Constraints on Civil Society's Capacity to Curb Corruption

Lessons from the Indian Experience

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An innovative movement in the state of Rajasthan has substantially altered India's public discourse on how best to combat forms of corruption which particularly afflict the poor. Spearheaded by the Mazdoor Kisan Shakti Sangathan (MKSS), or Workers and Farmers Power Organisation, this movement demands and frequently obtains access to official expenditure records which citizen-activists then cross-check in a kind of people's audit. The MKSS's collective process has exposed fraud in several local governments, deterred further malfeasance in others, influenced legal debates,[1] and generated a wider campaign for legislative and regulatory change at the state and national level.

Several organisations within India's vast and varied civil society share *either* the MKSS's concern for empowering the poor by halting the theft of public resources intended for them, *or* its enthusiasm for actively challenging the culture of bureaucratic secrecy – but not both. Many environmental activists, for instance, demand access to government information; their primary aim, however, is not checking misuse of public funds intended for the poor. Other groups share the MKSS's preoccupation with combating corruption, but without emphasising the type of popular auditing which only access to official records makes possible. In short, no other group has brought together the otherwise over-used and under-specified ideas of transparency and accountability in such a creative, consistent, and collective fashion. This article suggests reasons why it is particularly difficult for civil society to organise effectively to curb forms of corruption that disproportionately harm the poor. In the process, we engage with ongoing debates in the international literature on civil society's contribution to accountable governance.

In particular, we take issue with currently fashionable views on the state's ability to 'foster' the emergence of forms of civil society that effectively articulate the interests of poor and marginalised people. The Indian case material highlights the unpredictability of state–civil society interactions at the best of times, and the outright undesirability of many associational forms which have been fostered through state action. The argument is not that

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[1] We have addressed this issue at greater length in Jenkins and Goetz (1999b).

state-fostered forms of civil society are always dysfunctional, just that they often are. Moreover, even those that do produce desirable outcomes fail to challenge the state in one critically important area: auditing the financial performance of government itself.

This is a particularly suitable theme for a volume celebrating Gordon's White's contribution to development studies. Gordon's intellectual inclinations, particularly his scepticism about 'the current idealisation of the democratic character of civil society', indicate a thinker far more alert than most students of democracy to the potential for civil society to evolve in ways that defy conventional understandings, and sometimes even to serve undemocratic ends.[2] Much of his work on China, for instance, illustrated with complex empirical evidence the ambiguous character of civil society, and above all the unpredictability of associational entities created through state action (White *et al.* 1996).

This is by nature a perverse paper: it uses the case of a highly effective anti-corruption movement – a success story if ever there was one – to illustrate why it is so difficult for those portions of civil society concerned with promoting the interests of poorer groups to combat corruption. But the more one learns about the MKSS – and the more one examines other anti-corruption movements which at first glance seem to parallel the MKSS approach, but turn out to lack crucial ingredients – the more exceptional this grassroots movement seems. What is needed, then, is an explanation for the overwhelming tendency of nascent anti-corruption movements to fail in their efforts to recruit allies among civil-society organisations oriented towards mobilising the poor. This requires an introduction to what makes the MKSS such an unusual phenomenon, bearing in mind that it is the contrast between this ideal type and the many other less-effective organisations that is the analytical starting point.

1 Contextualising the MKSS[3]

The MKSS is a grassroots organisation of mainly poor people based in Rajasthan's economically underdeveloped Rajsamand district. It has described itself as a 'non-party political formation'.[4] It relies for support less on its relatively small formal membership than on its much larger informal following. The driving force behind the MKSS is a combination of local people from socially excluded groups and a handful of committed activists from other parts of India who, since the late 1980s, have made the area their home. The MKSS distinguishes itself from conventional non-governmental organisations (NGOs): instead of channelling external funds or focusing on service delivery, it addresses issues of concern to the poorer sections of local society through mass action and strategic confrontation with the state administration.

