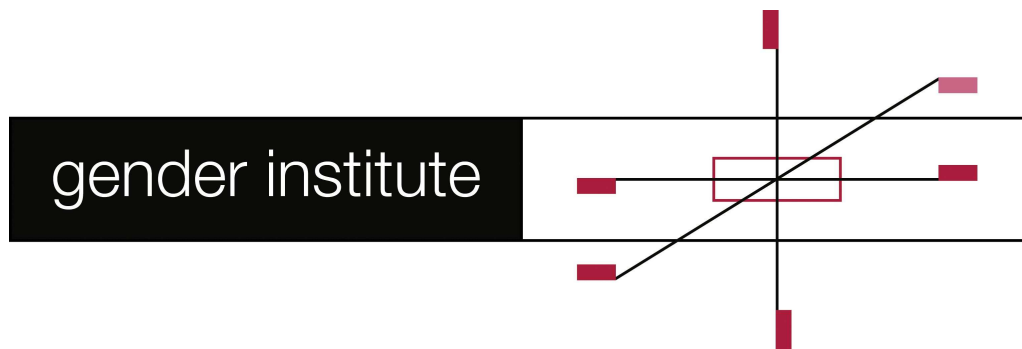


**Five Notions of *Haq*:  
Exploring Vernacular Rights  
Cultures in South Asia**

Sumi Madhok

Issue 25, November 2009



New Working Paper Series

London School of Economics, Gender Institute ISSN No:1470-8515  
New Working Paper Series  
Editor: Wendy Sigle-Rushton ([w.sigle-rushton@lse.ac.uk](mailto:w.sigle-rushton@lse.ac.uk))  
Issue 25, November 2009

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Sumi Madhok is Lecturer in Transnational Gender Studies at the Gender Institute, London School of Economics. Her forthcoming book titled *Rethinking Agency: Gender, Development and Rights in NorthWest India* will be published by Routledge in 2010. Her current research is on 'vernacular rights cultures' and explores the genealogy of rights discourse in South Asia. This Working Paper is based on some elements of her ongoing research and thinking on vernacular rights cultures. ([S.Madhok@lse.ac.uk](mailto:S.Madhok@lse.ac.uk))

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**Five Notions of *Haq*:**

**Exploring Vernacular Rights Cultures in  
South Asia**

Sumi Madhok

# **Five Notions of *Haq*: Exploring Vernacular Rights Cultures in Southern Asia<sup>1</sup>**

As India and Pakistan mark sixty years as postcolonial nations, an impressive feature of their uneven experiments with democracy is the confident and fluent employment of the language of rights to claim entitlements due to persons or groups from the State. While the lofty ideals of democracy, rights and citizenship have received intellectual support from South Asia's elite, it is their poor, marginalized and dispossessed whose everyday struggles for rights that have protected and animated them. The dynamism of this grassroots activism, which articulates rights for multiple groups, identities and practices and citizenship claims for governance reform needs empirical investigation and a theoretical and historical elaboration. Despite the meteoric rise of social mobilisations in South Asia and in India in particular, there are no studies which have examined the language within which demands and entitlements are articulated or the philosophical assumptions underpinning the use of rights language in the region. And finally, there has been little attempt to pursue a comparative and integrative study of theoretical and empirical exercise of rights across the Southern Asian region.

This working paper is a preliminary effort to document the various contemporary rights meanings in South Asia. It focuses on the etymological and vernacular history of the literal term used to denote a right in Southern Asia, which is the Arabic/Urdu literal

term '*Haq*'. In order to map contemporary meanings of *Haq* or rights in India and Pakistan, I put forward and examine five different justificatory premises upon which *Haq* is popularly predicted. By attending to the justificatory premises underpinning rights meanings, I investigate the ways in which rights are grounded in specific empirical contexts; address conceptual and empirical histories, political practices and contemporary politics of human rights in Southern Asia and think about political practices and political cultures outside the western world in a manner that avoids standard misdescriptions and misrepresentations of these. More specifically, through this paper, I wish to think about the relationship between our conceptual vocabularies and our moral lives and in doing so, examine the ways in which language reinforces and contributes to the construction of social hierarchies based upon asymmetrical relationships of power, exclusion, status and privilege. Thus, it is not only important to investigate the originary histories of the words but also to identify the sociological and political relationships that these words signify/uphold and are implicated in. And finally, in identifying the different justificatory premises of *Haq*, I hope to provide not only descriptions of citizenship articulations in non-western contexts but also conceptual articulations of its core referent: rights.

A note of caution however, must be inserted here. Any research of this kind that aims to traverse cross cultural intellectual terrains is always in danger of falling prey to several kinds of intellectual danger. In respect of this particular research, there are at least four types of intellectual dangers: we need to be wary of not only orientalist representations of the non-western political subject, but

also equally wary of reverse orientalism or occidentalism<sup>2</sup>, of crude indigenisms or dangerous neo-nativisms which pay inadequate attention to the multiple sources which feed into the making of conceptual histories and of thinking about rights and citizenship as evolutionary and necessarily progressive by attending to the exclusions and ‘othering’ which takes place both through discourse and practice.

In this paper, I shall first identify and outline the important questions central to the study of vernacular rights cultures. I proceed to provide a brief etymological and intellectual description of *Haq* which is the principal literal term within Urdu/Arabic to denote a right in Northern India and Pakistan. Finally, I isolate five different justificatory premises underpinning the employment of the word ‘*Haq*’ and thereby, rights usage in Southern Asia.

### **The Study of Vernacular Rights Cultures**

It is now commonplace to argue that the last two hundred and fifty years have witnessed the ‘global diffusion of a culture of rights’ (Ignatieff 2001). While the causes of this spread are linked variously to the impact of western colonialism, immigration, international legal instruments and global communication, the assumption undergirding these arguments is an orientalist<sup>3</sup> one: that the conceptual, philosophical and empirical experience of rights owe their formulation to the three revolutions of the modern west, to the English (1680), American revolution (1776) and the French revolution (1789). Not only are these emergent rights cultures seen as western derived but are regarded as symbolic of

this continuing western tradition of human rights. While the spread of modernity in different parts of the globe has coincided with the rise of rights based mobilisations, it is important to note that these rights articulations are expressed not through neologisms but within the vernacular and that they do not occur as singular or even odd prototypes but draw upon and are accommodated within existing vocabularies and norms governing entitlements, roles and identities. In fact, an important reason for the successful, meaningful and creative politics of rights in many parts of the non-west can be traced to the presence of historical, linguistic and moral resources in these societies.

Securing human rights has emerged among the biggest challenge of our times. Human rights are regarded as the epitome of western civilisational progress to which 'other' nations and peoples must aspire. On the other hand, there are powerful detractors of human rights who similarly place rights on a continuum of progress and linear historical time and prioritise economic development as a necessary precondition in the progress towards political and civil freedoms. Both these positions involve significant historical and intellectual forgetting. Not only are universal human rights a recent intellectual and political project within the global North but that discourses of rights and entitlements are powerfully invoked within vernacular political practice within the global South. In recent years however, there has been a rise of sophisticated arguments which seek to advance the debate beyond these binaries and address questions of rights within the context of increasing economic global integration, ideational, communication flows and diasporic communities and within modernity, poverty and

development referring instead to 'cosmopolitics' (Cheah and Robbins 1998), to 'global' (Appiah 2004; Pogge 2002, 2007; Nussbaum 2000) and 'vernacular cosmopolitanisms' (Bhabha 1999, 2002, 2008; Breckenridge et al 2002) with a view to establish transnational linkages between discursive practices at the global level with the struggles of the poor and the marginalized at the local level ( Mohanty 2003, Grewal and Kaplan 1994). Even as theoretical scholarship on vernacular cosmopolitanism and non-western modernities is gaining recognition, there is little attempt to produce grounded or ethnographic accounts of the cultural idiom in which these vernacular cosmopolitanisms or indeed rights cultures are articulated, practiced and experienced. While drawing upon many theoretical insights of vernacular cosmopolitanism, this paper instead focuses on an ethnographic, historical and contemporary articulation of vernacular rights cultures in Southern Asia and demonstrates how these expand the boundaries of ethical politics and practices from a subaltern perspective'. It uses the conceptual language of 'vernacular rights cultures' as it finds that the exercise of ethical political agency accompanying this demand for entitlements within this region is predominantly couched within religious, caste and regional terms. So, while this language of entitlement articulated in the pre-existing vernacular, arises out of the failure of democratic representative politics and state developmentalism, it does not preclude or diminish the inclusion of identity as a chief marker. Like freedom, rights are contextual and relational in nature (Brown 1995) and they require an empirical and theoretical study which captures the sociological, political, institutional and linguistic embeddedness.



