus on the factors that constrained people's participation. Section three describes the role of the jan sunwai in promoting people's engagement with the panchayat institutions. This is illustrated with examples of persons from weaker sections, who successfully contested panchayat elections, based on their experiences and association with the jan sunwai. The final section reviews other deliberative bodies in the villages, such as the gram sabha, ward sabha, citizen vigilance committees and nyaya panchayats, and contrasts these with the jan sunwai. This section also elaborates on how these assemblies benefitted from the principles of participation, transparency and accountability of the jan sunwai.

7.2 The evolution, structure and a critique of the panchayati raj in Rajasthan

The panchayati raj institutions were conceptualised as units of village self-government. Article 243G, Part IX of the Constitution entrusted these institutions with the “preparation of plans for economic development and social justice.” The current system of panchayati raj derived its sanctity from Article 40 in the DPSP (Part IV of the Constitution), which states that:

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.

The 73rd Constitutional Amendment promulgated a uniform three-tier panchayati raj and directed the state governments to devolve power and authority to the panchayats to enable them to perform their functions. Much before the

constitutional provisions, the idea of governance through panchayat has been a part of the Indian village polity for a long time, dating back to the Ancient period. Local government existed even in the states that were under the rule of a king. The king often supported the village councils for the ease of governance and collection of taxes (Nadkarni *et al.* 2018, 97). The *Rig Veda*, *Atharva Veda*, *Upanishads* and the *Mahabharata* provide instances of local institutions called as *ganas* (village republics). Similarly, the *Jatakas* described the existence and form of *ganas* that functioned as mini republics. Such small republics were in abundance and were often converted into kingdoms, when spread over a large territory (Altekar 1984, 115–25).

Village councils and panchayats traditionally functioned as judicial tribunals, where the headmen or a bench of five arbitrated between the disputing factions, suggested reconciliation or penalised the parties at fault. The term ‘panchayat’ means a jury of five (panch = five). The panchayat decided disputes “in accordance with the custom or usage of the locality, caste, trade or family” (Baxi and Galanter 1979, 344). The rationale behind the number five could be explained as ensuring the plurality of opinion and convenience in constituting the group. In some places, the decisions related to the development activities were also taken by the panchayat and people together, who assembled in the village square to discuss the agenda.

In addition to the panchayats, there were three other kinds of popular forums for addressing collective problems and resolving disputes among people: *kul* (clan), *shreni* (guild) and *sabha* (village assembly) (Altekar 1984, 251–54). The sabha was a people’s assembly. Sabha was a generic term that denoted a place or space, where the king held counsel with the council of ministers, or where the village headman/headwoman conducted deliberations. The sabha played an advisory role in the political and administrative matters. Sometimes, judicial matters or disputes were also brought before the sabha. In addition to the sabha, instances of *Samitis* (committees) also existed. A cluster of adjoining villages formed a samiti. Compared to the sabha, which was often an assembly of the learned and wealthy men, the samiti was a popular and representative body (Sharma 2001, 105–17).

The Medieval period witnessed the consolidation of kingdoms, centralisation of power and emergence of bureaucratic organisations. During this period, the panchayats lost their representative character and the post of sarpanch became hereditary. These developments, however, did not stunt the development of the local institutions entirely.

During the British Raj, local bodies were entrusted with the maintenance of law and order and collection of taxes in the villages and the cities. The local institutions, however, lacked representation and participation (Nadkarni *et al.* 2018, 117-130). These institutions functioned as bureaucratic structures with nominated members, several of whom were British. Gradually, the Indian citizens were provided greater representation in the local bodies. Ironically, the British claimed that the purpose of local government was to school Indians in democracy and prepare them for self-rule. The nationalist leaders welcomed the reforms for the revitalisation of the local government as it provided them with an opening for engaging with and protesting against the arbitrary policies of the British. The leaders contested elections to the municipal boards and provincial councils and encouraged the village assemblies as vehicles for spreading the freedom movement among people at the grassroots.

7.2.1 Antecedents of panchayati raj in Rajasthan prior to 1946

The roots of panchayati raj in Rajasthan were deep and diverse. Village assemblies, merchant guilds, and informal community corporations existed in small pockets and functioned in the villages. The princely states of Rajasthan, though independent from direct British control, were, however, encouraged for establishing panchayats and advisory boards.² The State of Bikaner took the lead with the Bikaner (Village Panchayat Act) 1928. The State of Jodhpur under Maharaja Sahib Bahadur gave

² The Montague-Chelmsford reforms and the Government of India Act 1919 recommended transferring the provincial functions to the local government and providing it with sufficient resources for discharging its functions. Over the next decade, legislations setting up village panchayats were enacted in different states and provinces as well as in the princely states.

assent to the Marwar Panchayat Act 1938 through the Council Resolution 1 dated 16 November 1938. The panchayat and advisory boards were set up for “associating the subjects of the State with administrative problems in an increasing degree, and to afford them opportunities of receiving training in the working of democratic institutions” (Sinha 1938). The panchayats were set up for every *jagir* (estate) with a population of more than 1000. The estates with less than 1000 persons could submit a request for setting up a panchayat in their area. However, the head of the panchayat (the sarpanch) was not elected. The *jagirdar* (estate owner) or a person appointed by the *jagirdar* would be the sarpanch. According to Björkman and Chaturvedi, the *jagirdars* contributed to development of the estates by providing “basic services such as security, law and order, support for religious institutions, and to an extent, education and welfare” (Björkman and Chaturvedi 1994, 142).

By 1947, “seven princely states of Rajasthan had already passed resolutions [that accorded] statutory recognition to the panchayats” (Joshi and Sharma 2002, 249). Despite this, Rajasthan was relatively less accustomed to rule by provincial governments and municipal boards. The modest extent of local government in the princely states was dominated by the rulers and the feudal lords.³ This left the bulk of the population, primarily the cultivators, with “no control over their local government” (Björkman and Chaturvedi 1994, 140). In such a situation, the introduction of panchayati raj in the 1950s was seen as a revolutionary idea that promised more systematic efforts for meeting development needs of the people, thus generating enthusiasm and eagerness among people.

7.2.2 Constituent Assembly Debates on panchayati raj

The Constituent Assembly debates on the inclusion of local self-government were underscored by the tussle between Gandhi’s idea of *Gram Swaraj* and Ambedkar’s cautionary disdain of village society marred by feudalism and caste inequalities.

³ Few uprisings against the local landowners also surfaced in different parts of the State. However, these social struggles were sporadic and brief, primarily because of the presence of numerous caste-identities and the absence of a numerically dominant caste.

Gandhi proposed the structure of Indian federation that resembled concentric circles, each dependent on the other and the outermost circle drawing its sanctity from the innermost circle. Gandhi's gram swaraj bore semblances to the villages as mini-republics of the earlier times, which were self-sufficient and interdependent on each other (Gandhi 1962, 79–83). His idea of a participatory democracy was based on the principles of equality, cooperation, and community service, where “everybody is responsible for his immediate environment and all are responsible for society” (Gandhi 1962, 23) The concern for social justice and morality would act as a cohesive force in keeping the community together.

Ambedkar, on the other hand, strongly advocated a parliamentary form of democracy, where individuals, rather than the villages, were taken as the units of democracy. On many occasions during the national movement, Ambedkar criticised what he referred to as Gandhi's *romantic* view of the village life. As the chairperson Constitution Drafting Committee, Ambedkar introduced the Draft Constitution in the Constituent Assembly on 04 November 1948. In his introductory speech, Ambedkar defended the exclusion of panchayats from the draft and describes the villages as “a sink of localism, a den of ignorance, narrow-mindedness and communalism” (*Constituent Assembly of India Debates* 1948a).

While Gandhi advocated reviving the village as the basis of the polity, Ambedkar sought to first secure the equal rights of the citizens and provide safeguards against discrimination and victimisation. A set of constitutional and legal safeguards were introduced for the marginalised sections of the society. These included the reservation for the members of the scheduled castes and scheduled tribes (SC/ST), fair minimum and equal wages for both men and women provisions for employment guarantees, assurance for universal primary education and so on, which were included in the Directive Principles of State Policy.⁴ The provision for

⁴ The Directive Principles of State Policy, according to Ambedkar, served as “Instrument of Instruction” to the executive and the legislature. The executive and the legislature were expected to act in light of the

panchayati raj, too, was inserted in the Directive Principles of State Policy, after an amendment introduced by Shri K. Santhanam was accepted unequivocally by the members of the Constituent Assembly, including Ambedkar, on 22 November 1948 (*Constituent Assembly of India Debates* 1948b).

The panchayats were institutionalised in a phase-wise manner over five decades after independence. The goal was to create a participatory polity with decentralised governance. The emerging movement towards panchayati raj was not without its moments of espousal and resistance, where select states displayed one-upmanship in implementing the panchayati raj with gusto and investing it with significant powers, resources and responsibilities. In fact, several states had passed legislations setting-up panchayat bodies between 1946 and 1950 even before the commencement of the Constitution in 1949.⁵

Local government was listed as a State Subject at Entry 5 in Schedule VII of the Constitution.⁶ Following this, several states passed legislation for setting up panchayats and municipal boards. The Rajasthan Panchayat Act 1953 was enacted after the first assembly election in the state in 1952.

7.2.3 Two generations of panchayati raj between 1950 and 1992

This section describes the rollout of panchayati raj in Rajasthan between 1950 and 1992, that is after the Constitution came into force and before the panchayati raj was accorded constitutional status in 1993. The section highlights the characteristics of the panchayat bodies that were set up under different legislations as well as the

provisions of the Directive Principles while discharging their functions (*Constituent Assembly of India Debates* 1948a).

⁵ For example, the Assam Rural Panchayat Act 1948, Bihar Panchayat Act 1947 and United Provinces Panchayat Raj Act 1947.

⁶ The exact entry is – “Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities and other local authorities for the purpose of local self- government or village administration.” (Schedule VII, Constitution of India 1950).

“Schedules I to XII - Constitution of India” (New Delhi: Government of India), accessed 08 February 2019 https://www.india.gov.in/sites/upload_files/npi/files/coi-eng-schedules_1-12.pdf.

factors that hindered the growth of panchayati raj. Between 1950 and 1993, several government committees and numerous study teams at the centre as well as the level of the states assessed the performance of panchayati raj and made recommendations for ensuring its democratic character.⁷ The section highlights the recommendations of select committees that were set up for reviewing the functioning of the panchayats. The section argues that the principle of self-government, envisaged by these committees, was not realised and remained only on paper.