The MKSS's interest in the right to information arose from its work in the late 1980s and early 1990s on livelihood issues, particularly the failure of the state government to enforce minimum-wage regulations on employment-generation programmes in drought-prone areas. This generated a belief that access to official documents was an essential part of the struggle to demand accountability from local authorities. The MKSS's campaign to secure minimum wages for employees on drought-relief works highlighted the role of corruption in the underpayment of wages, as it became clear that local authorities were billing the central and state governments for amounts that far exceeded what workers were paid. This could only be confirmed by examining the financial documents pertaining to specific schemes, and checking these against the experience of workers. Other malpractices included inflated estimates for public-works projects, the use of poor-quality materials, and over-billing by suppliers. To combat these forms of fraud, access was required not only to balance sheets, but also to supporting documentation which could be cross-checked by workers organised

[2] This phrase is drawn from the second instalment in Gordon's two-part article on civil society and democratic development, a sceptical commentary on the optimistic and under-examined assumptions regarding the democratising role of civil society. See White (1994 and 1995).

[3] Space constraints limit the background which can be provided. For fuller accounts, see Mander and Joshi (1999), MKSS (1996), and Dogra and Dogra (1996).

[4] In using this descriptor, the MKSS follows a stream of thinking on the role of voluntary organisations in Indian politics, which can be traced to the theorising of Rajni Kothari, who coined the term in the mid-1980s. For a later elaboration of this concept, see Kothari (1990).

through the MKSS – for instance, employment registers and bills submitted for the purchase of materials.

The MKSS gets this documentation by appealing to the virtue of sympathetic bureaucrats, or through public protest action aimed at those with less active consciences. Its key innovation is the collective analysis of official information. In locally organised *jan sunwais* – or 'public hearings' – expenditure statements derived from official records are read aloud to assembled villagers. These orderly hearings are presided over by a panel of respected individuals from within and outside the area. Local people are invited to give testimony which identifies discrepancies between the official record and their own experiences as labourers on public-works projects or applicants for means-tested anti-poverty schemes. Through this direct form of 'social audit' many people discovered that they had been listed as beneficiaries of anti-poverty schemes, though they had never received payment. Others were astonished to learn of large payments to local building contractors for works that were never performed. This approach depends upon a principle of collective and very local verification of official accounts, as it is only at the local level that the many small diversions of funds, which go unnoticed in massive formal audits, can be detected.

Although successful in exposing corruption in a number of localities, *jan sunwais* have been relatively rare because of the difficulty in obtaining certified copies of government accounts from reluctant officials. In response, the MKSS developed a parallel strategy involving large-scale public protests. The objective: legislative and regulatory reforms to provide a legal basis for local efforts to obtain official records. The main demand is that citizens be entitled to photocopy government documents, except those with national-security implications. The state government has vacillated in response to this demand for the past four years. In early 1999 the state's new chief minister appointed an official committee to develop a non-statutory system for improving access to information. It has already insisted that secrecy will remain the norm: only specifically indicated items will be available, and even then not in undigested form.

2 The Limits of Civil Society

Robert Klitgaard has set forth several factors which account for civil society's poor track record at organising to fight corruption:

> It is difficult to form a political constituency for an anticorruption effort. Unlike lobbies for, say, soya production or education, no well-organized citizens' group has a clear stake in fighting corruption. Moreover, civil servants often find anticorruption campaigns threatening. Honest officials may fear being tarred with a reckless accusation; dishonest ones will raise obstacles against efforts to expose and punish their illicit activities. It is possible to launch an anticorruption campaign during a wave of public resentment, but institutionalizing public concern is difficult (Klitgaard 1991:97).

Transparency International (TI), a leading international NGO, highlights similar constraints. Arguing that '[c]ivil society is, typically, the major victim' of corruption, and thus should have a strong motive to dismantle the system, TI nevertheless admits that:

> Civil society's response to the problem has, in the past, been fragmented. Lawyers may be policed by laws and bar associations or accountants by their professional bodies, but few within civil society have taken the broader view: to contemplate what the integral parts of their society's integrity system can and should look like, and to press for relevant reform against a holistic blueprint (Transparency International 1998).

The solution TI offers – a process of building as broad a constituency for reform as possible – specifically prohibits 'confrontational' activity.[5] This is misguided. Civil society's failure to curb corruption is due largely to the unwillingness of key actors to engage in confrontation.

The evidence from India confirms the conclusion of Klitgaard and others that at the level of the individual citizen there is a strong incentive actually to strengthen the system of corruption by paying bribes, whether out of necessity or to avoid inconvenience.