As a conceptual intervention, the lens of vernacular rights cultures helps steer clear from the theoretical foreclosures and deadlock of mainstream discussions on rights in the non-western world. As an alternative to these explanations, it argues that vernacular rights cultures are not wholly derivative from the three major revolutions in the West- the American, the French and the English- or entirely oppositional to western notions and conventions of human rights or indeed, entirely discrete in form, in that one would be hard pressed to find hermetically sealed or 'pure' indigenous rights traditions but they are instead, interlocked into relations that are historically productively, intimately, and coercively produced and experienced. In relation to South Asia, this research explores the different sites where formulation, translation and transposition of rights takes place and thereby is a key intervention in tracking not only the etymological histories of the literal language of rights outside of the western world, but also attending to the particular forms of conceptual development accompanying them as a result of the colonial encounter and anti colonial nationalism, the setting up of the postcolonial state and its distinct forms of developmentalism and bureaucratisation and more recently, through the impact of the increased 'destatization' and the proliferation of the non state organisations advocating 'human rights'.

A study of vernacular rights cultures necessarily involve discussions of the nature and kinds of modernity experienced within the non- west and the vernacular in which rights are articulated. Along with attempts to show the historical and culturally specific character of these rights languages, it must track

the ways in which emancipatory discourses of modernity have permeated the global south and intermingled with local idioms, investigate possibilities for emancipation together with new forms of subjection especially in relation to the state which come into being as a result of espousal of citizenship rights. It must demonstrate how the language of rights is conceived and the kinds of political, linguistic and normative strategies these rights mobilisations make in order to stretch and dislodge the existing normative boundaries of the universal (Butler 1997) and through such efforts change the existing meaning and conceptual construct of rights itself and existing public policy. In addition to the advent of new subjectivities in Southern Asia this paper argues, the articulation of rights in the region has led to significant public policy legislation in support of citizenship rights particularly in the spheres of democratic accountability and transparency. A key intellectual challenge of research into vernacular rights cultures is to combine a critical interrogation of the emancipatory discourses and practices of modernity with its actual and grounded practices, projects and institutions and identify the possibilities for emancipation within the vernacular.

In addition to providing a 'grounded' understanding of the contemporary articulation and practices of rights in South Asia, this paper hopes to offer an assessment of how rights operate politically and the political cultures they create including new forms of subjectivities and subjection. The uncovering and documenting of the literary and philosophical history of this 'non-western' rights language queries the intellectual, institutional and cultural foundations that sustain and preserve rights based ideas in the

region and involves detailed, ethnographically informed and theoretically sophisticated discussions on the nature of modernity experienced in Southern Asia. It aims to explore the relationship between conceptual vocabularies and morality and of the conceptual and political lives of ideas outside of their originary theoretical environs. In doing so, it examines the ways in which language reinforces and contributes to the construction of social hierarchies premised upon asymmetrical relationships of power, exclusion, status and privilege and identifies the sociological relationships that these words signify and are implicated in. It explores the ways in which this language of entitlement and rights is appropriated by subaltern groups operating within minoritarian positions and discourses and studies the ways in which persons who continue to suffer age old indignities and denial of rights consider the language of rights as useful political tools to claim recognition and redistribution from the State and other powerful groups within India and Pakistan. And finally, it examines how this intellectual history and contemporary experience of rights in South Asia inform not only our western derived formulations of human rights but also contribute towards thinking about non-western forms of rights.

In referring to 'vernacular rights cultures', the reader will have recognised my intellectual debt to the proponents of 'cosmopolitics' and vernacular cosmopolitanisms. But I seek to maintain discernable differences in respect of them: A distance from the idea of cosmopolitics because of its strong faith in engendering mass global consciousness as not only do I not detect global consciousness in the rights mobilisations that form a part of this

research but also, I remain unconvinced of the necessity of calling for a unified and a common global consciousness. Secondly, while I'm very sympathetic to cultural hybridisation as the site for resistance to both imperialism and neo-nativist including nationalist understandings of the postcolonial state, yet, I believe, the impact of the 'material' on this hybridisation might be understated in various writings on cultural hybridity. More seriously however, I feel that whereas hybridisation provides thick philosophical descriptions of the eurocentredness of the western cosmopolitical cultures which enter into contact with vernacular ones, these thick philosophical descriptions are not extended to the latter and we are left wondering about the philosophical nature of these vernacular cultures. So while hybridisation is a 'strategic activity of authorising of agency', could it be the case, that in failing to document full and thick descriptions of these vernacular cultures which are the actual sites for this cultural contact, Bhabha's enunciation of cultural hybridity (1999), is according passivity and thereby denying agency to these vernacular cultures? In studying vernacular rights cultures, I am interested in the contact between Eurocentric cosmopolitan cultures of international human rights and vernacular rights cultures resulting in the new meanings and understandings of human rights to emerge. But this contact is not, I suggest, between two mutually incomprehensible cultures or that it consists of the agentic cosmopolitical culture actively working upon the passive vernacular one without the latter talking back to it. Instead what I seem to increasingly find is that not only do vernacular rights cultures contain various sites of contestation and conflict which are intensely productive and make for dynamic practices of ethical reflection - forging interesting conceptual connections

including conceptual hybrids<sup>4</sup>- but also that these produce and craft a certain kind of rights politics. This rights politics is articulated in the vernacular and seeks to particularise rights but quite paradoxically justifies this rights particularism in a language of normative universalism.

The active particularisation of universal rights discourse is understandable given that the rights language employed by various social mobilisations in this study are movements for social justice which have clearly originated and are a response to particular indignities, injustices and inequities. But it would be a mistake, to characterise these as 'local' or simply as symptomatic and reactive to local needs and thereby 'free floating' and autonomous. On the contrary, these citizenship mobilisations are connected to and are part of a larger 'global field' of rights and transnational rights activism. For instance, the right to food movement which advocates freedom from hunger as a fundamental right in India is a nationally based movement- one who's demands are not only recognised as a fundamental aspect of the right to life under India's constitution but are also enshrined under international declaration of human rights<sup>5</sup>.

Consider also, for instance, the movement for land rights in Pakistan led by the Anjuman Mazarein which earned a lot of publicity in international NGO circles and who at one stage in its mobilisation history evolved close dialogical and funding links with the international NGO 'Action Aid'. Despite the transnational character of these movements, it is not altogether illegitimate to query the role of the nation- state in relation to these movements?

Two things can be said with certainty in this regard: Firstly, many of these citizenship mobilisations are transnational but seldom are they postnational<sup>6</sup>. In other words, many of these movements do not challenge the 'cultural hegemony' of the state but instead use the language of citizenship and court the state for redressal of popularly perceived wrongs, demand inclusion within existing constitutional/institutional structures and seek additions to already existing guarantees enshrined within state constitutions and in doing so, in many instances, suggest expansions to the list of formally recognised rights. Secondly, even though the rights demands are directed at the state in the first instance, the social citizenship powers of the state are themselves severely curtailed by the impact and activities of transnational forces such as the World Bank, IMF and the other economic forces associated with neo-liberal globalisation.

Although neoliberalism is often referred to in the singular it is experienced in the plural. The heterogeneity of neo-liberalism is now cogently argued and empirically documented in the various 'grounded' studies of neo-liberal led globalisation (Rofel 2007; Rankin and Shakya 2008; Burawoy et al 2000; Barrientos and Perrons 1999; Ong 1999, 2007). Along with its experiential heterogeneity, scholars have also pointed to the fact that neo-liberalism is often invoked as a predominantly economic doctrine<sup>7</sup> and its politically prescriptive project, its 'political rationality' or neoliberal governmentality' is often ignored. This neoliberal governmentality, scholars suggest, produces certain 'prudent' subjects and subjectivities in its wake who perform roles essential to maintaining support and desire for many of its economic goals. It

is in the production of these 'desiring' subjects (Rofel 2007) that neo-liberalism legitimises itself and it is through its political rationality that neo-liberalism produces subjects, citizens and new ways of organising sociality so that they reflect its economic rationality efficiently. While neoliberalism's political project is indispensable to its global reach, my empirical research into the citizenship mobilisation finds that its hegemonic reach may be limited to mainstream consumerist classes in South Asia. The challenge to neo-liberal governmentality is launched from the rural margins of Southern Asia and it is some of these challenges which are documented in this paper.

### **The Word For a Right: The Etymology and Meanings of *Haq* in the Vernacular**

A principal question in the study of the evolution of rights language involves the examination of the relationship between the conceptual understanding of rights and the literal terms in the vernacular used to evoke rights. The incongruous relationship between words and concepts has been under considerable philosophical scrutiny and arguably, an asymmetrical correlation between the word and the concept is not peculiar to the literal and conceptual meanings of rights alone. However, in the context of southern Asia, the relationship between the literary meaning and the conceptual meanings of rights gains significance in the light of the fact that the literary term for 'having a right' or *Haq* is not only intellectually antecedent to its more 'modern' meaning but has its own conceptual history.