On 02 October 2009, Rajasthan marked the semi-centennial of panchayati raj with week-long festivities in Nagaur – the district where it all began. In 1959, Jawaharlal Nehru inaugurated the three-tier system of panchayati raj in Bagdari village of Nagaur, the constituency of then cabinet minister for Cooperation and Panchayati Raj, Surendra Kumar Dey. Earlier, the Rajasthan Panchayat Act 1953 provided for village panchayats with elected representatives as their head. It defined the rules for the composition of panchayats, election, powers, functions and duties of the panchayat members.

The Rajasthan Panchayat Samiti and Zila Parishad Act 1959 incorporated the three-tier structure for democratic decentralisation as recommended by the Balwantray Mehta Committee (1957). Administrative blocks were created for every district throughout the state and panchayat samitis were constituted for each block. Zila parishads were formed at the district level. The panchayat samiti and zila parishad members were elected indirectly – the elected chairpersons of panchayats formed the panchayat samiti and the chairpersons of panchayat samitis formed the zila parishad. Two women and a person, each, from the scheduled castes and the scheduled tribes were co-opted to the panchayati samiti and zila parishad, along with the Members of the Parliament and Members of the Legislative Assembly, whose

⁷ These included Balwantray Mehta Committee (1957), Santhanam Committee (1963), Ashok Mehta Committee (1978), GVK Rao Committee (1985), L.M. Singhvi Committee (1986), P.K. Thungon Committee (1988) and V.N. Gadgil Committee (1988).

constituencies were located within the block and the district circle (Purohit 1960, 2–40).

Under the Rajasthan Panchayat Samiti and Zila Parishad Act 1959, the panchayat samiti was the central planning body, while the panchayat served as the implementing agency. The zila parishad performed advisory functions. An assembly of adult residents in the village was empowered for reviewing the panchayat proposals and implementation of the works. A democratic form of government was, thus introduced through the panchayati raj institutions in Rajasthan.

Mathur *et al.* have argued that despite the “handicaps associated with the feudal heritage” in Rajasthan, the absence of competing structures of local government at the time of independence made it easier for the state to set up the panchayat framework. (Mathur *et al.* 1966, 2). However, Mathur *et al.* have also highlighted the initial passivity of the people and “lack of interest and participation” of the panchayat members (other than the sarpanch), and attributed the passivity to decades of living under “authoritarian rule, which simply made them to obey and follow its directives” (Mathur *et al.* 1966, 76). The ‘Sarpanch Raj’ became a common moniker for the panchayati raj and the panchayats became a means for feudalists for continuing their dominance over the village. The leaders at various levels were “primarily interested in retaining and accumulating power and in distributing patronage” (Mathur *et al.* 1966, 20).

The period up to 1964 was regarded as the golden period of panchayati raj in the state, with panchayat samiti and zila parishad members attracting more significance and influence than the MLAs and the bureaucrats. However, the administration remained top-down in its approach with the gram panchayats working as an agency of the state government. The Sadiq Ali Committee (1964) in Rajasthan re-emphasised the democratic goals of the panchayati raj and argued that the panchayat must not function as the agency of the state government. Instead, the elected representatives must be empowered for defining policies and issuing directives for the implementation of the policies. These policies must be

implemented by the public officers (Joshi and Sharma 2002, 250–51). However, the recommendations of the committee were not implemented.

The period after 1965 witnessed a decline of decentralisation efforts through panchayats. Parallel agencies such as Small Farmers Development Agencies, District Rural Development Agencies, Desert Development and Drought Prone Arid Prone Programme, Rural Works Programme, Marginal Farmers and Agricultural Labourers Agency and Food for Work Programme were set up for channelising funds directly from the state and central government towards implementing development programmes at the grassroots, by-passing the panchayats. The day-to-day decisions were taken by the line functionaries of the state departments. Consequently, the lack of resources and authority weakened the influence of the panchayats (Joshi and Sharma 2002, 253–55). It was “Adhikari Raj, Not Panchayati Raj” – Rule of Bureaucracy, not of the people (Björkman and Chaturvedi 1994, 137). Later, the Girdharilal Vyas Committee (1973) recommended that the panchayat samiti should be the key agency for implementing the development programmes.

In the late 1970s, the focus of decentralisation shifted towards achieving the economic and development objectives set out under the Sixth Plan and the subsequent five-year plans. The shift in focus was reflected in the recommendations of the Ashok Mehta Committee (1978), which recommended a two-tier decentralisation system – zila parishad at the district and block level Mandal panchayats. The committee recognised the districts as the most viable unit for decentralised planning implementation functions being performed by the mandal panchayats. The committee acknowledged the conflict between the elected and the unelected officials (officers of the State or the bureaucrats) and advised that the unelected officials must adapt to goals of local self-government – “the administration must drape well with the body politic and fit its contours” (Mehta 1978). At the same time, however, the committee devolved greater power to the district collector.

The committee also recommended greater devolution of functions and funds from the state government to the panchayat institutions. Moreover, the committee advocated that “some provision in the Constitution [for panchayat bodies] deserves careful consideration of the Government of India” (Mehta 1978). Lastly, it emphasised the need for a reservation to the weaker sections in proportion to their population.

The 1980s witnessed numerous schemes sponsored by the central government for poverty-alleviation and for the development of the women and the marginalised. These schemes were suggested to be implemented through the local bodies, which were most suitably placed for achieving people’s participation in the planning and delivery of these schemes. This was partly in view of the principles of subsidiarity, which suggested that any task that can be done at the local level should not be moved to a higher level. The emphasis on panchayati raj as the vehicle for rural development resulted in the revitalisation of local bodies. At the same time, the instrumental view of the panchayats as vehicles for service delivery diminished the status of panchayats as institutions of self-government with decision-making powers, beyond the delivery of public services.

Despite the renewed attempts at revitalising the panchayat bodies, several factors impeded the growth of the panchayats as well as the participation of the people. Elections to the local bodies were irregular, sometimes not conducted for years. In Rajasthan, the elections were conducted in the year 1960, 1965, 1978, 1981 and 1988. The same set of sarpanch and ward panch continued for two to three consecutive terms, giving rise to the phrase *janm-jat sarpanch* (sarpanch since birth). Moreover, in 1978 and again in 1991, no panchayat elections were conducted and the secretary, block officer and district collector administered the gram panchayat, panchayat samiti and zila parishad respectively. There were no elected representatives.

Panchayat finances posed another set of challenges. Grants-in-aid from the state government, allocation of funds under development programmes and limited

taxation powers were the main sources of panchayat funds. Earlier, the Balwantray Mehta Committee had acknowledged that the financial resources were crucial for the functioning of the panchayats. In 1963, the K. Santhanam Committee on Panchayat Finances recommended that limited revenue-raising powers should be devolved to the panchayats and that State Panchayati Raj Finance Corporations should be set up for assessing the finances of panchayat and extending loans to the panchayats for entrepreneurial initiatives. The Ashok Mehta Committee (1978), however, mooted the suggestion of State Finance Commissions, arguing that the greater need is “to achieve an equitable distribution of plan allocations.” Similarly, the panchayat finance corporations were considered unnecessary because their loan function could be discharged by other financial institutions. Later, the implementation of poverty alleviation programmes through parallel agencies diverted the flow of funds, leaving the panchayats with little power and resources.

The problem of irregular elections, transfer of funds and functions from the state to the local bodies was suggested to be resolved by including provisions for the panchayats in the Constitution. In 1986, the L.M. Singhvi committee recommended granting constitutional status to the panchayati raj, including the gram sabha, and recognising them as self-governing institutions. Later, the P.K. Thungon Committee (1988) and Gadgil Committee (1988) also recommended constitutional status panchayati raj. Subsequently, the 64th Amendment Bill prepared on the lines of the committee recommendations was presented before the Lok Sabha in 1989. The bill was defeated in the Rajya Sabha because of opposition by the states. They “felt that the Centre was intervening directly at the local level” (Mathur 2013, 34) and promoting centralisation by introducing a uniform structure for the local bodies. Eventually, the states agreed for different reasons. Moreover, as part of economic reforms of 1991, more powers were granted to the states for “encouraging new industries and even attracting foreign capital” (Nadkarni *et al.* 2018, 156). Devolution of some powers, functions and funds to the local bodies, as a bargain, thus became agreeable to them. Subsequently, the 73rd Amendment Bill was introduced in 1991,

was passed in the Lok Sabha and the Rajya Sabha in 1992 and became operative in 1993. Panchayati Raj was thus accorded constitutional status.

7.2.4 73rd Constitutional Amendment and after

This section examines certain nuances of the Panchayati Raj Act 1993, which was enacted after the 73rd Constitutional Amendment (1992), which recognised the panchayat institutions as the “third tier in the governance structure in the country.” The union and the state governments formed the first and the second tiers respectively.

The movement towards a strong and participatory panchayati raj was not dampened by the suspicion over the effects of nepotism and caste identities in the functioning of the local government. Despite its less than expected performance and the “age-old economic and social disabilities” that existed at the grassroots, the “panchayati raj has made rural masses more articulated and more conscious of their rights and the significance of their vote” (Bhargava 1983, 10). The results of continuous experimentation, evaluation and reconfiguration of the mechanism for grassroots democracy in the country were realised with the creation of a robust panchayati raj and its insertion as Part IX in the Constitution [article 243 – 243O]. The key features of the panchayati raj act included (Nadkarni *et al.* 2018, 171; Mathur 2013; Part IX, Constitution of India)

- i. Constitutional status to the panchayati raj institutions
- ii. Uniform three-tier structure with fixed-term
- iii. Setting up of independent State Election Commission to conduct regular elections in a fair and transparent manner
- iv. Direct elections to all the elected posts at different levels of PRIs
- v. Gram Sabha (assembly of citizen voters) as the fundamental unit of panchayati Raj. It is the main deliberative and decision-making body in the village panchayat, with the authority to hold panchayat accountable

- vi. Reservation of one-third of seats across all the levels and posts (including the chairperson) for members of scheduled castes and scheduled tribes in proportion to their population. Out of the total seats reserved, one-third had to be necessarily reserved for women
- vii. Reservation of at least one-third of total seats across all the levels for women. One-third of chairperson seats at all levels will also be reserved for women
- viii. Constitution of State Finance Commission after every five years for reviewing the financial status of the local government and making recommendations for the disbursement of funds
- ix. The Eleventh Schedule was added to the constitution that laid down twenty-nine functions to be devolved by the states to the local bodies

These features safeguarded the panchayati raj against the waning enthusiasm of the state governments in effecting the devolution of power to the local bodies. These features were aimed at securing the participation of people in different aspects of local government, including the election to the post of chairpersons. The mandatory gram sabhas and reservation for women and weaker sections was expected to harness active citizenship and leadership qualities of the people, thus enabling the local bodies to function as units of self-government.