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[5] It is this prohibition which perhaps explains the failure of TI's 1998 case study on India to mention either the role of civil society in general, or the MKSS in particular. See Martin and Feldman (1998:72–87).

At the collective level, a fledgling anticorruption organisation faces an almost insurmountable hurdle: sustaining a movement which simultaneously demands enormous attention to substantive detail (involving very complex cases of fraud, operating at multiple levels of political and administrative systems) and frequent and intensive confrontation with authorities. These problems are all the more significant when considering the capacity of groups of poor or socially excluded people to fight corruption. This is why the MKSS's demands for information and success in using it collectively are so impressive, but also why they are so rare.

These incentive problems are important, as are all of the other permutations of the collective-action dilemma facing would-be anti-corruption activists. But *the constraint we wish to highlight in this paper comes not from the state, but from civil society itself.* There are several seemingly natural civil-society allies for any movement to tackle forms of corruption which particularly afflict the poor, and yet they fail consistently to provide the kind of support required. What MKSS's experience seems to indicate is that anti-corruption campaigns require both broad-based participation in protest action and grassroots initiatives to involve ordinary people in auditing public expenditure at the local level. The latter in particular is missing. This is because many organs in civil society who would be expected to contribute substantially to pro-poor anti-corruption movements are themselves 'compromised'; they are implicated in the system which perpetuates corruption. For present purposes, there are three worth considering.

The first is perhaps the most well-known: traditional non-governmental organisations (NGOs), many of which engage in dubious business practices. In India, as elsewhere, many are outright crooked, siphoning funds to those who control them. Others are more complicated: their lack of institutional capacity means that they are unable to monitor intermediaries who deliver funds and services, leading to resources being pilfered further down the line. Another segment of the NGO community consists of organisations which are both clean and efficient, but nevertheless dependent on the government's good will to operate with any degree of effectiveness. They

are vulnerable to intimidation, especially if they receive foreign funding.

Surveying India's NGO community for potential replicators of the collective-verification approach pioneered in Rajasthan's *jan sunwais*, one finds few signs of hope. Senior representatives from two large foreign-funded NGOs in southern Rajasthan told us that they had no intention of pursuing the same methods as the MKSS, though they were willing to admit the impact which both the right-to-information demand and the *jan sunwai* approach had achieved.[6] They voiced elaborate justifications for why the MKSS method was not suited to their way of working, or why the MKSS, because it focused on government-administered employment-generation schemes, was accepting uncritically the state-directed 'development paradigm' – thus neatly attempting to out-flank the MKSS on the left ideologically. The fear of backlash from the state appeared a more convincing explanation of the unwillingness of these NGOs to champion participatory auditing, despite their involvement in projects ostensibly designed to make local government more responsive to the poor. The state could, if it wanted to, detect any number of real procedural or ethical lapses on the part of NGO staff, and is more than capable of inventing others to get its intimidatory message across.

The second seemingly natural civil-society contributors to a transparency-based anti-corruption movement are trade unions – often the only force in a political system with the organisational muscle required to mount a sustained campaign to promote the interests of non-elite groups. Though sometimes derided as a 'labour aristocracy', unions in the organised sector have a direct interest in combating forms of corruption that undermine hard-won worker rights – for instance, ensuring that illicit income does not undermine the integrity of occupational-health inspectors. Acting as a watchdog over government's performance of its regulatory duties, for which access to information is critical, is a democratic virtue often claimed for the trade-union sector of civil society.

What is preventing organised labour from playing this role in India? Among other things, corruption. While in theory the ability of workers to switch

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[6] Interviews, 16 and 17 March 1999, Udaipur.

union affiliation or vote out their representatives should reduce union leaders' scope for obtaining corrupt income, in practice the grip of mafia-linked syndicates on union organisations is often strong enough to prevent the emergence of serious alternatives. The case of the textile workers' union in Mumbai (formerly named Bombay) illustrates how corrupt civil society organisations can pose a considerable obstacle to the emergence of movements to make the state accountable to the poor. The legally recognised union, the Rashtriya Mill Mazdoor Sangh (RMMS), is under the direct control of criminal gangs operating under the patronage of senior politicians. The RMMS has systematically undermined the efforts of a dissident mill-workers' union, the Girni Kamgar Sangharsh Samiti (GKSS), to combat corruption. The GKSS has charged company managements with failing to live up to their commitments under government-sanctioned mill-modernisation plans. Their further charge is that government regulators have turned a blind eye in exchange for a share of the spoils.