The literal term *Haq* is remarkably cosmopolitan and has an interesting intellectual history. As the principal Arabic word used to denote a 'right', it enjoys an intellectual recognition across the Arabic-speaking peoples in the Middle East and North Africa and among several communities in South Asia. In Southern Asia, the literal term *Haq* is uniquely placed as a case study to examine the historical and the modern meaning of rights as it easily transcends geographical and religious boundaries and is used to invoke a 'right' by different religious and linguistic communities in Northern India as well as in Pakistan. The term *Haq* is a pre- Islamic Arabic word, which is also available in Hebrew, Persian and in some of the older Semitic languages.

The Urdu language from which *Haq* is derived is spoken by only 2.17percent of the population in Rajasthan. It is quite remarkable that this word has somehow been associated with rights by speakers of both Hindi and Urdu in Rajasthan.<sup>8</sup> The word *Haq* has an interesting intellectual history. *Haq* is a derivative of the classical Hebrew term hkk whose use is by now 'obscure'. Its meaning is 'recovered by reference to the corresponding word in Hebrew' where it means to 'to cut in', to inscribe' and thereby refers to a permanent law or statute which necessarily does not have a particular normative content. Its earliest use in Arabic<sup>9</sup> can be traced to pre Islamic poetry where it means 'something right, true, just, and real'. In the Qur'an, its fundamental meaning is 'established fact', and therefore 'reality', 'justice and that which is true'. These meanings develop to include the divine and spiritual reality (Schacht, Menage and Pellat 1960).



*Haq* or *hukk* appears in the Hindustani/Urdu language through the influence of Persian in the Indian subcontinent. Its meaning within the earliest Hindustani dictionary is similar to its Qur'anic meaning, which is justice and *truth*. Like the Qur'anic meaning it does not explicitly apply to persons. The dictionary meaning of *Haq* has changed from a religious one to one that is partially secular and applicable to the individual. The change in the dictionary meaning is applicable only to the lexicographic exercises in colonial India. For today, even in the modern dictionaries of Arabic, Persian and Semitic languages, the Islamic meaning of *Haq* dominates. *Haq* in these dictionaries for example, denotes the following meanings: to be just, right, obligatory, make or decide to be just (Mashkur 1978). For example, in the earliest dictionary of the Hindustani language compiled by John Gilchrist (1790), *Haq*, the plural of which is *hoqooq*, is translated as 'right' and 'due'. In the later editions of the dictionary, there is an addition to his meaning of *Haq* as 'due'. This new addition to the existing meaning is 'equity'. *Haq* now becomes clearly designated as a right in the modern sense and is now applicable to persons as a claim they can make. This meaning of *Haq* as a right becomes entrenched in the successive dictionaries. For instance, in the 1873 dictionary compiled by John Ferguson, *hukk* is denoted as: equity, reason and due. Ferguson gives an example of this usage of *Hukk* in the following sentence: "Burra saheb subb quoy ko hukku insaaf kurrta", (the governor does justice and equity to everybody). In 1884, John Platts assigned the following meanings to *Haq* in his *Dictionary of Urdu classical Hindi and English* where *Haq* means just, proper, right, true, correct, rectitude, equity, right title, privilege, claim, due, lot, portion, the *Truth*, true God.

There is another word used to stand for the idea of rights which appears in the dictionaries of the early 19<sup>th</sup> century: *adhikaar*. It is applicable to persons and is used to define/describe their social status in relation to others. In his *Dictionary of Hindustani and English*, John Shakespear (1820) includes the word *adhikaar* and excludes *Haq*. The meaning of *adhikaar* ascribed in the dictionary is: possessor of a right, title or privilege and an *adhikaari* is the bearing of royal insignia, dominion, possession and right. The later meanings of *Haq* share some similar meanings with *adhikaar*, for example, both include title and privilege in their meanings repertoire. There is however a notable difference in the meaning of *adhikaar*, it does not develop to include equity.

It would be fair to suggest that these changed/additional meanings of *Haq* from a religious idea of a permanent law, right and real to include equity, claim and privilege in the 19<sup>th</sup> century were influenced by the enlightenment ideas dominant in Europe during that period. There are three reasons to support this claim: Firstly, this was the time that ideas of individual rights and justice were in ascendance in Europe and the lexicographers of the early Hindustani and Urdu dictionaries were European civil servants and missionaries who must have come in contact with these ideas. Secondly, the pre 18<sup>th</sup> century meaning of *Haq* was a religious one and did not apply to individuals in the same way as a 'bearer of rights'. Finally, while the word *Haq* existed in the moral and religious vocabularies of that period, a fact confirmed both in its occurrence in the Qur'an and by its inclusion in the dictionaries of the period, the meanings that were prescribed to *Haq* in the most likely of cases did not correspond to the local meanings and

certainly not to its Qur'anic usage. Leaping two centuries and to the social world of the women who feature in this paper, this still holds true. For instance, they do not deny encountering the word *Haq* before, but they did not necessarily connect it with notions of universal equity, justice or individuation.

To conclude this section, what I am saying here is essentially that no neologisms were created in order to accommodate this new meaning of rights that my fieldwork respondents had come in contact with as a result of their participation within various social mobilisations. In its earlier avatar, the word *Haq* did not exist to denote an 'entitlement' but was more expansive in meaning and close to an abstract notion of justice as what 'is due', rather than any formal or substantive notion of equality. The gender of *Haq* is overwhelmingly described as male and women admitted to never even using the term. And finally, there is a difference between the use of *Haq* and *adhikaar* within everyday speech practice.

*Adhikaar*, often regarded as a 'new' addition to the vocabulary<sup>10</sup>, invites legalistic interpretation and is often used interchangeably with power or office, whereas *Haq* is regarded as something 'that belongs to one' and which must be 'snatched back' if taken.

## **Rights in Context: Development, Citizenship and Rights in India and Pakistan**

Despite the long intellectual and literary history of *Haq* within the vernacular, it is fair to say that individual rights do not regulate interpersonal relations in social life either in North India or Pakistan. However, it is also the case that the discourse of rights has been successfully and innovatively employed by various grassroots citizens' movements, in rural India and in recent years in urban areas within Pakistan to claim social, political and economic entitlements and liberties from the State. This paper is a preliminary effort to document this 'innovative' practice of rights and citizenship and is based on detailed ethnographic research in India and Pakistan between 1998-2008. In India, the fieldwork focused on the North-Western Indian state of Rajasthan<sup>11</sup> and recorded narratives of development workers, grassroots political workers and participants of various citizen movements demanding rights to food, employment and public information, and rights of *dalits* (those belonging to the formerly untouchable castes) and indigenous peoples. While the spectrum of rights covered by these movements is quite broad, these rights tend to be interconnected: for example, demanding the right to information about public work programmes of health, education or drought relief can in many cases involve a simultaneous claim for gender and caste equality whilst in the same breath drawing attention to corruption within the local and state bureaucracies, the judicial system and to the flouting of procedural norms within the administrative, executive and legislative system itself.<sup>12</sup>

India's development profile continues to be very mixed, despite its recent economic growth: the Human Development Index (HDI) for India in 2005 was 0.619, which gives the country a rank of 128<sup>th</sup> out of 177 countries. According to official estimates, 31 percent of India's population lives under the poverty line, 39 percent of Indians are illiterate, 14 percent of the population does not have good drinking water, and 47 percent of Indian children are underweight for their age. These statistics reveal that "Out of the 156 countries with both HDI and GDI values, 137 countries have a better ratio than India's"<sup>13</sup>. In terms of Millennium Development Goals, Rajasthan, which is the site of the field work study, is among the poorer states in India, which host 76 percent of the poor of India.<sup>14</sup> The sex ratio for the state is 922:1000, which reflects the poor social status of women. Despite the improvements recorded since 1961 and Rajasthan continues to have a lower sex ratio than that of India, although the gap between the two has reduced over the years<sup>15</sup>. In Rajasthan, 31 percent of 6-14 years old girls do not go to school and 9673 women died in child birth in 1999 alone.<sup>16</sup>

But despite its dismal social indicators, Rajasthan is at the forefront of many rights based mobilisations. These citizen movements, although based in Rajasthan, have had a spectacular impact on national policy resulting in the formulation of several national and internationally recognised innovations to public policy which include legislative passage of the 'Right To Information Act India 2005'<sup>17</sup>, 'The National Rural Employment Guarantee Act' 2006 and 'The Mid-day Meal Scheme' in 2002 which laid down the mandatory provision of a cooked meal to all children attending government aided schools across the country. In 1997,

responding to a Public Interest Litigation filed at India's Supreme Court by Vishakha a NGO based in the state capital of Rajasthan Jaipur, legal guidelines were framed to prevent sexual harassment of women in the work place. <sup>18</sup>