Every state government formulated its own panchayati raj legislation in accordance with the provisions of Part IX of the Constitution. The Rajasthan Panchayati Raj Act was passed in April 1994. The implementation of the panchayati raj act differed from one state to another and even from one district or panchayat samiti to another. The performance of local governments and the participation of people depended on several factors, including the commitment of the state government for devolution of powers, a diligent bureaucracy empathetic towards people's welfare and mobilisations activities by the civil society groups in a region. The next section examines the weaknesses of the panchayati raj and the challenges to the participation of the people in local bodies.

7.2.5 Challenges and weaknesses of panchayati raj

Panchayati raj era, post the 73rd amendment, faced a new set of challenges, in addition to the ones that riddled the functioning of panchayats from 1950–1993. These challenges can be categorised as institutional and socio-economic in nature. While the institutional challenges stemmed from the panchayat framework design, the socio-economic challenges were the ones encountered on the ground and varied in intensity across regions.

The institutional challenges that impeded the functioning of the panchayats were: concentration of power in the panchayati samiti and the district collector, centralisation of revenue-raising powers with the state government, dependence of state election commission on the state government for rotation of reserved seats and inefficiency of the District Planning Committees, which diluted the objective of people's participation in planning (Mathur 2013, 16–52).

As explained earlier, the panchayats had little administrative autonomy. The laws related to “land acquisition, forest management and watershed development,” also conflicted with the powers of the panchayat. Even the line-functionaries for different schemes related to health, education, nutrition and rural development reported to their respective departments at the block or district level. As a result, the people or the panchayats had “little control over the functionaries who [had] the responsibility of implementing schemes formulated by the panchayats within the subjects allotted to them” (Mathur 2013, xxv). Meanwhile, the panchayat matters continued to be dominated by the sarpanch, despite the provisions for mandatory gram sabhas, quorum and representation of women and the persons from scheduled castes and the scheduled tribes.

Transparency and accountability remained low on priority in the legislative design. The secretary was the custodian of records. The panchayat members, chairperson and the officers at block and district level could obtain information and access records of a gram panchayat. However, the people were prevented from

accessing the panchayat information. Such absence of transparency obstructed people's participation. The Rajasthan Panchayat and Nyay Panchayat (General) Rules 1961 had included provisions for inspection of records and grants of copies to the village residents in a panchayat circle. However, there was little evidence of their utilisation by the village residents. Moreover, access to information was subject to the discretion of the sarpanch.

The jan sunwai mobilised the people around the issue of transparency and encouraged them for demanding information from the panchayats. Sharing information at the jan sunwai revealed instances of lack of diligence and graft/collusion by the secretary, teachers, junior engineers and health workers in the delivery of welfare good and services. Due to the people's demand for transparency in local bodies, rules pertaining to the inspection of records and provision of photocopies were inserted in sections 321 to 326 of the Rajasthan Panchayati Raj Rules, 1996 (Mishra 2003, 20–32).

The next section describes the socio-economic challenges to participation such as illiteracy, inequality, traditional caste assemblies, patriarchal practices, and gender and caste-based divisions. These constituted the “governance environment within which elected representatives work” and determined the success of the reservation policy (Mathur 2013, 86–87).

7.2.6 Representation versus participation

Reservation for the women and SC and ST was aimed at facilitating their representation in the panchayati raj institutions. Nineteen states, including Bihar and Rajasthan, have expanded the reservation for women from the mandatory 33% to 50% (Ministry of Panchayati Raj 2018). As of November 2016, women occupied 1,345,990 out of 2,911,961 elected posts, almost 46%. The numbers were still better for Rajasthan, where elected women representatives accounted for 58% share (70,531 out of 121,008 representatives) (Ministry of Statistics & Programme Implementation 2016). In Rajasthan, the quorum for gram sabhas and ward sabhas

also required 10% of the members to be women and from SC/ST communities. However, representation did not always convert into participation. The disparity in sex ratio and human development indicators impeded women's access to political and administrative decision-making. Similarly, the dominant castes prevented the SC/ST communities from participating in the panchayats. These limitations on the people's participation are examined in the next section.

7.2.6.1 Women

In a patriarchal society, like Rajasthan, the women were treated as subordinate to men, especially in terms of access to material resources and decision-making powers. Gender inequality in health, education and other development indices were more acute in rural areas. This adversely impacted their ability for participation. Economic and socio-cultural also constrained women's participation. Factors such as the use of the veil, dominance of local elites, low rates of literacy among women, financial dependence on male members of the family (father, brother, husband and son) and domestic and child-bearing responsibilities amounted to low participation of women in the public sphere. Contesting elections, speaking in the gram sabha and discussing policy and politics was considered a prerogative of the men. A popular saying in Rajasthan was, "the power lies with the *pugri* (turbans, a symbol of patriarchy) rather than with the *choti* (braid)" (Sharma 2005, 194).

The implementation of reservation policy for women, including the women from the SC and ST communities suffered from several fallacies. First, the two-child norm made women with more than two children ineligible for contesting elections, "especially when most of them do not have any control over reproductive decisions" (Mathur 2013, 85). Second, proxy rule by male family members (husband, father or father-in-law) or men from the dominant castes in the village was widespread in the initial years of panchayati raj, and which almost led to disillusionment with the policy of reservations for women (Mathur 2013, 86). The term 'sarpanch pati' (chairperson's husband) became a common moniker for surrogate representation. Third, the provisions for co-option, nomination and unanimous election also

disrupted the reservation policy from achieving its intended objective. This was evident from the account of Premi Devi, former ward panch from a village in Bhim panchayat, who described her election as follows:

I did not contest any election. People from three villages, elderly respected men, collected in the village square. I had gone there with a lunch box for my brother-in-law. They offered me, sweets. Then the sarpanch came and took the box. Then the people came and garlanded me. I did not understand anything. I tried removing the garland. The men told me, ‘wouldn’t you respect and honour our word? We have elected you as ward panch.’ I said I do not know anything. Then everyone went to the panchayat office, and I sat in a closed room. I opened the door a little to see what was going on. I was scared. Then the policeman came and told me that I have won.⁸

She added that her brother-in-law handled everything on her behalf. Similar was the case with some of the women representatives and chairpersons of the panchayats, where the jan sunwai were held between 1994–2002. For instance, the Kookarkheda sarpanch Basanta Devi was most likely a proxy for her father-in-law, who wielded power and influence in the community.

The women representatives faced resistance from the dominant castes in the village, officers at the block and district levels and the male members of the panchayat samiti and zila parishad. The panchayat members questioned the “women’s capabilities and effectiveness due to illiteracy, ignorance of procedures, rules, regulations, etc. and experience in dealing with public affairs” (Sharma 2005, 192). They used no-confidence motions rampantly for unseating “women, dalits, and tribal elected on reserved seats (Mathur 2013, 85). The rotation of seats hindered re-election of a woman to the same constituency on a reserved seat. This proved unfavourable for the women representatives, especially for those from the disadvantaged groups, who had taken the initial steps towards understanding the technicalities of governance.

Women representatives were also subjected to, “insulting behaviour or abuse by upper caste male members,” which deterred them from participating actively in

⁸ Interview with Premi Devi, 24 April, 2017, Bhim, Rajsamand.

the panchayat (Institute of Rural Management Anand 2008, 109). Dalit women suffered gender and caste-based oppression, including physical violence. According to Jayal, the rampant cases of violence and coercion were more serious deterrents to exercising citizenship in comparison to the disenfranchisement that was caused due to illiteracy or patriarchal values (Jayal 2006, 21–23; Mathur 2013, 91).

7.2.6.2 Scheduled castes

While the participation of women suffered due to socio-cultural challenges that were rooted in the patriarchal practices, in the case of the scheduled castes and the scheduled tribes, “casteist biases, customary exclusions, feudal relationships and poor economic situation combined to make them proxies for upper caste men on whom they are dependent” (Institute of Rural Management Anand 2008, 109). Majority of the scheduled castes were landless or near landless. The landless and marginal landholders constituted 82.83% of rural households. According to the Land and Livestock Holding report for 2013, the share of landholding for scheduled castes was the lowest (9.23%) with the average area of land per household at 0.272 hectares (Ministry of Statistics & Programme Implementation 2014). Moreover, according to the 2014 estimates of the erstwhile Planning Commission, more number of SC and ST were below poverty line – the poverty ratio of SC at 31.5% and ST at 45.3% was higher than the national estimate of 25.7% (Ministry of Tribal Affairs, GOI 2014). Poverty and landlessness adversely impacted the ability of the persons from the SC&ST communities to participate in the local bodies and made them vulnerable to exploitation by the members of the dominant castes. The dalits, caught in a cyclical web of social exclusion and economic inequality, were unable to participate meaningfully in the decision-making process. Livelihood concerns took precedence over the matters of governance. In addition, illiteracy or low levels of education, inadequate information, lack of political affiliation and associational membership, and a dearth of experience constrained their active participation.

Social and geographical segregation of the dalits forced them to the edge of the village, quite literally. The village resources like hand-pumps, wells, canals,

community buildings, grazing grounds and other community commons were monopolised by the elite and upper caste households. Dalits were also debarred from public places, where most of the meetings and discussions took place. Pressure tactics including violent measures were used for preventing dalit candidates from filing the panchayat nomination or dalit households from voting in the panchayat elections. The reservation policy was exploited by the upper castes for retaining their hold on the panchayat. Examples of Pyarchand Khatik and Bhuri Bai, the sarpanchs of Umarwas and Janawad respectively, demonstrated the ways in which the dalit sarpanchs were manipulated and coerced into stamping and signing blank papers.