The central government's statutorily created Board for Industrial and Financial Reconstruction approves plans put forward by chronically loss-making companies, and many of these have been in the textile sector. The revival packages include permission for mills to sell portions of their century-old real estate holdings in central Mumbai in order to raise funds for industrial modernisation. The officially recognised RMMS is permitted to learn all of the details of the approved plans, as are the regulatory bodies within the state and municipal governments. However, the RMMS has failed even to look interested in performing its watchdog function. In the absence of information detailing the exact concessions granted to the companies and their corresponding commitments under the revival plans – for instance, the amounts of land to be sold, the proportion of the proceeds earmarked for job-saving modernisation, the timeframe and sanctions stipulated in the agreement – it is impossible for the GKSS effectively to challenge the managements (and the government agencies charged with regulating them) for their failure to fulfil their responsibilities. The unquestionably corrupt and violent RMMS leadership holds a monopoly over that information – or rather holds civil society's stake in the tripartite information oligopoly that also includes the state and the private-sector mill owners. The RMMS is quite clearly a civil-society organ impeding

efforts among other actors in civil society to use transparency to combat corruption.

The third seemingly natural civil-society allies of an anti-corruption movement are associations which poorer people have been able to build on the basis of claims made against the state – for instance, radical groups of forest dwellers, who have none of the mainstream anxieties of NGOs or trade unions. Leadership figures, such as resource-rights activists, are no more susceptible to elite backlash because of their activism than they already are, due to their social and economic marginalisation.

Ordinary members of these organisations are, however, beset by a problem with potentially serious implications for their ability to take up active roles in campaigns demanding greater transparency, or to pursue variants of the *jan sunwai* method. Like trade unions and NGOs, they are implicated in corruption, though in a very different sense. The case of people living on designated forest land helps to illustrate this point. Many have had their traditional sources of livelihood drastically undermined by government forest policy. A good many occupants of government forest land are illegal encroachers who are able to remain in place by paying off forest and other land-revenue officials. While this sort of coerced bribery is not the moral equivalent of the kickbacks pocketed by trade-union leaders, it nevertheless leaves the participants vulnerable. Rather than forming an extra battalion in the anti-corruption army, the people who make up organisations of this type can be disproportionately unwilling to risk exposure of what is, after all, illegal behaviour. Many fear, not unreasonably, that they (not the powerful landowners doing the same thing on a larger scale) will be the targets of a biased crackdown. They do not possess legal title to their land, and could be shoved off quickly. At the very least they are susceptible to scare stories of this type from local elites who might try to discourage them from contributing to right-to-information activism, whether at the state or local level.

3 Implications for Theories of 'State-Fostered' Civil Society

One thing all three of these seemingly natural, though ultimately unhelpful, allies in the struggle against corruption have in common is a credible claim to have been brought into being largely through interaction with the state. The NGOs are

the most clear-cut case: they receive state funds in many cases, and carry out what were conventionally state tasks. As for labour organisations, industrial relations legislation in many sectors (including textiles) recognises specific unions, which are then granted far-reaching exclusionary powers over their competitors. Finally, the people's organisations: many of these are largely the creation of misguided state interventions – for instance, associations of people displaced by large hydro-electric dam projects. They exist politically to demand compensation from the state for particular actions, and to insist upon a radical overhaul of state policy.

That all three of these sectors of civil society are products of state action acquires analytical significance in the light of recent theoretical tendencies in the study of civil society's contribution to accountable governance. Stemming from a sense that the pendulum had swung too far in the direction of dichotomising state and civil society, conceiving of them as natural antagonists operating in zero-sum terms, several recent studies have emphasised the state's role in catalysing the emergence of specific civil-society organisations, or promoting conditions under which a 'thickening' of civil society can take place. Unfortunately, while seeking to rectify a conceptual imbalance, the new theoretical wave has taken an unnecessarily benign view of the state's part in this dialectic. Cases of civil-society activism have been grouped together to support the proposition that state action can both generate the creation of new organisations and unleash the energies of incipient associations.