The reasons for Rajasthan's pre-eminent position in matters of citizenship struggles are not altogether clear. Going by cold statistical print alone, its social and economic indicators are nowhere near satisfactory. Despite the plurality of social contexts inside rural Rajasthan there are some social practices, experiences and conditions which are common and widespread. Statistical patterns reveal only what one witnesses in the hamlets and the villages around the state: that girls are very seldom in secondary education let alone in primary schools, that iniquitous caste practices still determine interpersonal social relations, access to public amenities is strictly regulated according to one's position in the caste hierarchy, child marriages abound and are celebrated in annual religious festivals, female infanticide is widespread amongst several communities resulting in a skewed sex ratio in the state and then there is the acute and widespread poverty which has resulted in its constituent membership of the BIMARU state quartet<sup>19</sup>. But here comes the paradox: the state boasts of high female visibility in the public sphere, has high voting rates for women, a high proportion of SC/ST women contest and are elected to local government bodies and a vibrant women's movement. <sup>20</sup>

Pakistan's social development indicators are not remarkably dissimilar to those documented for India. According to the Human

Development Report 2006, the HDI for Pakistan was 0.539 which gave Pakistan the rank of 134<sup>th</sup> out of 177 countries. Pakistan ranks almost at the bottom of the GEM index and the country does not look on track to achieving the MDG 3. Throughout the 1990s, Pakistan's GDP grew at less than 4percent per annum and its poverty actually increased to 32percent during this period, the debt servicing burden of the state increased from 19.6 in 1980 to 60.3 in 2000.<sup>21</sup> Unlike India, however, Pakistan does not often command global attention for the vibrancy of its citizen movements- but the eight year long movement by the peasant farmers of the Punjab for land and tenancy rights by the *Anjaman Mazarein Punjab* has been spectacular in not only attracting international attention to the movement but also in capturing and captivating popular imagination within Pakistan itself- But more significantly of all, perhaps, this peasant/agrarian movement is now seen as symbolising the capacity of ordinary Pakistanis to mount a 'resistance to the post-colonial state dominated by the army' ( Akhtar 2006).

The Anjaman Mazarein movement is interesting case of not only peasant politics (Akhtar 2006) and a microcosm of community relations in Pakistan- many of its prominent members and supporters are Christian while the majority of peasant members and formal leadership is Sunni Muslim. Furthermore, this movement also witnessed a very large mobilisation by women peasant workers, but despite their participation in large numbers the movement has failed to raise any demands towards gender equality legislations or ignite a collaborative relationship between peasant women in rural Pakistan and urban women activists

campaigning for women's rights in the Pakistani cities of Lahore and Karachi. In sum, however, the mass participation of women peasants in this agitation has had negligible impact upon existing women's activism in Pakistan as a whole and been unable to galvanise public policy in favour of broadening women's rights, particularly economic rights. Despite these serious shortcomings, the movement has been impressive for raising the profile of ordinary peasant farmers in Pakistan, who have thus far remained under the yoke of feudal farm practices, for articulating the language of rights within a rural context and finally for mobilising on the question of rights itself. While this movement has generated some interest in the print media in India and Pakistan, there are only few detailed scholarly pieces of research and to my knowledge no ethnographic studies of this rights mobilisation exist.



The fieldwork in Pakistan documented the employment of the rights language by the peasant farmers of the Anjuman Mazarein in two field sites: At the Military Farms, Okara and in Khanewal - both in the Punjab province. These field sites comprise large areas of agricultural land which are 'owned' by the Military and administered by them. The management by the Military including the terms of agricultural contracts of the peasant farmers attached to these lands dates to the colonial state administration. In recent years, the Military has sought to introduce changes to the original terms of the contract which can only be described as unfavourable. In 2000, the peasants who work on these farm lands organised themselves as the 'Anjuman Mazarein' in 2000 with an explicit intention of challenging the new terms of the contract and, as a consequence, the Pakistani Military.

There is a long history to the discontent of the peasantry at Okara and Khanewal. The historical antecedents of the peasant discontent at Okara and Khanewal can be traced directly to the vast population transfers that were undertaken by the British Colonial State in order to populate its vast irrigation projects particularly in the Punjab. From 1885 onwards, nine population resettlement projects were set up at the sites of canal irrigated projects along the five rivers which drained the province of Punjab in undivided colonial India. Through transferring whole communities of people from across India to these irrigated agricultural sites, the colonial state aimed both to create an independent class of proprietary peasants as well as to transfer ownership rights to its loyal subjects, particularly those who had supported the British during the first ever organised revolt to British

rule in 1857. Therefore, the state had successfully produced within a short span of time, what Akhtar (2006:486) has termed a 'hydraulic society' in Central Punjab; one that could and would help maintain its economic and political legitimacy.

The 'transferred' populations to the irrigated land settlements in the Punjab were given an undertaking by the colonial state that they would be given inalienable property rights to the land after a period of 10-15 years but that in the interim, they would have usufruct rights only and would cultivate the land as sharecroppers. However, this promise was never upheld<sup>22</sup>. The failure to make good the initial promise of land ownership to the peasant sharecroppers was not reversed by the postcolonial Pakistani state and held in status quo by its Military apparatus who were given the charge of administering these irrigation settlement projects/Military farms. In the first half of 2000, the Pakistani Military challenged the basis of this peasant sharecropping arrangement concluded over a century ago, particularly in matters regulating the share of the agricultural produce and occupancy rights and sought to change these in order to extricate maximum financial largesse<sup>23</sup>. The Pakistani Military announced changes to the peasant sharecropping contract thereby requiring cash rentals to be paid instead of the previous *batai* or sharecropping principle based on a proportional division of crop yields. The peasants fearing economic destitution and eviction from the farm land organised themselves into the Anjman Mazarein and registered their protest.

The peasant movement thus came into being on 7 October 2000, when five thousand peasant farmers organised a peaceful protest

against the new tenancy laws proposed by the Military. Two days later, armed police along with the Frontier Constabulary entered the village and started a campaign of violence against the village sharecroppers. Thus began four years of intimidation and siege of the Okara farms by the Military leading to arbitrary imprisonments without trial, intimidations, beatings and fatalities.

In the course of the agitation and in aftermath, various legal challenges were mounted by the Anjuman Mazarin against the Military in Pakistani courts which, in turn, placed the legality of the Military ownership of the farm lands under close scrutiny. The court proceedings established that the Pakistani Military was in fact, not in any legal position to introduce changes to the peasant contract and even less able to establish through documentary evidence, its proprietary status as the landowner<sup>24</sup>. In other words, the very claim of ownership of these lands by the Military had become a legitimate legal and political question. The dispute over the Military farms in Khanewal and Okara posed an unambiguous challenge to the legitimacy of the Military to administer these lands in the first place and the state has now been left to enforce its writ over these lands, although, it is clear that the writ itself has no legal bearing. The tenants of Okara and Khanewal farms have emerged as the winners in this conflict with the Military- Pakistan's most powerful institution- in that they have not surrendered any share of their crop yields to the Military in the first six years of the movement, they have continued to retain control over the land and have not suffered economic insecurity that would have befallen had they accepted the new tenancy laws. The Anjuman Mazarein used the language of rights to press ahead

with their challenge to the Military, but what kinds of understandings underpin this usage of rights?

In order to uncover the various meanings that underpin Haq, I now turn to exploring the different justificatory premises of *Haq* identified during the course of my field studies in India and Pakistan.

### **Five Justificatory Premises of Haq**

The justificatory premise of rights within western canonical philosophy and its contemporary theoretical articulations resides principally in the autonomy of persons, in their capacities for self governance. In the 20<sup>th</sup> century, the two most influential texts on rights<sup>25</sup> regarded rights to be liberties, immunities, claims and powers to be exercised in relation to others and designated rights as crucial for dignity and self respect. It is the association of rights with conflict, with bounded selfhood, of individuals requiring protection from encroachments on their autonomy and integrity by other persons have made certain sections of feminist philosophical thinking deeply sceptical of rights (Kiss 1997). The different justificatory premises of *Haq* do not defend rights upon securing the autonomy of the self governing individual but they present an intellectual defence of rights in a language that is state dependent/legal, is in defence of citizen's duty to participate politically, or in other words, rights are used to defend the political rights of citizens. Citizenship rights<sup>26</sup> are predominantly invoked in relation to 'political status' and 'national status' i.e. invoked in relationships of individuals to the state, particularly in respect to rights and entitlements, and sometimes in relationships of

individuals with other individuals. The ethnographic accounts of *Haq* however show that both aspects are critical to thinking about citizenship for not only does the actual success but also the voicing of claims against the state are dependent on the reconfiguration of relationships not only between the state and individuals and groups but also between individuals and groups within the national/local political community. But renegotiating relationships on the basis of rights involve intense conflict, transgressive politics and injury; much of my ethnographic evidence confirms this. Furthermore, rights are also defended in moral/normative terms, as ancestral claims and finally rights are justified in religious/Islamic terms.

### **Rights As Marking Citizenship and as Justifying Political Participation**

By far the most ubiquitous justificatory rights premise was articulated in terms of citizenship entitlements. I found two dominant ideas associated with citizenship being articulated by my interviewees: the first a legalist notion of citizenship which predicated rights upon law and the constitution and the other a more 'active' view of citizenship which regarded rights as crucial for political participation, an activity considered important for exercising citizenship<sup>27</sup>.