Over the years, aided by the economic growth and statutory guarantees for education and employment, the dalits have asserted their right for participating and contesting elections to the local bodies. The panchayati raj promised a way to overturn the dominance of the elite and powerful classes. To counter such an outcome, the elite have repeatedly resorted to harassment and violence against the dalit candidates and elected representatives. George Mathew highlighted how “panchayat-related caste violence continues unabated” and the absence of “supportive redressal mechanism” has worsened the situation. He added that the dalits were “being subjected to violence with the connivance of the state administration and the local police,” which made it more difficult for the victims to seek redressal and justice (Mathew 2013). In 2017, Jaysukh Madhad, a dalit sarpanch of Amreli village in Gujarat was killed for not withdrawing his panchayat nomination (Press Trust of India 2017). Similarly, in 2015, Datta Haribhau Kamble, the 48-year-old dalit sarpanch of Umra village in Maharashtra was attacked by upper-caste Marathas. He had objected to diversion of water meant for cattle to the fields of the Kolhe community (Pawar 2015). In view of such incidents, various studies have suggested that along with the measures for achieving socio-economic equality and

greater access to education and information, protection against violence is also necessary for the reservation policy to bear results.⁹

7.2.6.3 Scheduled tribes

The Panchayat Extension to Scheduled Areas (PESA) Act 1996 extended the coverage of local self-government to areas in the Fifth Schedule of the Constitution while upholding the rights of the tribal people over their natural resources.¹⁰ Under PESA, the states were required to frame their own legislations and rules, while ensuring that such legislation and rules were “in consonance with the customary law, social and religious practices, and traditional management practices of community resources” (*The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996*).

Under PESA, not less than 50% of the panchayat seats and 100% seats for chairpersons at all the levels were reserved for the scheduled tribes [PESA Act 1996, section 4(g)]. Gram sabha was vested with decision-making powers over acquisition of land for commercial purposes, grant of licenses and lease for mining, ownership of minor forest produce, ordering prohibition in the region, management of village markets and control over formulating plans for local development, including the tribal-sub plans [PESA Act 1996, section 4(i-n)].

PESA recognised the traditions, customs and rights of the tribal population, and provided a framework through which they could manage their resources and preserve their habitat. The implementation of the Act, however, has been sluggish and has “resulted in confusion, loss of confidence and a state of confrontation in

⁹ Studies have observed that greater political representation facilitated by institutional reservation has contributed to greater opportunities for education, employment and other social securities. Political participation and economic development are thus, mutually related, and must go hand-in-hand.

¹⁰ The Vth Schedule of the Constitution, Art.244 (1) defines scheduled areas as “such areas as the President may by order declare to be scheduled areas,” excluding the states of Assam, Meghalaya, Tripura and Mizoram. The criteria for declaring an area as a scheduled area include preponderance of tribal population, compactness and reasonable size of the area, a viable administrative entity and economic backwardness of the area. Currently, Andhra Pradesh, Chattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan have areas marked as scheduled areas. As per Census 2011, scheduled tribe constituted 70.43% of the total population of the scheduled areas (Ministry of Tribal Affairs - GOI 2017).

many areas” (Nadkarni *et al.* 2018, 236). Large-scale projects in the tribal regions routinely by-pass the mandatory public hearings for environmental clearance. Inadequate transfer of funds to the local bodies, weak functioning of gram sabha and inactivity of the administration to enforce the PESA rules have also made the act ineffective.

Thus, despite the reservation of seats for the women and the persons from the scheduled castes and scheduled tribes, their participation has remained marginal or below the optimum levels. They faced multiple challenges in participating in panchayats and gram sabha. Some of these challenges were overcome with the help of civil society organisations. The civil society organisations also collaborated with the State in implementing the panchayati raj by assisting with the delivery of welfare services as well as developing the political capacity of the people for participation. The relationship between civil society and the panchayats is examined in the next section.

7.3 Panchayati Raj and civil society

The relationship between civil society and local bodies oscillated between cooperation and contestation. Various studies have observed that civil society interventions in different domains have also fostered people’s greater participation in the panchayat activities (Sharma 2005; Institute of Rural Management Anand 2008; Mathur 2013; Sahoo 2009). A number of NGOs in Rajasthan, such as Aastha, Seva Mandir and Sankalp, were engaged “in forms of local institution building” and conducted training and workshops for newly elected representatives, especially women and those from the scheduled castes and the scheduled tribes (Kruks-Wisner 2013, 225). According to Mathur, “wherever NGOs have worked for the capacity-building of panchayats, they show better results” (Mathur 2013, 59–60). The NGOs take on innovative capacity-building efforts for elected representatives for “improving their understanding of the legitimate power they have acquired through an electoral process” (Mathur 2013, 49).

Several small and medium social organisations performed awareness generation activities in the field of health, education, better agricultural practices and other development activities at the grassroots. The Association of Voluntary Agencies for Rural Development (AVARD) set up in 1958 was a network of several NGOs for synergising their activities. The AVARD carried out a periodic assessment of different aspects of panchayati raj implementation and made recommendations to the government based on the findings. Several government committees have also emphasised the role of voluntary agencies for assisting the panchayats. The K. Santhanam committee (1963) on prevention of corruption invited voluntary public organisations for cooperating with the government in combating corruption (Santhanam 1963, sec. 11.9). However, until the jan sunwai and the struggle for RTI, corruption was understood primarily in terms of being an administrative evil, to be resolved by the government and the legal system. Hence, there were few instances of voluntary organisations rallying against the leakage of funds. The Ashok Mehta committee highlighted the potential of voluntary agencies and women's organisations "in mobilising people's support for panchayati raj." Their involvement could assist the panchayat institutions in the planning process and formulation of projects, and "create strong public opinion in support of measures aimed at social change" (Mehta 1978).

The shift in the focus of the State towards poverty alleviation and development of women and the marginalised communities also translated into a greater emphasis on the role of the voluntary sector in the delivery of welfare programmes. Funds from government departments and international donor organisations flowed to the non-governmental organisations for carrying out developmental work with a participatory approach. Planning Commission of India and other nodal agencies often by-passed the local bodies and collaborated regularly with those agencies that had a grasp on rural realities, like for example the **Social Work and Research Centre (SWRC)** and Rural Education Development Society in Rajasthan. The ensuing conflict over power and resources between the panchayats

and the voluntary agencies generated considerable hostility. NGOs were associated with performance and efficiency, while the panchayats were seen as riddled with factionalism and red tape.

Bunker Roy of SWRC had criticised the Constitution (64th Amendment Bill 1989) for constitutionalising the panchayati raj in rather strong words. According to him, the panchayati raj empowered the powerful. He argued that in a democratic system, “the sarpanch and members should be accountable to the village community-not to the Government or the governor” (Roy 1989). He also stressed that the panchayat should “display the list of registered voters in the gram panchayat and to post a list, for public scrutiny, of the poorest of the poor for whom anti-poverty assistance is intended” (Roy 1989).¹¹

Post-1975, a number of people’s movements also originated in different parts of India. These movements were led by people’s collectives and civil society organisations that focused on the rights of individual and communities, rather than service delivery functions. The people’s movements focused on environmental rights, rights of the minorities and their access to social and economic justice and institutional reforms for ensuring transparency and accountability. In Rajasthan, the people’s movements converged around the social and economic rights of the people, rather than identity-based on caste, religion, regional, linguistic or nationalist identity. The movements had far-reaching effects on the rights and welfare of the citizens, which were channelled at the base through the panchayat institutions (Kruks-Wisner 2018, 72).

¹¹ Bunker Roy has written on the shortcomings of the panchayati raj and the role of voluntary sector in rural development. In a rebuttal to the Roy’s views on panchayats in 1996, Mani Shankar Aiyar, a former Member of Parliament, wrote that Roy belonged to the “fashionable space” of civil society that boasts its knowledge of rural realities. According to Aiyar, the civil society had hitherto considered the villages as their ‘fiefdom,’ and thus, were unwilling to share the power with the panchayats. He concluded by saying that the panchayats enjoyed constitutional mandate as the vehicles of rural empowerment and the civil society must not adapt to the “new rural realities” (Aiyar 1996).

Interestingly, the constitutional status to the panchayati raj was granted “mainly at the initiative of the top political leadership” (Nadkarni *et al.* 156). The civil society comprising the Gandhians, political thinkers, academic researchers and voluntary organisations wrote extensively on the significance of a decentralised village polity for achieving genuine democracy. However, there were no direct grassroots movements in favour of revitalising the panchayats. Notwithstanding, the panchayati raj benefitted indirectly from the people’s movements and civil society mobilisations that focused on rights of the citizens. The next section examines the role of one such civil society mobilisation – the jan sunwai and the struggle for transparency, in strengthening the panchayati raj.

7.3.1 Role of the MKSS outside the panchayat institutions

7.3.1.1 Stimulating people’s participation

Participation was an important determinant of the success of panchayati raj. People’s participation hinged as much on social mobilisation as it did on institutional avenues that facilitated such participation. The panchayati raj provided a participatory structure and was successful in stimulating the rural population. However, several socio-economic and cultural factors impeded people’s participation. Therefore, mobilisation and awareness campaigns were needed for motivating people to engage in social and political activities through the panchayats. In addition to the panchayats, voluntary organisations, local user committees, youth associations and women’s self-help groups also organised public campaigns for generating voter awareness during elections, publicising gram sabha meetings and sharing information related to the welfare programmes.

The jan sunwai too was a civil society intervention aimed at spreading awareness among the people about their rights. The information and communication activities deployed by the MKSS also involved travelling across villages and blocks. They also participated in state-wide tours that were organised for conducting public consultations on the issues of transparency and accountability.

People travelled and often lived together as a community, which provided greater opportunity for interaction as well as the exchange of information and knowledge. Thus, social mobilisation by the MKSS resulted in “socio-spatial exposure” across caste, class, neighbourhood or village, which “helps to expand opportunities as well as the political knowledge, skill, and motivation necessary for citizen-state engagement” (Kruks-Wisner 2013, 19–20). Such exposure also generated empathy among the people as well as removed inhibitions and instilled confidence for social and political participation.