Rebecca Abers's (1998) study of a participatory budgeting process in Porto Alegre, Brazil, is perhaps the best example of this theoretical tendency. Abers argues that the conventional wisdom has got the relationship between civil society and democracy all wrong. The accepted position has long been that states tend to crowd out civil society – that is, that social networks are most likely to solidify into agents for change when the state is in retreat. But Abers argues persuasively that the participatory municipal budgeting process in Porto Alegre was a particularly striking case of what she calls 'state-fostered civic organising'.

In Porto Alegre, neighbourhood associations and other defined interests have an almost continuous influence over the process of setting agendas, establishing spending priorities, scrutinising budget line items, and so on. The views of these associations enter the municipal budgeting process through their participation in a range of state-created debating and decision-making bodies. Abers's empirical evidence supports her basic theoretical claim: that a government programme *can* result in 'a successful state-sponsored effort at capacitating civic groups'. She thus contests the view that the state is 'highly unlikely actually to encourage autonomous civic groups to form' (Abers 1998:514).

Abers's work is part of a longer-term effort, dating to the mid-1980s, to recast debates on the origins and growth trajectories of civil societies by 'bringing the state back in' to our understanding of how polities evolve (Rueschemeyer *et al.* 1985). Peter Evans (1996) subsequently elaborated this concept to include the mutually constructive roles that states and mobilised communities can play in supporting each others' developmental activities through 'state–society synergies' (Evans 1996:1119). Much of the evidence for this synergy is coming from Latin America.

Empirical evidence from India broadly affirms the argument that states can indeed foster new forms of civil society. There is, however, one extremely important modification suggested by the Indian experience: while states can help to foster the diversification of associational life, the result is not always along predictable or even desirable lines. This is ignored by almost all of the work which supports the 'state-fostered civil society' perspective. It raises, further, two kinds of suspicions: first, that by focusing on isolated instances in which there were fortuitous outcomes, the literature gives short shrift to those cases of state-fostered civil society that did not produce the desired results; and second, that even successes like the Porto Alegre experiment, because of their parentage at the hands of the state, might be congenitally incapable of confronting the most self-preserving instincts of the state by demanding that details of financial outflows be subjected to public scrutiny.

Indeed, there is no mention in the literature on participatory budgeting of complementary procedures for a participatory approach to *auditing* expenditure. There is no systematic mechanism for opening up all the supporting documentation which makes an accounting statement meaningful and makes it possible for ordinary people to carry out the time-consuming task of verifying and falsifying the state's

'account' of development – by inspecting physical premises and interviewing ordinary people to obtain their testimony. Whether in Brazil[7] or Uruguay (Chavez 1999), the civil-society actors spawned by the structure of state programmes and processes have not gone beyond vague references to transparency and 'open government'. In Bolivia, where the 'Law of Popular Participation' has taken the concept of collective engagement furthest, there is evidence that some of the local associations involved in the budgeting process have themselves become implicated in patronage politics, and in some cases outright corruption (Blackburn 1999:12). Moreover, in the case studies on which Evans constructs his vision of state–society synergies, which centre on cooperation in the delivery of services, it is striking that there is no discussion of states facilitating the critical auditing function civil-society groups need to play if they are to hold the state accountable to their poorer citizens.

4 Unintended Consequences

The emphasis thus far has been on the extent to which state-fostered forms of civil society either become corrupt – and thus unhelpful in fighting corruption – or appear disinclined to develop in the radical directions that would support the more optimistic claims of those who study them. This is not the same thing as saying that the state's role in shaping and indeed inducing the emergence of particular expressions of civil society will always produce negative results. Rather, it highlights the substantial likelihood that outcomes will deviate from original expectations – something which aid and development organisations fail to recognise at their peril. The other side to this story of unintended consequences is that other instances of state-fostered civil society – in fact, those originally viewed with suspicion – can end up generating capacities to make the state accountable to poor and vulnerable people. We illustrate this point with two examples from India's fragmented efforts to promote transparency.