For instance, consider the following excerpted interviews which express the two notions of citizenship: The first interview cited here is with Prem Bairwa, a dalit woman member of the village council in her village of Kotkhawada, Jaipur district. In addition to her role as a member of the local village council, Prem Bairwa is

affiliated to a well funded NGO, Cecoedecon noted by many to be one of the largest recipients of foreign funds<sup>28</sup> which although based in Jaipur has organised activities in different districts in Rajasthan. She is also closely associated with the National Campaign for Dalit Human Rights (NCDHR), a national level advocacy organisation in India championing the cause of dalit human rights.

According to her:

‘As a council member, I have a *Haq* in the panchayat (village council) to get development done in the village. Do only men have the right to speak and conduct political business; are not women to enjoy these rights equally? It is a fight for my *Haq* and a fight I have to fight myself. The government has given these rights to women; Indira Gandhi has started the *mahila raj* of women. Before her, there were no women’s rights. In case governments change ‘our’ rights then we have to fight the government. After all, it is ‘us’ who make the government’.<sup>29</sup>

As opposed to a predominantly statist/legalist notion of citizenship articulated above, a more ‘active’ view of citizenship is very well enunciated in my fieldwork among the political and field workers of the MKSS. This active view of citizenship rights contains fluent expressions of an activist oriented view of citizenship replete with notions of self governance, accountability and responsibility that define ‘active’ citizenship. The MKSS or the ‘Association for Workers and Farmers’ has been involved in a long drawn struggle for the right of ordinary people to gain access to state financial records and state audits of development projects and has spearheaded a social movement espousing the right of public information and of the people’s right to know about the

government's economic functioning. The right to information (RTI) movement began in the early 1990s to highlight the gross failures of the state to uphold minimum wage legislation particularly within drought relief programmes set up in order to provide stipulated employment to people in drought affected districts and to focus on the flagrant inefficiencies and corrupt practices within the state public distribution system (PDS). However, the activities of the MKSS have not been limited to exposing the everyday forms of official corruption and focusing on procedures of governmental accountability but have also come to expose the 'multifaceted nature of corruption' within the legal and political system ( Goetz and Jenkins 1999) . In their decade long movement, the MKSS have championed innovative social techniques of mobilisation and public appraisal. Perhaps, the most innovative feature of MKSS's campaign for RTI has been the introduction of participatory social audits of public expenditure or 'jan sunwais'. Typically, a '*jan sunwai*' consists of the submission of individual and collective testimonies about corrupt official practices for instance of fake muster rolls, corrupt state officials including state affiliates such as ration shop owners and elected local government representatives, at a pre-designated public space to which the concerned state officials/political representatives are invited to present their defence or give an account of their practices.

The interview below presents an 'active' view of citizenship and is excerpted from a lengthy conversation with two prominent members of the MKSS. According to them:

"..The road is built with our money. It is 'our' money because we pay income tax and we pay also tax on whatever we buy

such as rice, *dal* and cooking oil. That is how the *sarkar* (the state/government) builds hospitals and schools. It builds these with 'our' money. The money that people used to think was *sarkari* or the building that was deemed to be *sarkari*, we tell the people it is not *sarkari* but it is 'our' building and it is 'our' money. 'Our' democracy must be safeguarded for that will make our rights safe. 'Our' effort should be that the constitution continues to guarantee the rights of citizens.<sup>30</sup>

At the outset, these two views of citizenship appear to invoke ideas associated with liberal citizenship (subjects of rights and entitlements) and of self-governance, rights and public service – ideas associated with civic republicanism. But of course, that would be a very quick conclusion. For liberal citizenship is based on a contractual arrangement between individuals and the state on the basis of negative liberty and civic republicanism's valorisation of civic of political participation is conceptualised within and requires homogenous political communities. Neither liberal rights and selfhood nor homogenous political communities inform the justificatory premise of *Haq* as citizenship. Even when citizenship is considered explicitly based on a common identity, the practice of rights has brought this homogeneity under considerable strain.<sup>31</sup>

Furthermore, there is something peculiar about these narratives which predicate *Haq* on citizenship and require some unpacking: Many of these narratives whether they rest their justificatory premise of rights on law or the state or on the constitutional rights and obligations of citizens, retain with the people in the final instance, the right to change both the law/government or the constitution if it fails to uphold the rights of citizens. In other words, although the justificatory premise of rights in both is placed in law/constitution and in citizen prerogatives, in both cases, there is



a clear enunciation that somehow although law/constitution is required to justify these rights, *Haq* has an independent justificatory premise separate from the prevailing legal regime. *Haq* thus can be said to lie in a “zone of non coincidence between individuals and the positive legal order of the state” (Brett 2003: 98). Therefore, whereas the law regulates rights and upholds these, it cannot extirpate these. The reference to *Haq* is to an entity which exists independent of the law and possibly has a moral authority of its own.

### **Cosmological/ancestral justification of Haq**

The third notion of *Haq* is embedded in the idea of the ‘ancestral’ and the ‘historical’ and also in some senses, the cosmological. It is quite different from the contemporary idea of citizenship rights as state derived and of rights premised on the ancient identity of the citizen. This ancestral idea of rights is articulated by the indigenous peoples’ activists who are part of a large umbrella movement for rights to forest land claimed as ancient and sacred, which in Southern Rajasthan is known as the *Jungle Zameen Jan Andolan* (JIZA). The ancestral or cosmological notion of rights is not unique to the adivasis of Southern Rajasthan. Aboriginal communities in India and other parts of the world have very well developed systems of cosmic tales and traditions detailing their originating myths and status.<sup>32</sup> The anthropologist Verrier Elwin writing about the Baigas of Central India refers to their originating tale which specifies their origination from “the womb of Mother Earth before the foundation of the world and to be the Bhumia Raja, veritable lords of the earth” (1937: 13).

The *Jungle Zameen Jan Andolan* (JIZA) came into existence in 1995 and now covers seven southern districts of Rajasthan<sup>33</sup>. It was formed as a response to the forcible evictions of Rajasthan's aboriginal communities from their lands and traditional homes deep within the forests. The colonial history of forest dispossessions is more than a century old.<sup>34</sup> while the history of dispossession and eviction of aboriginal peoples from their land in postcolonial Rajasthan dates back the passage of the Rajasthan Forest Act of 1953. The 1953 act converted tribal forest rights into 'concessions' and the aboriginal dwellers were expected to show proof or documentary evidence in support of their land or dwelling rights over the forest land. In the absence of correct procedural documentation, the land belonging to the adivasis was suddenly transferred to the state forest department and they became known in official speak as 'tribal tillers' and thereby 'encroachers' upon forest land.<sup>36</sup> Over the years, the state government has sought to address the conditions of 'tribal tillers' by ensuing notifications in 1978 and 1991 to regularise forest land possession, but these governmental circulars were not publicised among the beneficiary populations and even less implemented. In 2002, the arbitrary evictions of the aboriginal forest communities and other non-tribal forest dwellers from their homes and lands were carried out at scale 'unprecedented in recent history' (Campaign for Survival and Dignity, 2003). In the ensuing months, the forest department, in addition to employing brute violence, resorted to innovative coercive techniques including using elephants to drive people out of their villages and homes.

There are several locally based organisations affiliated to the JIZA which mobilise people around issues of rights over forest land and produce and against eviction. One of these local groups is *Kotara Adivasi vikas manch ( Kotara Aboriginal Development Group)* In addition to the common problems affecting forest communities in Udaipur and elsewhere, *Kotara Adivasi Vikas Manch* is specifically concerned by the declaration of a wildlife sanctuary 'Phulwari Ki Naal' which has come to encompass forty villages in the area. In the interview below, one of my interviewees Harmi Bai is describing the aboriginal peoples' resistance to the declaration of the 'Phulwari ki Naal' sanctuary and the difficulties that has posed for the aboriginal population of the area. Harmi Bai belongs to the Bhil tribe and is the secretary of the *Adivasi Vikas Manch*, Kotara. According to her:

Earlier, we used to take the produce openly from the jungles and without any restriction and then suddenly, we were told that there was a prohibition on the forest produce as this was now a sanctuary for wild animals. We were told that we could not build homes or rear our animals or sow the field inside the jungle. We were told that this was now protected land and a sanctuary and that they were now going to develop a park inside it and that tourists were going to come from abroad to visit the sanctuary. ....

We continue to take the produce from the forests. We only take what we need. We are the owners of this jungle and the lands therein; we have a *Haq* over these. Wherever there are adivasis there are jungles, in the cities there are no jungles. We have protected the jungles. The *Haq* over these forests and water comes from our ancestors. These are our sacred lands- our ancestral spirits reside here- we have ancestral rights over these lands. Our forefathers have used this land for centuries. We tell the state forest officials, you do your job and stay here and that together we can stop the jungle mafia- who go into the jungles in their lorries illegally and for commercial purposes. But you cannot stop us from taking the produce for our own use from these jungles or force us off our land.