7.3.1.2 Thrust on transparency and dialogue

The MKSS focused on achieving participation of the people in decision-making activities through greater transparency in panchayat activities. It also employed interactive and participatory methods such as the jan sunwai, pad-yatra, street theatre, puppetry and other folk art forms for encouraging people to air their grievances and speak up against corruption. Such participation involved political contestation and constant engagement with the bureaucracy and democratic institutions – most frequently, the gram panchayat. People were undeterred by threats or social backlash against them. Collective action and community support enabled them to speak freely and assert their rights. This form of citizenship training in democratic values using cultural idioms also motivated people’s engagement with the panchayats.

7.3.1.3 Capacity-building of citizens

Organising the jan sunwai, conducting door-to-door verification of development expenditure records, conducting sit-ins and protests outside panchayat office and the office of the block officer, as well as the district collector, developed the political capacity of the people. Political capacity is understood as the combination of “political awareness, confidence, skills and connections,” which enabled them to “operate effectively and exert influence in the public sphere” (Jenkins and Manor 2017, 17–20). Participation in the jan sunwai enhanced the people’s ability for

participating in local government. Some of the village residents, including women, who participated in the jan sunwais, also contested elections to various posts in the panchayati raj institutions.

Even after the completion of their tenure, they continued to raise issues related to the implementation of welfare programmes, with the focus on transparency, accountability and redressal of people's grievances. People approached the activists, who were also former sarpanchs, for problems related to delay in the payment of pensions under social security schemes, MNREGA wages, delivery of essential supplies under the public distribution system and other such problems. The activists assisted women's groups, village cooperatives and voluntary associations and worked for enhancing transparency and accountability in governance, thus constituting a robust civil society presence in the villages and development blocks.

In addition to the election of civil society actors to the local bodies, many ward members and sometimes, panchayat chairpersons, collaborated with the MKSS and civil society organisations for implementing MNREGA and executing social campaigns. For instance, in March 2016, Geeta, the woman sarpanch of Kacchabali panchayat in Bhim Tehsil, led the referendum for a ban on alcohol sale within the panchayat boundaries. The women campaigned for alcohol-ban under the "Rajasthan Excise Rules, which empowered a panchayat to opt for closing a liquor shop if fifty per cent of its residents vote for it" (Goswami 2017). Geeta, the sarpanch, also collaborated with the MKSS for mobilising people, especially the women, to vote in the favour of the ban on the day of the referendum. The MKSS members and the village residents, who supported the ban, mobilised others in the village through songs, street plays, public meetings and explained them the procedure for the referendum. The voting took place in three phases beginning with a memorandum, vote for holding a referendum and the final referendum. With the efforts of the civil society and the women's groups, Kachabali became the first alcohol-free village in Rajasthan (Singh 2016). After Kachabali, the MKSS members also campaigned alongside woman sarpanch, ward panch and panchayat samiti

members for alcohol-ban in Mandawar, Barjal, Barar and other panchayats in Bhim, Rajsamand district.¹² Members from other organisations such as Magra Shakti Sena, Nashamukt Bharat Andolan, Sharab Bandi Andolan, also conducted awareness campaigns for supporting the ban on alcohol.

7.3.2 MKSS members within panchayat institutions

The MKSS was repeatedly challenged on the grounds that it was an outsider and that it did not understand the intricacies of governance. It did not understand the challenges that impeded transparency in governance. For instance, for many elected chairpersons, siphoning off development funds was a way of recovering a large amount of sum spent election campaigning. The MKSS's decision for contesting elections was thus, a response to the challenge of exercising power in a transparent and accountable manner. The most important step towards this was an economical election campaign, a vibrant people's assembly and a panchayat that was responsive to the needs of the people. MKSS members contested elections to ward sabha and gram panchayat in their villages. Five MKSS members were elected as sarpanch at different times. Their experiences are described briefly in the sections below.

7.3.2.1 Women members

The story of Nortti Bai has been retold over the last ten years by news channels, civil society organisations and researchers that focus on the development and public participation of women. Nortti Bai, a dalit, non-literate woman was elected the sarpanch of Harmada gram panchayat in 2010 with an overwhelming majority. She was earlier elected as a ward panch. Her association with the people's movements began in the 1970s when she started working at Barefoot College (SWRC) in Tilonia:

The Sangathan [MKSS] was not in existence. Aruna Behen Ji worked in Tilonia. We (Nortti and Bunker Roy) filed the writ for (equal minimum wages) in 1982. Then I underwent literacy training for 6 months. I studied. I was illiterate. I took an interest in Aruna ji's research. Then we came to Devdungari.¹³

¹² The researcher was a part of the campaign and mobilisation team during her field-work in April 2017.

¹³ Interview with Nortti Bai, 15 December 2015, Abu Road.

Norti Bai described her struggle for equal minimum wages in the 1980s:

I united the women of five villages, almost seven hundred women. I explained to them, made them understand. Because there was thrust in that collective, I could fight till Delhi. The power lies in unity. Our village has a record of winning the case. Supreme Court set precedent law for the labourers and workers.¹⁴

Norti Bai was a quick and eager learner and an active citizen. In addition to the MKSS, she was a member of the Rajasthan Mazdoor Kisan Morcha (RMKM). The RMKM was a collective of several small NGOs, people's groups and individuals, formed with the objective of "creating awareness and information regarding the allocation and disbursement of government funds earmarked for famine relief works in the state" (Mathur 2004, 278). The first meeting of RMKM was held at Nimbahera near Chittorgarh, at the border of Madhya Pradesh and Rajasthan in 1991.¹⁵ As an activist, she worked primarily for the welfare of the women and the labourers. Describing her activities, she said:

I went everywhere. I trained people. I prepared them for field-work and motivated them to participate. If people had work or they had to lodge a complaint in SDM or collector's office, or they needed to get their documents/orders photocopied – I went with them. If a woman had to testify in court, I helped her and went with her.¹⁶

Regular engagement with the state officials helped her in acquiring knowledge of the procedures and technical skills required for administration. She also organised campaigns for protesting against alcoholism, violence against women and social evils such as sati, dowry and child marriage. Her tenure witnessed the construction of a hospital and computer classes for girls along with regular work for women and men under NREGA. She organised regular gram sabhas based on the principles of transparency:

People were told about the budget proposals in the gram sabhas. We gave breakup for the entire amount of money spent. This was the sanctioned budget, and this was the planned expenditure. So much amount was spent for stone, this much for gravel, that much for cement, and rest for labourer/manpower. Everything was disclosed. The measurement books were also explained later along with different other documents that were disclosed

¹⁴ Interview with Norti Bai, 15 December 2015, Abu Road.

¹⁵ Motaram in his interview had also described the *sammelan* (convention) at Nimbahera.

¹⁶ Interview with Norti Bai, 15 December 2015, Abu Road.

before the people for reading. Other sarpanchs did not conduct the gram sabha and panchayat meetings like I did. We (my panchayat) did not offer money or cash in hand. We put it directly in the bank accounts. Direct transfers from the panchayat samiti in the post office accounts. No money came to the panchayat.¹⁷

Norti Bai also organised Woman's Day Fair in the Harmara panchayat, where women discussed their issues openly. She posted "written records of how much work was done till date, and how many people got their houses made, and other details. Like at a Jan Sunwai, [she] had written every detail and displayed it during the 8th March fair."¹⁸

Norti Bai's election as the chairperson and her active participation in the panchayat vindicated the objectives behind the reservation for women in the panchayat institutions. Her tenure included stringent battles against the alcohol mafia. The upper caste men, later, branded her daughter-in-law as a "witch" and called for her 'social boycott' and ex-communication. Norti Bai, and other elected dalit women representatives, narrated their ordeals at the public hearing organised by All India Dalit Mahila Adhikar Manch in New Delhi in February 2012 (Ramachandran 2012).

Participation in social struggles, among other factors, trained her in methods of countering discrimination and abuse. According to Kumud Sharma, "women who have been active in local organisations/movements and have been exposed to various sensitisation activities have both the political will and energy to take on the challenge and withstand strong counter-pressures" (Sharma 2005, 195). The support networks thus created "are vital in their ongoing struggles and encounters with complex state structures and rural power elites" (Sharma 2005, 191). IRMA's study on the state of panchayats also reported that "almost three-fourths of the SC/ST women members mentioned being involved in some community-based

¹⁷ Interview with Norti Bai, 15 December 2015, Abu Road.

¹⁸ Interview with Norti Bai, 15 December 2015, Abu Road.

organisations, NGOs or job prior to their joining and ascribed much of their efficacy to that experience” (Institute of Rural Management Anand 2008, 127).

Notwithstanding the constructive work carried out in her panchayat, Norti Bai could not re-contest the election for sarpanch. The rotation of seats prevented the election of candidates on reserved seats for two consecutive terms. When Norti Bai prepared for contesting the election for chairperson on a non-reserved seat, she was declared ineligible under the new amendments to the Rajasthan Panchayati Raj Act 1994. The amendment required a person to have studied until Class VIII for contesting sarpanch election in non-scheduled areas and Class V in the scheduled areas. As a result, dalit women like Norti Bai – approx. 93% across Rajasthan – were disqualified from contesting the election. The National Commission for Scheduled Castes Report 2016-17 had also concluded that “these amendments specifying the minimum educational qualifications have impacted adversely on the scheduled castes” (National Commission for Scheduled Castes 2016).