The first illustrates how miscalculation on the part of governing elites can throw open unexpected spaces for civil society. At the beginning of 1998, the Goa state government passed a landmark right-to-information law. The intent of the original bill

had little to do with increasing either access to or dissemination of information which might make government more accountable. Instead, the bill included provisions which appeared to discourage press freedoms. Fears that an attempt was being made to muzzle the media triggered a protest campaign organised by the Goa Union of Journalists – until then, a fairly moribund organisation. This mobilised a tremendous cross-section of civil-society groups working on issues such as environment protection, sustainable tourism, and gender equality. Ultimately, the government bowed to pressure and removed the law's anti-press provisions.

The irony is that in an attempt to control the press the state government provided Goa with India's only reasonably solid right-to-information legislation. By grossly miscalculating the level of opposition the bill would generate, the state created an opportunity for a diverse array of civil-society groups to coalesce over a procedural matter and a liberal right which affects them all. These groups have continued to work together to pressure the state government to implement the law's provisions for citizen access to information, and have embarked on a campaign to motivate even more organisations in civil society to make use of the act.

The second example of unintended consequences of state-fostered civil society concerns another phenomenon neglected in the theoretical literature: the tendency for distinct 'sectors' in civil society to redefine themselves and assume new roles in response to state action. An examination of the civil-society actors that have used the transparency provisions grudgingly put in place by India's state governments in recent years reveals a curious phenomenon: the great interest shown by associations based on ascriptive identity. Such groups, it is important to note, are often portrayed as the enemies of norm-based governance: by pressing for benefits for specific communities they are seen to promote patronage, populism, and in some cases sectarian conflict. No development agency would encourage an aid-recipient state to 'foster' them deliberately.

And yet in India they are performing the important function of demonstrating to other less-well-organised

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[7] In addition to Abers's piece, see Santos (1998).

associations the potential relevance of government transparency to poorer people. In Goa, for instance, the Gomantak Bahujan Samiti (GBS), a federation of 'backward caste' associations,[8] has used the state's new right-to-information legislation to expose the politically motivated process by which 'backward' status was granted to a large and, according to the GBS, socially and economically privileged caste. The GBS filed a petition under the Goa Right to Information Act (GRIA) requesting access to the administrative files pertaining to that decision. One of the cabinet notes prepared by the Social Welfare Ministry indicated that the decision of whether to award 'backward-caste' status to this group was referred not to the legally sanctioned Goa State Commission for Backward Classes, but to the legislature caucus of the ruling Congress Party. The decision, not coincidentally, was made during an election campaign, and the caste group in question was considered a potentially important electoral constituency for the ruling party. Following the GBS's presentation of its documentary evidence, the High Court halted the implementation of the government's decision to confer 'backward-caste' status on this group. The GBS subsequently used the GRIA to research compliance with affirmative-action laws by obtaining information from all government bodies about their staff composition. These experiences have placed the GBS at the forefront of civil society's attempts to promote use of the law and to pressure the bureaucracy to implement it.[9]

Another instance of ascriptive associations performing the functions one might have expected from other more 'functionally defined' groups in civil society comes from the southern state of Kerala. By setting aside 40% of plan funds for Kerala's elected village councils – and enacting institutional reforms to support this process – the state's Left Democratic Front coalition government, since taking office in 1996, has gone a long way towards involving people in the process of setting their own developmental priorities. In addition, right-to-information provisions have been added to Kerala's local-government legislation. One of the few civil society organisations to make use of them sought to trace

whether funds intended for socially excluded groups actually reach their targets. The Kerala Pulayam Maha Sabha (KPMS) has pressed a number of village councils to reveal how they spent funds ostensibly earmarked for 'dalits', the most oppressed members of the Hindu social hierarchy. State law stipulates that 11 per cent of village-level plan funds be devoted to activities to benefit 'dalits'. And on paper they are. The reality can be very different. For instance, village councils often count the entire cost of constructing a road against the 'special component' (i.e., 'dalit') budget head because one or two 'dalit' families happen to reside alongside it. To reveal these misleading accounting practices requires access to and analysis of actual expenditure documents. The KPMS has thus far been unable to obtain these, despite staging sit-ins in front of village- and district-council offices.