The displaced forest dwellers campaign has been very successful in influencing policy makers resulting in the passage of legislation on a bill of rights of forest tribes or the 'Scheduled Tribes and other Traditional Forest Dwellers (recognition of Forest Rights) Act in October 2006'<sup>37</sup>. While much political mileage has been extracted from the legislative passage of this bill<sup>38</sup>, in reality however, there were other difficult political considerations which made the settlement of land titles to forest land a politically pressing matter. The passage of the forest department order of 2002 requiring the removal of 'encroachments' from forest lands has resulted in violent evictions of India's forest communities (Bhatia 2005), which led to further displacement of forest communities who in many instances moved to occupy forest lands because they were displaced from their original habitation owing to land acquisition for various development projects (Shah 2005, Krishnaswamy 2005). The arbitrary and unsympathetic displacement of communities has led to simmering social unrest and political protests which are proving to be fertile grounds filling both the ranks of Maoist inspired extremism known as Naxalism in the forested districts within several Indian states and for Hindu fundamentalist organisations (Aiyar 2003). The political message was thereby loud and clear: the status quo over displaced and dispossessed forest communities was no longer politically viable.

### **A Moral Basis for *Haq***

The fourth conception of *Haq* is found in the moral encounter of a group of women workers known as the *sathins*<sup>39</sup> within a state sponsored development programme for women in Rajasthan known as the Women's Development Programme or the WDP.

The *sathins* are mostly semi literate or illiterate and are mainly low caste.<sup>40</sup>

The WDP was launched the Government of Rajasthan in April 1984 as a response to the failure of various development programmes to involve or to benefit women though the development interventions of the State.<sup>41</sup> While there existed several development programmes with a female component in it, it was conceded by the State development bureaucracy that these had little or no effect on improving the inclusion and the participation of women within development.<sup>42</sup> The development index for women in Rajasthan in the 1980s made a dismal read. The sex ratio was as low as 830 in rural areas of Bharatpur district and the overall sex ratio in the rural areas of the State was 919. The female literacy rate in Rajasthan for rural women was 5.46 (it was 4.03 percent in 1971 and registered only a percent increase in the last ten years and a 0.1 percent annual increase) and in urban areas.

The WDP drew on a variegated set of development ideas. It incorporated ideas espoused by the internationalist women's development frameworks, feminist conceptual frames and the development goals set by the Indian State in its sixth five-year plan. The development programme conceived its principal role and activities in consultative exercises with women's development experts, activists, researchers, and non-government organisations, an exercise that resulted in the adoption of a development ethos markedly different than the 'top down', 'skill disbursement' nature of common development programmes of

the time. This departure from other development programmes was reflected in its new focus. It shifted its emphasis away from the 'mechanisms' delivering benefits to the recipients of development policies, to the subjects of development, i.e. to women. This development mantra embodied in the WDP was one of women's 'self-development' and 'self-empowerment'. Women were addressed as subjects of development policy rather than as incidental beneficiaries of development policies aimed at households and children. A 'novel' alliance was forged between the State and non-government actors, which in turn led to the creation of new administrative structures within the WDP to accommodate and articulate the concerns of the women's researchers, activists and non-governmental organisations. This partnership fostered in its wake a new and direct relationship between development policies and women and established a linkage between rural and urban women with the latter taking on responsibility of training of the primary workers of the programme or the *sathins*. In a unique collaborative institutional arrangement, the State government of Rajasthan involved prominent feminist activists and NGOs within this development initiative. Both the partners within the programme agreed that their chief energies would be channeled through the *sathin* who would be subject to specific training regimes in order to be transformed into a suitable 'agent of development'.<sup>43</sup> Over the years however, the programme has undergone changes in its orientation. In its early years, the programme enjoyed relative independence from the State development bureaucracy, which lent it considerable flexibility in its development activity. In the last decade however, the programme has seen a radical shift in its operational strategy

and ideological outlook. It has become closely tied to the development activities of the State and is now mostly used to strengthen the 'delivery mechanisms' of the development State.

The originary and initial subject of the *sathin* emerged in two different discourse formulations, each based on different intellectual, historical and political trajectories. The first was a development vision authored by the state and the goal of its development script was unambiguous: to alter the existing subjectivities of the women elected as *sathins* in ways that would make them efficient and committed development workers. The second development vision was mediated by the feminist organisations who in collaboration with the state 'trained' the *sathins* through feminist consciousness raising methods, helping thereby, to create a *sathin* subject not only conscious of her subject positioning within existing social hierarchies of power relations but also one who was provisioned with an alternative normative blueprint with which to challenge the oppressive subject forming and regulating power relations. It is therefore, in the 'in between spaces' (Bhabha 1999) resulting from the forging of these diverse development visions that the *sathins* negotiated elements of their subject formation. And it is through the performance and interation of their development tasks that they were forced to confront and enter into complex engagements with their received development scripts resulting in the novel articulations through which *sathins* re-script, re-inscribe and challenge the emancipatory limits set by the dual-authored script of the WDP.

Let me briefly describe the process through which the *sathins* acquire and identify with the moral language of rights. The process has within it both a linguistic as well as a moral dimension. The moral process comprises a dynamic ethical reflection, which occurs when they come in contact with rights based ideas. This leads to attempts to not only rethink many of the moral rules informing their own moral frameworks, but also selectively absorb many of these 'new' ideas in ways, which do not clutter their existing moral priorities and commitments.

The linguistic exercise takes place when the moral ideas encountered and those selected need justification in a language, which is both acceptable and comprehensible. In other words, when the conceptual language of rights comes in contact with the natural language of *Haq* (Hindi/ Rajasthani/Urdu in this case) it results in a considerable amount of linguistic dislocation and turmoil. Here, I am not only referring to the problem of translation and linguistic correspondence but to the problem of moral justification of ideas in language. This moral justification involves using a conceptual term of high moral ranking within the vernacular for the new moral idea we want to introduce within our moral repertoire.

An examination of the narratives of the *sathins* revealed a process bearing three clear stages in their thinking on rights over twenty years of participation within the WDP (women's development program). Only two of the ninety *sathins* interviewed, identified clear sources other than the state as their first point of contact with the discourse of rights<sup>44</sup>. The initial contact with rights based ideas



produced in its wake moral dissonance and led to these being received by the *sathins* with considerable suspicion. The moral dissonance produced in turn gave way in time to a 'new-found faith' in the discourse of rights as upheld by the state. The thinking of rights in the second stage is then marked by the legitimation of the rights discourse in a language that is state dependent. The final strain (present stage) in their rights thinking occurs when they weave their own theoretical and practical defence of the idea of rights independent of the state. The state no longer is used to legitimise the upholding of women's rights. Their new vocabulary rests its intellectual defence of rights on the notion of 'truth'. Thus, women's rights now come to be justified in the name of truth. But truth in their discourse is an expansive and complex term, the multiple connotations of which require some exposition. In the ordinary social science writing, truth is a cognitive concept, which is invoked in order to establish the 'falsifiability' or 'verifiability' of a claim. However, in the discourse of the *sathins*, truth is an expansive term and is non cognitive by nature, including within it ideas of rightness and justice.

The architecture of this conception of truth is both an intellectual as well as a practical one drawing upon certain 'ideal' and uncorrupted aspects of social life. 'Truth' as it appears in the discourse of the *sathins* is not only an ideal concept but is also a practical construct. While this idea of 'Truth' draws upon notions of purity and is upheld as a high moral value, it is also a constitutive element of social practice. There are three kinds of practices that come to be upheld as being the embodiments of truth. Morality in public life seen in terms of non-corrupt dealings while occupying

public office, the upholding of equal rights of women and the espousal of justice come to be identified as constituents of the truth as a practical construct.

### **Haq as an Islamic Doctrine of Right Conduct**

The final notion of *Haq* derives its justification from Islamic heritage and is tied very strongly to the idea of 'right conduct. In the interviews with Muslim respondents in India and Pakistan, the Islamic heritage of *Haq* was strongly stressed. The following excerpted interview with the Anjman Mazarein peasants is indicative of this understanding of *Haq* as an Islamic idea within popular Islamic imagination:

“This word comes from Islam because Islam clearly marks out a very clear definition of the practices and conduct that constitutive of right behaviour. Islam invokes *Haq* in two separate ways: a) as *Haqooq ul Allah* which is to do with right conduct in the discharge of religious obligations such as offering prayers five times a day, fasting during Ramzan and fulfilling all those religious that make me a good Muslim and b) *Haqooq – ul- abad* which relates to right conduct in respect of other human beings including towards my government and my family.....

The right to cultivate and possess ownership is prescribed in the Holy Qur'an. For instance, in the Qur'an on paragraph 3, it says very clearly “if some one who cultivated the land for five years, he then becomes the owner of the land”.

Therefore, the Mazarein have a right over the land which is justified by Islam itself”.