7.3.2.2 Scheduled caste members

Kaluram Salvi belonged to the Salvi community, a scheduled caste, and had studied till the 9th standard. He was introduced to the MKSS through Motaram in the early 1990s. They organised the Vijaypura jan sunwai in December 1994 and mobilised the Salvi and other dalit communities in the panchayat against the illegal auction of village commons. Kaluram also faced opposition from the sarpanch and his faction – “they framed me in many cases one after another. Once, a former Sarpanch had come to beat me up at night with a jeep full of goons with him.”¹⁹

Kaluram belonged to that section of society, which was buoyed by the promise of panchayati raj under the 73rd Amendment. He enjoyed the support of the people, primarily because of his activism and the dalit majority in his village. Though he did not win the 1994 election for the position of ward panch, he continued engaging with the development issues through the jan sunwai. He worked

¹⁹ Interview with Kaluram, 24 December 2015, School for Democracy, Bhilwara.

extensively for implementing MNREGA works in his village, with the focus on maintaining the village commons and grazing grounds. The jan sunwai enabled Kaluram in championing the social and development issues, adding to his popularity and acceptability in the village:

The people know that I fight for their rights, work for them honestly. And I had fought the election in 1994, the first election of panchayati raj. I became ward member from 2001 to 2005. I did good work for them during my tenure as a ward member. Then they elected me as sarpanch on a general seat for the period 2005–2009.²⁰

Kaluram explained that the budget for election campaign was only slightly above Rs. 1000 – a practice followed by the MKSS and allied civil society organisations for reforming the electoral process at the grassroots. He narrated that:

The people made me ward member without money. Neither did I spend a single paisa on campaigning for the post of sarpanch. People campaigned with me on foot, no money was spent on alcohol, meat, molasses, or for buying the votes. And not only the dalits, but even people from the general category in the panchayat voted for me.²¹

Research in other states has also reported that citizen collectives worked actively for “raising political awareness by participating in campaigns to educate the community on free and fair electoral processes and supporting credible candidates in panchayat elections” (Institute of Rural Management Anand 2008, 105).

Low-budget and ‘ethical’ election campaigning were also emphasised by Ladu Singh and Narayan Singh, who had contested the sarpanch election in their respective panchayats. Ladu Singh was elected the first sarpanch of Thana Panchayat in 1995. After joining the MKSS in 1990, he came in “contact with many people because of MKSS activities.”²² Post-election, he conducted the jan sunwai in April 1995, where “BDO, Junior Engineer, secretary and everyone else was there. All the information was provided to the people, who pointed out the irregularities.”²³ Ladu

²⁰ Interview with Kaluram, 24 December 2015, School for Democracy, Bhilwara.

²¹ Interview with Kaluram, 24 December 2015, School for Democracy, Bhilwara.

²² Interview with Ladu Singh, 25 February 2016, School for Democracy, Bhilwara.

²³ Interview with Ladu Singh, 25 February 2016, School for Democracy, Bhilwara.

Singh recounted that he faced opposition from the administration, rather than any dominant group in the village, for organising the jan sunwai:

The administration was like “we’ll see you.” They troubled me a lot later. They trimmed the budget of approved projects. I was smart. If the approved amount were Rs. one lakh, I would get the work done in Rs. 95,000.²⁴

Narayan Singh, on the other hand, faced opposition from his caste peers in his gram panchayat as well as the neighbouring panchayats for advocating the dalit rights and exposing acts of corruption through the jan sunwai. However, he was convinced “he was doing good work” and refused to disassociate from the MKSS. Describing his journey, he said:

I might have migrated to the city for employment and been there itself. Jan Sunwai and MKSS gave me the chance to speak up against oppression. I engaged with people, built relationships with them, assured them of transparency in budget and expenditure. It was also a part of my manifesto for sarpanch election. We promised not to distribute liquor, jaggery or bribe people or ferry voters. We promised to prioritise the poorest and the neediest for public works. If anyone indulged in fraud, there will be enquiry and action.²⁵

These values were inspired directly from the people’s struggle for information, which they tried to instil in the functioning of the local government. Among other MKSS members, Tej Singh from Todgarh was also elected the sarpanch. Rukmini Devi, the wife of Kaluram, was also elected the chairperson on the reserved seat.

7.4 Principles and practices of the jan sunwai for strengthening panchayati raj

This section examines the role of the jan sunwai in reinvigorating the deliberative bodies at the grassroots, such as, the gram sabha and the ward sabha. It highlights the significance and the functions of the gram sabha and the ward sabha and the challenges faced by the people in participating in such forums. The section concludes by arguing that the challenges in the participation of the people in gram sabha, ward sabha and other deliberative bodies can be overcome by applying the principles and

²⁴ Interview with Ladu Singh, 25 February 2016, School for Democracy, Bhilwara.

²⁵ Interview with Narayan Singh, 19 April 2017, Devdungari, Bhim, Rajsamand.

practices of the jan sunwai. By doing so, the gram sabha and ward sabha could also emerge as the forums for proposing and drafting legislation.

7.4.1 Reinvigorating deliberative bodies at the grassroots

The jan sunwai filled a crucial administrative gap in select villages of Rajasthan between 1991–94 when no gram sabhas were organised. So significant was the function and the effect of the jan sunwai that even after the introduction of the gram sabha and ward sabha in the village panchayats, the MKSS continued to organise the jan sunwai as a method of participatory audit by the village residents. How does the jan sunwai compare with the gram sabha, the ward sabha and other forums at the grassroots? The answer to this question is examined in this section.

The section begins by reviewing the reports of the select committees on panchayati raj that recommended constitutional status to the gram sabha. Next, the section examines the implementation of the gram sabha based on the oral testimonies of the people and compares the gram sabha with the jan sunwai on criteria such as access to information, freedom of expression and inclusion of the marginalised sections. In addition to the gram sabha, the section examines the provisions for and implementation of ward sabha, citizen vigilance committees and nyaya panchayat (now abolished).

7.4.2 Gram sabha

Jayaprakash Narayan envisioned the gram sabha as the foundation of the village polity. In his 1961 essay, *Swaraj for the people*, he suggested that for effective decentralisation, “the panchayat should function as an executive of the sabha, which should have power to set up other committees & teams for specific purposes” (Narayan 2002, 232).

The Rajasthan Panchayat Samiti and Zila Parishad Act 1959, section 23(A) first provided for “a meeting of all adult residents in the panchayat circle,” without using the term gram sabha (Purohit 1960). The Rajasthan Panchayat and Nyaya Panchayat (General Rules) 1961, sections 65–69, defined the procedure for these

statutory meetings. However, many panchayats did not organise two meetings in a year. Even when the meetings were organised, “they proved to be abortive or were unsuccessful, since very few adults turned up at these meetings” (Mathur *et al.* 1966, 146). Rodeji’s account also proved this:

The concept of gram sabha and deliberation was there earlier as well, but people did not participate. The panchayat peon would roam about the village after a gram sabha to take the signatures of the people on the register. Thus, the meeting was shown to have taken place.²⁶

The L. M. Singhvi Committee (1986) observed that the PRIs “failed to nourish themselves from the reservoir of people’s power because gram sabha as a basic institution did not become a living and pulsating reality.” The committee emphasised the significance of “Indian villages and the gram sabha as the republican base of our democratic nation,” and recommended that gram sabha be an important component of the local self-government where it can function as “the embodiment of direct democracy” (L.M. Singhvi Committee Report 1986, 6-7). The Constitution empowered the gram sabha as a constitutional body. Under Article 243 (b), gram sabha is a “body consisting of persons registered in the electoral rolls relating to a village comprised within the area of panchayat at the village level.” Subsequently, the Rajasthan Panchayati Raj Act 1994 provided gram sabhas for each panchayat. The first constitutionally mandated gram sabhas were held after panchayat elections in March 1995.

The Rajasthan Panchayati Raj Rules 1996 defined the powers, functions of the gram sabha and the procedures for its functioning. These included rules regarding the publication and publicity of the date of the gram sabha, recording the minutes of the meeting, observing the required quorum and the functions devolved to it under the Eleventh Schedule. In principle, the gram sabha identified “the families for allotment of free house sites,” and verified the list of “below poverty line families for Integrated Rural Development Programme loan and subsidy”. The

²⁶ Interview with Rodeji, 15 December 2015, Abu Road.

“receipt, expenditure and physical progress of development works” along with the audit reports were presented before the gram sabha for discussion and the people could raise audit objections. The implementation, however, suffered because of a lack of clear information and guidelines. Factors such as the absence of transparency in the panchayat functioning, inadequate powers to the people, lack of awareness regarding gram sabha meetings, non-participation by the people, and non-compliance and evasion of rules by the elected representatives, impaired the functioning of the gram sabha.

Rodeji, who worked at the SWRC and has been associated with the struggle for RTI, explained that the people did not have any say in the decision making because the “panchayat was convened only with the members – ward panch, sarpanch and the secretary. They decided what was to be done and how.”²⁷ Later, the details of implementation were shared superficially in the gram sabha:

An account of the expenditure at the end of the year was presented with expenses outlined under different heads and categories. The summarised details were shared, along with the amount of money spent. However, the amount of fund received was not disclosed. Only a lump-sum figure was mentioned.²⁸

According to most of the respondents, the gram sabha was for taking *prastav*, meaning proposals for development work. Balu Lal, the MKSS member, explained that “you could raise objections and decide plan proposals in the gram sabha, however, there was no guarantee that your work would be done.” Lakshman Singh, former sarpanch and ward panch, explained that “the findings of below poverty line household survey were presented at the gram sabha and people raised an objection or reported discrepancies in the list.” However, no one from the public would stand and object because doing so would earn them grudges from those against whom they spoke up.²⁹ The elite capture of gram sabha and other panchayat bodies continued despite a number of provisions that were included in the panchayati raj

²⁷ Interview with Rodeji, 15 December 2015, Abu Road.

²⁸ Interview with Rodeji, 15 December 2015, Abu Road.

²⁹ Interview with Lakshman Singh, 24 April 2017, Kookarkheda, Bhim, Rajsamand.

act with the 73rd amendment. The people of dominant castes continued to suppress the poor, who could not participate freely. Shankar Singh elucidated it thus:

The gram sabha was only for namesake and people were a weak entity because their opinions were not heard. Therefore, they lost hope and faith in the system. Political brokers present in the gram sabha misled the people. They did not let the people speak. Moreover, this entire thing about publicising the gram sabha meetings and asking the ward members to inform people in their wards and other mobilisation activities existed on paper only. They knew that if the people attended, they will speak-up and the elected representatives will be trapped. So, intentionally they did not want people to attend.³⁰

The quorum for 10% of the total members for the meeting, in case of either gram sabha or the gram panchayat, was often circumvented. The sarpanch informed those panchayat members, who belonged to her/his caste or were likely allies in corrupt activities and fulfilled the quorum. Moreover, the caste assemblies continued to wield significant influence, which often spilt over into the matters of local governance.³¹

The MKSS members and other village residents, who had participated at the jan sunwai insisted that it was different from a gram sabha. Even if the activities carried out at the jan sunwai were included in the gram sabha meeting, it would not be as effective. Hence, the question arises: why was the jan sunwai more effective than the gram sabha in redressing people's grievances, facilitating transparency in decision-making and enabling people to audit the development expenditure collectively? The reasons are examined in the section below.