There are numerous other examples of identity-based associations stepping in to fill the gap where other, more 'modern' organisations have failed to establish a practical link between transparency and accountability. Organisations of tribal people in the state of Andhra Pradesh, for instance, have forced the government of chief minister Chandrababu Naidu to make good its commitment to responsive government: they have obtained access to land records dating back decades as part of a process for adjudicating claims to land expropriated over the years by both state and private entities.

Apart from being based on appeals to ascriptive identity, the other thing these groups have in common is a credible claim to having been state-fostered. The electoral system in India reserves a proportion of seats in elected bodies for India's 'dalit' and tribal communities. Government jobs and places in educational institutions are also awarded on a quota system which gives priority (in theory) to 'dalits', tribals and members of 'other backward castes'. These legal provisions have given rise to associational entities that would otherwise not likely have emerged in anything resembling the form they have now.

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[8] Indian law provides job quotas (or 'reservations') in public-sector employment for members of 'scheduled castes' (formerly known as 'untouchables'; currently termed 'dalits'), 'scheduled tribes', and 'other backward castes'. The latter are groups which are considered to have suffered nearly as much historical discrimination as the two former groups.

[9] The GBS's experience elicited great interest among activists at a meeting on implementing Goa's Right to Information Act, held in the state capital of Panaji on 14 April 1999.

Thus, civil society elements whose emergence is fostered by the state can end up serving purposes very different to those originally intended by either side.[10] In the light of Gordon's theoretical work on civil society, it is worth briefly mentioning one other conclusion that can be drawn from this case: that civil society's 'ascriptive-identity' facet has more in common with the 'functional-interest' facet than is often acknowledged. Gordon pointed out that the literature on civil society's role in expanding civil liberties excludes 'ethnic associations seeking sectional advantage' as much as it does 'business groups bent on buying political influence' – both of which are seen to promote undemocratic 'forms of public behaviour and political accountability'. But, as Gordon consistently maintained, the 'argument that only certain types of civil society can perform this [democratising] role, namely those that emerge from a process of modernisation', greatly limits our understanding of the complexity of civil society and the potential contribution of civic associations excluded from this narrow definition (White 1994:383).[11]

5 Missing Public Auditing's Transformative Potential

Despite these welcome, if unintended, contributions, the relative paucity of civil society organisations capable of promoting the interests of poor and marginalised people threatens to return the right-to-information idea to its bourgeois-liberal roots, depriving it of the transformative potential the MKSS has demonstrated. For instance, despite the GBS's good work in Goa, the main users of the new right to information have been urban middle-class people, using the law not to hold the government to account for its commitments to social equity, but to protect their own property rights, pursue business interests, or campaign to improve the quality of tertiary education (Jenkins and Goetz 1999a). There may thus be additional hidden costs to some variants of state-fostered civil society: the tendency to produce forms of activism content with what might be termed 'trickle-down politics' – that is, the hope that the initial over-representation of middle-class concerns will give way to agendas relevant to disprivileged groups. To date, there is very little evidence of this taking place in

India. Moreover, any hope that participatory budgeting in Latin America might generate demands for similar levels of popular involvement in the crucial downstream function of auditing – the only means by which commitments to the poor can effectively be monitored – have failed to materialise.

In short, state-fostered forms of civil society seem to be poor at demanding and obtaining opportunities to engage in perhaps the most sensitive area of governance: auditing the performance of government itself, particularly with respect to the expenditure of resources. Indeed, India's most impressive example of state-fostered civil society has in its early years also proven notably disinclined towards popular auditing. The self-help and neighbourhood groups established under the People's Planning Campaign in Kerala have generated a great number of democratic benefits, but (the work of the KPMS notwithstanding) organising to strike at the local roots of the corrupt system has not been one of them. Again, the state's hand in fostering the emergence of this form of civil society appears at least partly responsible for this shortcoming. The NGO contracted by the state government to 'assist' in forming local associations is closely connected to the main party in the state's ruling coalition. As with the participatory budgeting processes in Latin America, the substantive involvement of Kerala's people in development *planning* has not yet led to greater demands for inclusion in systematic public *auditing* of actual expenditure. Another way of stating this as a more general proposition is to say that state-fostered civil society organisations do not seem well-suited to operating along the lines pioneered by MKSS.