In this particular narrative, I'm less interested in questions of 'purity' or the faithful recalling of the Qu'ranic passage and more in the nature of the manoeuvre of marshalling Qu'ranic text in service of the struggle on hand. In drawing attention to this particular text, I am not suggesting that this is a definitive version of Islamic *Haq* but only that it is a notion of *Haq* which traces its

normative underpinnings to Islamic texts and to mystical Islam.<sup>45</sup> It is indeed correct that within Islamic scholarly heritage, the notion of *Haq* is often evoked as right conduct. Within Islamic texts for instance, *Haq* or *Haqq* is referred to as ‘right things’ and contrasted with *batil* or wrong things. “*Haq* is the doing of right things like the acts of obedience, the doing of which God has not forbidden” and *batil* or ‘wrong things’ is “associated with injustice, *Kufr*, and the acts of disobedience. Both are equally God’s creation. But the one is right and the other is wrong” (Izutsu 1965: 221). This interpretation of something being morally right and or ‘morally straight’ is quite distinct from having a right over something or possessing something. The ‘morally right’ sense of rights finds clear elucidation within early western political philosophical texts. In the history of western political concepts there has been an intense speculation as to when rights as we know today came to acquire their possessive meaning as opposed to their earlier meaning which evoked ‘moral rectitude’. Very quickly, I want to add here that *Haq* as ‘right conduct’ must not be viewed as a gender neutral term nor should its intellectual justification invoking Islamic heritage be regarded as ‘non political’. The promising rise of feminist interpretations of Islamic heritage and religious texts have pointed to the appropriation of Islamic history as a ‘political weapon’ in the hands of the Muslim ‘male elite’ (Mernissi, 1991), and now various feminist scholars have sought to reinterpret and reconstruct Islamic jurisprudence and historiography with a view to ‘appropriate the right to transmit and resignify knowledge’ (Ouedghiri 2002), including rights of women within Islam.

## **Conclusion:**

*Haq* is almost always referred to as a masculine term, many female respondents simply told me that *Haq* belonged to a male vocabulary and that women almost never used the term amongst themselves. It was often contrasted from *adhikaar* which was almost always invoked as a legal right whereas '*Haq*' was something which belonged to one and that would be justified in 'snatching back' if taken away. Furthermore, there was an urban – rural divide as well as an educational divide where the usage of *Haq* was concerned. So, for instance, it was mostly people in rural areas who used *Haq* to speak of their entitlements, urban educated men used the literal term *adhikaar*.

Although, there are some apparent similarities between the usage of *Haq* and liberal rights, the justificatory premises of *Haq* inform certain different understandings of *Haq* say from the standard meanings accorded to rights and citizenship within mainstream liberal theory. As opposed to an individual as the possessor of rights, *Haq* also belongs to both individuals and groups. *Haq* does not signify only negative rights of individuals: i.e. to be free from interference from others but also includes within it a positive notion of rights such as the provisions required to live a life of dignity. Despite its widespread legalists/statist connotations within the narratives, it was evident that its legalism was not clear cut but lay in the realm of a 'zone of non coincidence' in relation to the prevailing law. Notions of *Haq* are very close to what has been referred to 'new citizenship' in Latin America as it includes legal and social citizenship claims and a moral/normative tone, whereby, it is not only important to strive for a democratic polity but for the

establishment of a democratic society. This 'new citizenship' demands not only inclusion into the political community but also challenges exclusion and inequality (Rodriguez 2001).

## Notes

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<sup>1</sup> Acknowledgements: I'm grateful to Aasim Sajjad Akhtar and Asha Amirali for their generous help with the research on the Anjuman Mazarein. I also acknowledge gratefully the field assistance provided by Nazish Zahoor and Azmat Bashir in Pakistan. A draft of this working paper was read at the LSE Gender Institute Reading Group and I thank the group members and Wendy Sigle-Rushton for comments and suggestions towards improving the text. Engin F. Isin encouraged me to sustain and develop my thinking on vernacular rights cultures and I thank him for his support. I extend a special thanks to Shail Mayaram for her careful, incisive and sympathetic reading of the text.

<sup>2</sup> See the excellent discussion by Engin Isin (2002) on the dangers of orientalism within comparative frames in '*Citizenship without Orientalism*'

<sup>3</sup> I am grateful to Engin F. Isin for clarifying this argument (personal communication, 2008).

<sup>4</sup> See for example, the invention of conceptual hybrids such as 'justice-rights (or rightful justice), rights-duties and 'communal self-governance'. I am grateful to Shail Mayaram for pointing these out to me (personal communication 2009).

<sup>5</sup> The right to food is also included in the International Covenant on Economic, Social and Cultural Rights.

<sup>6</sup> While there are several examples of political movements in South Asia that actually challenge the normative and empirical descriptions embodied by the nation-state, these are very different in nature from the rights mobilisations under study here. Moreover, the rights that they deploy is the right to self determination (UNHDR which article?) rather than rights of social and political citizenship that are articulated here.

<sup>7</sup> Economically, neo-liberalism implies economic restructuring and roll back of the welfarist provisions of the state including a cutback in its public service provisioning in favour of private actors while its political language privileges human subjects as principally homo economicus and defends ever greater marketisation of state functions including public policy formulations in favour of producing entrepreneurial subjects and citizenship entitlements (Brown 2003, Rose 1996, Cruikshank 1999).

<sup>8</sup> According to official records, the number of Hindi speakers in Rajasthan make up 89.56%. The Hindus make up 89.08% of the population and the Muslims (who are traditionally associated with the Urdu language) 8.01%. Urdu is mainly spoken in the districts of Tonk, Nagaur, Kota and Sikar. Source: *District Census Handbook 1991*.

<sup>9</sup> It is a pre-Islamic Arabic word which is also available in Hebrew, Persian and in some of the older Semitic languages such as Aramic, Phenician, Mendian.

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<sup>10</sup> This is to point to the late dictionary appearance of the term.

<sup>11</sup> The fieldwork was conducted in in six districts of Rajasthan between 1998-2005 Jaipur, Barmer, Ajmer, Udaipur, Jodhpur and Chittorgarh.

<sup>12</sup> Consider for instance, the case of Manohari Bai, a member of 'Marudhar Ganga Society', a local NGO working for dalit rights based in Jodhpur district, who stood up during the gram sabha and demanded the right to know what was happening to the proposal to build a school for girls in her ward. She was mercilessly beaten by the Sarpanch ( who is a Choudhury and his supporters) and her clothes torn off her. Manohar iDevi describes the incident in the following interview:

It was in 2002, sometime in August –September that I went to the *gram sabha* meeting and queried after an approved proposal to build a girl's school. The *Sarpanch* responded by saying '*chup ho ja, tu kaun hain bolni wali*' (shut up for who are you to pose these questions')? Then suddenly all violence broke loose. I was beaten up and my *dupatta* (veil) and other clothes were torn off me whilst all the time, the people kept shouting '*randi baith ja*' ( sit down you whore) . My attackers were mainly upper caste men but there was also a *Patwari*- a state official- who joined in. The Police refused to register a complaint against my attackers..<sup>5</sup> Field Interview with Maohari Devi, Baodi Village, Panchayat Samiti Osian, Jodphur District, 2005.

<sup>13</sup> [http://hdrstats.undp.org/countries/country\\_fact\\_sheets/cty\\_fs\\_IND.html](http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_IND.html) accessed 31 March 2008

<sup>14</sup> International Bank for Reconstruction and Development, International Development Association and International Finance Corporation *Country strategy For India* September 15,2004; p. 5; [http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/09/20/000160016\\_20040920102445/Rendered/PDF/293740REV.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/09/20/000160016_20040920102445/Rendered/PDF/293740REV.pdf) accessed 29 March 2008

<sup>15</sup> [http://hdrstats.undp.org/countries/country\\_fact\\_sheets/cty\\_fs\\_IND.html](http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_IND.html) accessed 31 March 2008

<sup>16</sup> In 1981-91 the number of female workers increased by 79 per cent, three times that of men in the same category” and while “male literacy rose from 54.99 per cent to 76.46 per cent and female literacy increased from 20.44 per cent to 44.34 per cent” between 1991-2001, at the same time, literacy levels, especially for girls, continue to be among the lowest in the country; health indicators are among the poorest in the country. The total fertility rate was as high as 3.73 in 1998-99, recording a decline of only 4.8 percentage points between 1989-91 and 1994-96, whereas nationally it declined by 7.6 percentage points; expectation of life in the State is among the lowest (in 1991-95 it was 59.1 years; 58.3 for men and 59.4 for women) in the country (at all-India in 1991-95 it was 60.3 years; 59.7 for men and 60.9 for women). *ibid.*; Selected MDG Indicators for India's States, Annex 6

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<sup>17</sup> The Act extends to the whole of India except the State of Jammu and Kashmir. [S.(12)]

<sup>18</sup> In its judgement on 'Vishakha and others vs the State of Rajasthan and others', delivered on 13.8.1997, the Supreme Court expanded the meaning of 'Fundamental Rights' and held that gender equality included protection from sexual harassment at work and the right to work with dignity (All India Reporter 1997, SC 3011).