7.4.2.1 Jan sunwai and gram sabha: A comparison of deliberative bodies

Several respondents stated that they attended the jan sunwai regularly; however, they did not attend the gram sabha. They did not attend because “they did not have any

³⁰ Interview with Shankar Singh, 29 April 2017, Devdungari, Bhim, Rajsamand.

³¹ This account does not imply that the gram sabhas have not been successful at all. With special efforts, the gram sabhas in different states, especially Kerala, have been successful in generating consensus regarding allocation of resources. Factors such as improved literacy levels, greater participation of women and representation of diverse views enable the gram sabhas in becoming “spaces to have a dialogue on topics of public interest” (Parthasarathy and Rao 2018, 13).

work there. What would [they] get by participating in the gram sabha?"³² Raji Bai recalled that "the panchayat people would say no to our requests, saying that they cannot do something for just one person."³³

Moreover, the gram sabha proposals were submitted to the panchayat samiti. Objections and complaints were simply noted down and the action taken report was submitted to the panchayat samiti and presented in the next gram sabha. It was only paperwork. As a result, "people eventually stopped going to the gram sabha because now none of their work was completed there. You could sit there for the entire day without any work done. Two to four people would get their pension forms filled and that is all."³⁴

Meanwhile, at the jan sunwai, "there was a direct approach to dealing with personal grievances and losses. The report of the hearing was submitted directly to the collector."³⁵ The people "knew that an officer will attend, so we will tell the officer about our problems."³⁶ In some cases, people's grievances remained unresolved or were resolved after significant effort. Despite that, people attended the jan sunwai because as Shankar Singh explained "they got a chance for expressing their grievances and hardships. No one listened to them in the gram sabha."³⁷

The second difference was that "the gram sabha could not hold the sarpanch or the panchayat accountable. No panchayat would convene a meeting to reveal that it indulged in such and such fraud."³⁸ Lal Singh also explained that the "gram sabha was financed by government money while the jan sunwai was organised directly from contributions made by people." Funding was a significant factor, especially in case of the jan sunwai.

³² Interview with Hemsingh, 15 December 2015, Abu Road.

³³ Interview with Raji Bai, 03 May, 2017, Shakkargarh, Rajsamand.

³⁴ Interview with Shankar Singh, 29 April 2017, Devdungari, Bhim, Rajsamand

³⁵ Interview with Ladu Singh, 25 February 2016, School for Democracy, Badi ka Badiya, Bhilwara.

³⁶ Interview with Shankar Singh, 29 April 2017, Devdungari, Bhim, Rajsamand

³⁷ Interview with Shankar Singh, 29 April 2017, Devdungari, Bhim, Rajsamand

³⁸ Interview with Balu Lal, 24 February 2016, Thana, Mandal, Bhilwara.

The panchayat secretary and block officers were present at the gram sabha for ensuring fairness. However, as Motaram explained, the people “were scared of saying the wrong thing, or repercussions such as false accusations against them, or obstructions to regular work in Panchayat.”³⁹ The presence of civil society at the jan sunwai countered the unwieldy influence of the sarpanch and ensured that the proceedings were conducted in a fair manner. The jan sunwai panel comprised members apart from the panchayat functionaries and the local residents. The local civil society members moderated the hearing. Lal Singh explained that:

Government officials were invited, but if they did not attend, then the panel comprised non-government people. People could even nominate members to the panel. The panel made observations and suggested a further course of action. The people spoke aloud and shared information with each other, and the panel. Even if the panel did not listen, the purpose was to express ourselves so that the other person also knows our reality. Because this is a democracy and, in a democracy, the people themselves have to run the government.⁴⁰

Lakshman Singh explained that the kinds of threats and deterrents that prevented the people from speaking in the gram sabha were also present at the jan sunwai. However, the nepotism at the gram sabha was countered at the jan sunwai in the following manner:

In a village, everyone was related to everyone – uncles, nephews, cousins and so on. Sometimes, people maintained silence because of that. At a jan sunwai, people came from all the villages in the panchayat circle and even nearby panchayats. So, anyone could say that something was wrong and should be investigated. Possibly, that person may be non-partisan, may not be from the same village and may not be related to the mate or the sarpanch.⁴¹

Compared to the gram sabha, the jan sunwai was a more participatory and inclusive forum because the civil society activists made special efforts for encouraging and ensuring the participation of the women, landless peasants and members of the scheduled castes and scheduled tribes. According to Lakshman Singh, only the socially active and influential persons or only the “active and

³⁹ Interview with Motaram, 26 April 2017, Vijayapura, Deogarh, Rajsamand.

⁴⁰ Interview with Lal Singh, 25 February 2016, School for Democracy, Badi ka Badiya, Bhilwara.

⁴¹ Interview with Lakshman Singh, 24 April 2017, Kookarkheda, Bhim, Rajsamand.

competent members, who knew about different procedures,” participated freely in the gram sabha. Therefore, the persons from the marginalised sections were often not able to speak freely. However, such persons benefitted from association with the civil society and engagement in social activities that helped in developing their confidence and ability to participate in deliberations at the jan sunwai as well as the gram sabha. The respondents of this study described the transformative role of the jan sunwai that encouraged people to participate in local governance. According to Rodeji:

The number of people attending the gram sabha increased after the instances of restitution at the jan sunwai. People went to the panchayat and asked for records and expenditure details. They attended the gram sabha. Now people go, ask how much was spent under this scheme, and what was the work done.⁴²

The MKSS members elected as sarpanchs in their panchayats also took measures for strengthening the gram sabha. Narayan Singh described his tenure as follows:

We organised the gram sabha regularly, publicised it on the microphone, and told them about issues and proposals to be discussed. Every gram sabha had 500-600 participants. Regular social audits in the ward sabhas and gram sabhas were conducted for reviewing the completed works. In my tenure of five years, there were one or two instances, where a couple of mates had tried to siphon off Rs. 200-500, and people had highlighted a few entries that were fake. They knew they could speak up. There was transparency, a lot of work was done, and people benefitted immensely.⁴³

In the last instance, participation at the jan sunwai was an exercise in citizenship training and political education. Nortti Bai explained that:

We told people that your right to speech was given by the government (constitution) and we work for your rights. You must come to the jan sunwai, even if you have no issues related to work or non-payment of wages. What justice would be meted out to whom, who all will be penalised, and how much, and who all will be shamed before the society – you must come, listen and understand everything in-depth.⁴⁴

⁴² Interview with Rodeji, 15 December 2015, Abu Road.

⁴³ Interview with Narayan Singh, 19 April 2017, Devdungari, Bhim, Rajsamand.

⁴⁴ Interview with Nortti Bai, 15 December 2015, Abu Road.

7.4.2.2 Ward sabha

The MKSS members advocated for a strong ward sabha, which could be tasked with conducting the jan sunwai-style social audits. The ward sabha was conceptualised as the smallest and the ideal unit for development planning and promoting people's direct participation in local self-government. The RPR (Amendment) Act 2000 mandated quarterly ward sabha (assembly of the members residing in a ward) in every ward of a panchayat circle.⁴⁵ The MKSS members also organised a series of ward sabhas in select panchayats of Rajasthan for demonstrating the efficiency of the ward sabhas in executing planning and social audit functions. However, the momentum for re-energising the ward sabha subsided over the next decade, despite the efforts by the MKSS and other civil society organisations.

Prior to the ward sabha, citizen vigilance committees existed in every panchayat. The citizen vigilance committees were formed to involve people in the supervision of the panchayat. The committees were constituted by the gram sabha at the beginning of the financial year for reviewing the complaints of the people, such as those related to welfare schemes, quality of construction works, trespass in *abadi* (residential) lands and pastures in the panchayat circle. The role of the vigilance committees was 'constructive, cooperative and advisory though supervisory' in nature. Some MKSS members were on the vigilance committees in their panchayats. Soon it was realised that the vigilance committees were ineffective in holding the panchayat accountable. These committees had no real power. Two cases of the vigilance committees, one from Thana panchayat and another from Kookarkheda panchayat illustrated this.

Five residents of the Thana panchayat constituted a vigilance committee for investigating the irregularities that were uncovered during the jan sunwai in April

⁴⁵ Ward sabhas existed in select states even before the panchayati raj legislation. They were referred to as *palli sabha*, *up-gram sabha* and by other names. For the purpose of elections, the villages in a panchayat circle were divided into a number of wards with even population. The residents of each ward elected a ward panch. All the ward panchs together with the sarpanch and secretary formed the panchayat.

1995. The committee submitted its report within 15 days and charged the panchayat secretary and two others with fraud. However, only the panchayat secretary agreed to return the money. No action was taken by the administration on the report and findings of the vigilance committee.⁴⁶

In Kookarkheda, a group of residents had formed a vigilance committee. Dhanna Singh, a retired schoolteacher, was elected as the chair of the committee. In an application to the panchayat secretary, Singh requested the details of the development grant sanctioned to the panchayat and the expenditure incurred. He recollected the reaction of the panchayat secretary, “The secretary adjusted his glasses, stared at me and asked, ‘and you might be the Collector, Sir?’”⁴⁷ Dhanna Singh explained that he was the chairperson of the village committee and wanted to access the panchayat records – to which the secretary responded, “where is your chair’s seal?” The secretary further said the information was shared in the gram sabha held twice a year, and Singh could ask these questions there. These two cases illustrated that the vigilance committees failed to function effectively because they did not have any authority or power. The absence of provisions around inspection of records also put the citizens at a disadvantage.⁴⁸ The vigilance committees were later removed by the RPR (Amendment) Act, 2000.

In addition to the vigilance committees, the civil society encouraged the people in forming co-operatives, self-help groups, youth societies and other such associational bodies that were promoted by the government as vehicles of welfare delivery, rural development and citizen empowerment. The jan sunwai was thus linked with such modes of empowering citizens at the grassroots.

⁴⁶ MKSS Papers, “Thana Jan Sunwai,” File 118-120, p. 35, Institutional Collection No. 44, Nehru Memorial Museum and Library, New Delhi.