But could not the MKSS – the benchmark against which others are being measured – itself be seen as state-fostered? If it can be, then the entire concept of state-sponsored civil society becomes so all-encompassing as to signify nothing. Indeed, this question throws into sharp relief a more basic conceptual problem with the theoretical literature: it is unclear what forms of state action qualify as 'fostering'. A start in the right direction would be to identify two qualifying categories. The first consists of civil-society responses organised directly by the

[10] For a more nuanced approach to the relationship between ascriptive associations and civil society, see Chapter 8 ('Civil Society and the Politics of Identity') of Wood (1995:238–63).

[11] This theme is elaborated in greater detail in Chapter 7 of Jenkins (1999).

state, with roles corresponding to the functional requirements of specific *government programmes*. The classic cases are public-works projects or complex subsidy bureaucracies, where social forces coalesce around a set of reasonably concrete demands pertaining to the operation of a programme. The Porto Alegre case, as a clear example of a process which produced a particular form of civil society response, sits fairly comfortably in this category. In the second category are cases which indicate the influence of the state's *institutional structure* on the formation or operation of civil society; these include such variables as the relations between tiers of government and the details of the electoral system. Again, the Porto Alegre experiment would qualify to the extent that the autonomy of municipal governments in Brazil shaped the willingness of the local authorities to incorporate civil society so closely into the process of participatory budgeting.

As for the MKSS, one could argue that it has been shaped by the necessity of acting within the framework of India's decentralised political arenas, and that it should therefore be considered a product of the *institutional structure*. But the MKSS – and indeed its first round of *jan sunwais* – preceded the Rajasthan government's establishment of new, constitutionally autonomous local-government structures. Alternatively, it could be argued that the MKSS focuses primarily on one set of *government programmes* – employment-generation schemes. And yet, this seems flimsy grounds on which to classify the MKSS as 'state fostered'. The MKSS is in fact the alternative to precisely those forms of civil society that the Rajasthan government has deliberately sought to foster. In 1996, the state government sought to demonstrate that a right to information was unnecessary by instituting its own programme of social audit. People were encouraged to 'participate' in their localities – mostly by handing complaints to 'touring' bureaucrats, but also by setting up local vigilance committees. And yet even senior bureaucrats responsible for staging the fairly elaborate logistics admit that the programme was superficial[12] – the supporting documentation required for a genuine audit was not made available – and more importantly that it generated virtually no sustainable

civil-society response.[13] Thus, on neither count can MKSS be considered a product of state-fostering.

6 Conclusion

This article has highlighted how corruption in key sectors of civil society – those which should be the natural allies of the poor – can impede efforts to build a broader movement for accountability based on the principal that ordinary citizens are entitled to scrutinise government expenditure records. It has also questioned generalisations in the theoretical literature concerning the capacity of 'state-fostered' forms of civil society to make the state more accountable to the poor. The Indian case demonstrates the potential for state-fostering to produce precisely the kinds of 'compromised' civil society organisations which inhibit the emergence of effective anti-corruption movements based on local-level popular auditing. State-fostering, it has been argued, can also produce a range of unintended consequences which can offset this disadvantage. But the very unpredictability of this process undermines the notion that states (or development agencies) can deliberately generate such outcomes. One unintended consequence from the Indian case – ascriptive associations testing the limits of government transparency – also helps to expose the shortcomings of theories which assume a functional differentiation between the 'modern' and 'ascriptive' categories within civil society. Ironically, in Latin America – whence most of the evidence for the optimistic view of state-fostered civil society has been drawn – the kind of focused right-to-information approach which the MKSS has used so effectively in Rajasthan is nowhere on the horizon. This raises suspicions that state-fostering of civil society, whatever its merits, comes at a heavy price: the proliferation of associations unwilling to move from 'safe' forms of participation (for instance, in the setting of budget priorities) to those which risk direct confrontation with government officials and their powerful accomplices in the elite-oriented sector of civil society. Such groups appear predisposed to shy away from effectively demanding and obtaining government records, *let alone* organising ordinary people to analyse such information to determine where money allocated for their benefit has actually gone.

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[12] Interview, 24 December 1997, Jaipur.

[13] 'Social Audit Scheme Comes a Cropper', *The Hindu*, 20 December 1996.

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