⁴⁷ Interview with Dhanna Singh, 23 April 2017, Kookarkheda, Bhim, Rajsamand.

⁴⁸ New gram panchayats were formed from March 1995 onwards. The RPR Rules 1996 that contained the provisions for inspection of records were notified much later in 1997.

The jan sunwai, in its earlier days, was also referred to as the people's court, where the residents of a panchayat assembled and arbitrated over the grievances of the people and demanded restitution of the pilfered money. In select states, a forum for redressing grievances was referred to as *Lok Adalat* or *Jan Adalat* (people's court). Reference to a people's court and common terminology necessitated a comparison between the jan sunwai and the Nyaya Panchayat (which existed earlier but was later abolished). Of late, there is a thrust towards reviving the nyaya panchayats. Both the nyaya panchayat and the jan sunwai dealt with performing important administrative functions, such as dispute resolution and redressal, closer to the people in the villages. This section examines the similarities and differences between the jan sunwai and the nyaya panchayats.

7.4.2.3 Nyaya panchayats and the jan sunwai: A contrast

The Rajasthan Panchayat Samiti and Zila Parishad Act 1959 setup the Nyaya Panchayat (NP). The Rajasthan Panchayat and Nyaya Panchayat Rules, 1961 defined the rules for constitution, scope and functioning of the nyaya panchayats. The nyaya panchayats administered civil cases for suits not exceeding Rs. 250 and those criminal cases under Indian Penal Code 1860 that were specified in Schedule 1 of the Panchayat Act 1953.⁴⁹

The nyaya panchayats were set up for administering speedy and inexpensive justice. These indicated “a massive attempt by the state to displace (as effectively as it could) the existing dispute processing institutions in village areas” (Baxi and Galanter 1979: 359–60). Several institutions such as caste assemblies, merchant guilds, city tribunals, and religious dignitaries overlapped in their authority for administering justice. The nyaya panchayats also reduced the workload of panchayati raj institutions and ensured the separation of judicial functions of the panchayats

⁴⁹ (Law and Judicial Department - Government of Rajasthan 1960) Amended by Rajasthan Panchayat [Amendment] Act 1960.

from the executive functions, as enshrined in the Article 50 of the Directive Principles of State Policy, Constitution of India.

The nyaya panchayats were constituted by the state government for four to seven contiguous panchayat circles. Clustering of panchayat circles assisted in cutting down cost and “neutralising the caste and identity based factionalism of individual villages.” The small area of panchayats maintained “the compact character of its jurisdiction so that the villager may be afraid to tell a lie in the presence of those with whom he happens to be acquainted” (Report of the study team on nyaya panchayat 1962, cited in Mathur *et al.* 1966, 180).

A person could file an oral or written suit at the appropriate nyaya panchayat (with jurisdiction over their panchayat circle), along with the prescribed fee. The complainant was informed of the date, time and place of hearing of the case. The defendant/accused were also informed of the case and the particulars of hearings. On the day of the hearing, both complainant and defendant were examined and cross-examined under oath or solemn affirmation. They produced their own evidence for proving or defending the accusations. No legal representation was allowed. Their statements were also recorded in writing.

A three-member bench ascertained “the facts of every suit or case before it by every lawful means in its power and thereafter make such decree or order as it may deem just” (Section 49, Rajasthan Panchayat and Nyaya Panchayat Rules 1961). After examining the evidence and hearing the arguments, the bench announced the judgement, which contained “briefly the facts, the decision and the reasons thereof.” The judgement was recorded in writing and signed by all the members, including the parties to the suit. A record of all the proceedings and judgements was maintained in the nyaya panchayat office and could be recalled by the block, district and state authorities for inspection. The residents in the constituent panchayat circles could also inspect and request photocopies of records, subject to the discretion of the chairperson.

Mathur *et al.* described the implementation of nyaya panchayats in three blocks of Jaipur district in the 1960s. They observed that in most of the cases, the nyaya panchayat members were “strong supporters of the sarpanch and had been elected because of his influence” (Mathur *et al.* 1966, 180–83). No one from the SC and ST was elected as the nyaya panch. The nyaya panchayats suffered from financial scarcity, procedural bottlenecks and lack of interest among the members along with frequent absenteeism, which caused a delay in the disposal of cases and accumulation of arrears. Various public committees on panchayati raj had also recommended measures for boosting the morale of the members and expediting the disposal of cases by nyaya panchayat. The Girdharilal Vyas committee (1973) in Rajasthan had, however, recommended abolishing the nyaya panchayat, because they had not been able to inspire the confidence of the people (Baxi and Galanter 1979, 363). The L.M. Singhvi Committee (1986, 10) recommended setting up nyaya panchayats and entrusting them with the functions of conciliation, mediation and adjudication.

The jan sunwai, like the nyaya panchayat, was a public hearing for resolving the grievances of the people. It followed a question-answer format, whereby the complainant and defendant argued their position and furnished evidence in support, without the assistance of lawyers. Similar to the nyaya panchayat, the jan sunwai emphasised easy redressal of people’s grievances, without requiring them to go to panchayat samiti or the district headquarters.

However, the jan sunwai was not a trial. It did not pronounce judgements nor impose fines. The independent panel of observers provided feedback and mediated the discussion. The people did not testify under oath or deposit any fee. They expressed their grievances related to the development programmes administered by the gram panchayat. The nyaya panchayat, on the other hand, heard disputes of civil and criminal nature, which may or may not have involved the panchayat or any of its members as defendants. Interestingly, in some cases, the nyaya panchayats were encouraged to suggest reconciliation between the disputing parties or levy small impunity as a deterrent. People were saved from court battles that lasted for years.

However, voluntary restitution at the jan sunwai was frowned upon by the district authorities. This, despite the amount of time taken by the administrative department for redressing the grievances of the people. The Anti-Corruption Bureau summoned people to district courts, two-hundred miles away, which resulted in frustration and disillusionment of the people with social auditing through the jan sunwai.

Currently, the nyaya panchayats have been abolished, while the jan sunwai has been statutorily recognised through different legislations such as MNREGA 2005, Rajasthan Right to Hearing Act 2012 and Meghalaya Social Audit Act 2017. The jan sunwai was institutionalised for redressing the grievances of the people and not for resolving disputes. The next section argues that the principles and practices of the jan sunwai can enable forums such as the gram sabha and the ward sabha to emerge as platforms for proposing and drafting legislation and thus deepen democracy.

7.4.3 Jan sunwai for lawmaking at the grassroots

Law-making powers are vested in the national and state legislature, which comprise people's representatives. The people do not have a direct say in the legislation of different acts, their objectives, mechanism and powers. For instance, the legislative decisions for the panchayati raj, right from the beginning, were taken by the central and state governments. The government sought opinion on the implementation and status of panchayat bodies from the district collectors as well as parliamentary committees chaired by the jurists and other ministers of the state. Even after the constitutionalisation of panchayat institutions, the law-making powers with respect to the local bodies were entrusted to the state government, who may not have sought the opinion of the citizens at the grassroots.

On the other hand, the jan sunwai channelled the opinion of the people into a grassroots struggle for right to information. The people's opinion also shaped important features of the RTI Act 2005. Public consultations on draft legislation were conducted in the villages and block panchayats. Later, awareness campaigns were carried out for informing people about rules and procedures under the RTI

Act 2005. Thus, lessons from people's experience of testing different laws and policies were used for building robust mechanisms against evasion of responsibility and denial of information in the RTI Act 2005.⁵⁰ Similarly, the social audit laws and the Rajasthan Right to Hearing Act have been shaped by the experiences and opinions of the people. Besides, these legislations contained provisions for a public hearing on the lines of MKSS-prototype of the jan sunwai.

By adapting and adopting the principles and practices of the jan sunwai, the gram sabha and ward sabha could also emerge as effective forums for proposing and drafting legislation. This will facilitate participatory law-making by the citizens as well as representatives of the State. The citizens would make the laws that they are required to follow and whose outcome would affect their lives rather than the laws framed by the bureaucrats or representatives alone. Such law-making procedures would deepen democracy.

7.5 Conclusion

This chapter examined the role of the jan sunwai in strengthening the panchayati raj institutions. The panchayati raj initially aimed at involving people in the implementation of development programmes for their economic and social advancement. By doing so, it hoped to achieve political participation of the people, beyond voting in elections. In 1992-3, a constitutional status was provided to the panchayats, including the provisions for regular elections, reservations of the seats for women, scheduled caste and scheduled tribes and compulsory gram sabha. However, these provisions, especially those around representation, were circumvented for excluding the weaker sections of the society.

Civil society actors conducted capacity-building workshops and training programmes for the elected representatives, especially the women and the persons

⁵⁰ A similar trajectory for enacting MNREGA 2005 and Food Security Act 2013 was followed. In addition to these legislations, participatory provisions on similar lines were also included in the Right to Education Act, 2009.

from marginalised sections. They also assessed the implementation of the panchayat raj and recommended changes to the government. The MKSS and the jan sunwai empowered the panchayat institutions by fostering collective action at the grassroots. Active mobilisation of the people facilitated greater citizen-state interaction. Participation in the jan sunwai and the struggle for the right to information developed the political capacity of the people and encouraged them to contest panchayat elections. Upon being elected, such candidates conducted gram sabhas regularly, shared information with the people, encouraged the participation of the people in the panchayat activities and maintained transparency in the implementation of the welfare programmes. Thus, the jan sunwai strengthened the implementation of the panchayati raj. Similarly, the RTI Act 2005, social audits and the time-bound redressal of grievances under the RTH Act 2012 have strengthened the panchayati raj system in Rajasthan and other states. These transparency and accountability mechanisms have empowered the people in holding the local bodies accountable for the functions that were devolved to them.

The jan sunwai also reinvigorated certain deliberative bodies at the grassroots. It created a consciousness of rights among the people and motivated them for engaging in forums, such as the gram sabha and the ward sabha. These were convened by the State, while the jan sunwai was organised by civil society. The jan sunwai was a more inclusive forum than the gram sabha and was more effective in achieving open dialogue among the people and their representatives. The principles and practices of the jan sunwai could be adopted by the gram sabha, ward sabha and other deliberative forums for facilitating free and fair dialogue. Adopting and adapting these principles could also enable the gram sabha and ward sabha to function as forums for proposing and drafting legislations, and thus deepen democracy.



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