<sup>19</sup> BIMARU is an acronym combining the four northern Indian states of Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh. However, it also reads as the Hindi word 'Bimar' or sick. It therefore is often invoked to highlight the image of the chronically sick states in Northern India.

<sup>20</sup> The non-coincidence of high political activity of women with their low social worth is often commented upon and contrasted with the 'Kerala Model' with its high socio-economic demographic indicators and low incidence of women's participation within political decision making. For an explication of some reasons for this see Monica Erwer '*Challenging the Gender Paradox: Women's Collective Agency in the Transformation of Kerala Politics*', PhD dissertation, Goteborg University, 2003.

<sup>21</sup> Akmal Hussain, Pakistan National Human Development Report 2003, Poverty, Growth and Governance, UNDP. [www.unorg.pk/nhdr](http://www.unorg.pk/nhdr).

<sup>22</sup> The terms of agreement between the landlords and the peasant farmers are outlined in the 'Punjab Tenancy Act' of 1887.

<sup>23</sup> (2004) 'Soiled Hands: The Pakistan Army's repression of the Punjab Farmer's Movement. Human Rights Watch. <http://www.hrw.org/en/node/11997/section/11>. Accessed 11 November 2009.

<sup>24</sup> It emerged that the Pakistani Military which had at the time of gaining independence in 1947 seen the lands transferred from the British Military to them, had in effect, paid no rent to the Punjab Revenue Department which was the lessee of the land and hence, as a result of renegeing on its contractual agreement with the Revenue department had very little legal authority to administer these agricultural farms.

<sup>25</sup> Wesley Hohfield (1919, 2001) and Joel Feinberg (1970).

<sup>26</sup> 'Citizenship rights' are a recent conceptual innovation. Historians of ideas have shown us that both the development of the idea of the citizen and that of individual rights had different intellectual histories. While the idea of the citizen owes its origins to the Greco Roman idea of the self-governing individual, he did not bear rights upon his person in the way that we normally understand rights to mean (Brett 2003). The rights bearing individual came into being in the 16<sup>th</sup> century and it took another two centuries before the amalgamation of citizenship with rights of individual men occurred. The modern idea of citizenship therefore contains within it two ideas: the self governance (republican idea/Greco Roman idea) and a liberal ideal of citizens as subject



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of rights and entitlements which mainly comes from Locke and Hobbes (Benhabib 2005, kastorayano 2005) and it was only later with Rousseau and with Kant who connected citizenship to the theory of consent that that citizenship gained its modern philosophical foundations (Walzer 1989). The ancient idea of citizenship comes in two versions: the Aristotelian idea of citizenship is linked firmly to the duty to hold public office while the Roman idea of citizenship accorded legal rights and entitlements all citizens within the Roman empire. The latter or the 'passive' notion of citizenship is echoed in the early modern period with Bodin in the 16<sup>th</sup> century Jurist articulating citizenship as 'enjoyment' of liberty and property (Walzer 1989) and the firm establishment of the citizen as not an 'authority' and a 'lawmaker' but someone to whom legal protection is provided by the authorities. This commitment to protection writes Walzer, 'rules out arbitrary use of political power; hence it makes for the kind of liberty sometimes called "negative"- the liberty of private life and power" (Walzer 1989:215). With perhaps, the exception of the Jacobin radical politics in the aftermath of the French revolution, the 'active' version of citizenship has been relegated to the realms of an aspirant ideal and it is passive citizenship that we have come to regard as the hallmark of modern liberal democratic political systems. T H Marshall is often credited with the more recent elucidation of the passive idea of citizenship and to the general revival of contemporary interest in citizenship thinking.

Marshall (1973) organised rights into three 'bundles'; 'civil, political and economic and plotted their modern development as an uneven process with civil rights emerging in the 18<sup>th</sup> c, followed by political rights in the 19<sup>th</sup> and social and economic rights were revived and established in the 20<sup>th</sup> century. Today, however, discourses around citizenship particularly in the more developed liberal democracies have moved from theorising rights of legal citizens to extending rights entitlements to non citizens, to thinking about inclusion of various kinds of identities within and the accompanying issues of culture, equality, authenticity, group rights ,nationality and extraterritorial status or what Heisler (2005) has termed 'post-modern citizenship'...which is principally about "questions about who we are and who we ought to strive to be" (Heisler 2005). The purpose of this brief survey on citizenship was to isolate the two distinct meanings of citizenship: an active version which is to do with self governance, responsibility, obligations and public service and a 'passive' view of citizenship which is linked principally to one's legal status and negative rights. The two rights narratives that follow illustrate these two disaggregated views of citizenship (legal/liberal and republican) and ground their justificatory premise in these.

<sup>28</sup> Interview with Sunny Sebastian, Rajasthan correspondent for the 'The Hindu', February 2004, Jaipur.

<sup>29</sup> Interviewed in 2004, Kotkhawada, Phagi Panchayat, Jaipur. This is an extract from a longer interview with Prem Bairwa.

<sup>30</sup> Interview with Tej Singh and Narayan, Rajsamand, 2004.

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<sup>31</sup> Consider for example, an excerpt from the following interview with peasant farmers working at Okara farms, Pakistan:

‘They wanted to take away our land, which did not suit us. We demanded our right but what did we get in return, the whole world has come to know about it, we got bullets, batons, and torture. In Pakistan, a Muslim is doing this to a Muslim, is it fair? If it is fair to treat your citizens like this then what India is doing to the Kashmiris (in Indian Kashmir) is also fair. We should fight for our right; the brave Kashmiris are also sacrificing their lives for their rights, so shall we. Our forefathers were slaves to the Military, whatever the Military said they obeyed.... now we have learned to make independent decisions and are exercising our rights... We live in a Muslim country but our government is not ruling according to Islam. If it were, then no one would have felt the need to even ask for his right. Interviews with Naimat Ali and Rizwana Rashid, Okara Farms, Punjab Province , Pakistan, 2008.

<sup>32</sup> Consider for instance, Australian aboriginal myths of the Dreamtime before creation.

<sup>33</sup> The districts covered by this movement are: Udaipur, Rajsamand, Dungarpur, Bansvara, Pali, Sirohi, and Chittorgarh.

<sup>34</sup> See Ramachandra Guha, (1989) *The Unquiet Woods: Ecological change and peasant resistance in the Himalaya*, University of California Press, Berkeley.

<sup>36</sup> Over the years, the state government has sought to address the conditions of ‘tribal tillers’ by ensuing notifications in 1978 and 1991 to regularise forest land possession which was cultivated prior to 1971 and 1980. But these governmental circulars were not publicised among the beneficiary populations and even less implemented. The statistics are shocking. For instance, instead of the of the 40,000 people who would have benefited from such a regularisation of cultivable forest land prior to 1980, the forest department identified only 11 persons who were eligible for these regularised lands!

<sup>37</sup> The tribal rights bill when passed in 2006, guaranteed 13 rights including access to and ownership of minor forest produce for livelihood purposes, grazing rights, legal entitlements to the land that the *adivasis* may have been cultivating since or prior to October 25, 1980, right to conversion of forest villages into revenue villages. The bill suffers from at least three major weaknesses, these are: the bill’s provisions only apply to the Scheduled Tribes who live in the forest areas or are dependent on forest produce and ignores the other marginalized communities who live in the forest. Secondly the bill only extends to the forest areas under habitation prior to 1980 and finally, it imposes a land ceiling of 2.5 acres on the area claimed per household . These provisions, the bill’s critics argue does not take into account the large scale displacement of tribal populations as a result of ‘development’ policies after the cut off period of 1980. Also, by fixing a land ceiling of 2.5 acres on forest lands and on tribal populations which is much lower than those in place for non ST populations and non forest lands, the bill clearly discriminates against the tribal populations who already own less land

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and are more impoverished than non tribal populations. For a fuller critique of the bill see Krishnaswamy (2005).

<sup>38</sup> The passage of the Tribal Bill 2006 has been heralded by many (Congress politicians mainly) as evidence of the sincerity of the present national government's or the UPA's ( this includes the main political party The Congress ( I) and 14 other regional and national level political parties) commitment to its Common Minimum Programme For example, they point out to the text of their agreed Common Minimum Programme 2004 which reads: 'Eviction of tribal communities and other forest-dwelling communities from forest areas will be discontinued. Cooperation of these communities will be sought for protecting forests and for undertaking social afforestation. The rights of tribal communities over mineral resources, water sources etc. as laid down by the law will be safeguarded.

<sup>39</sup> The word *sathin* literally translates as female companion/friend.

<sup>40</sup> The fieldwork was conducted in the two districts of Rajasthan: Jaipur and Ajmer between September 1998-April 1999 and between January – March 2004.

<sup>41</sup> The *Women's Development Project Rajasthan*, DRDPR, GOR, 1984. Henceforth, a reference to this document will be (WDP, DRDPR, 1984). See also Prashasnik Prativedan avam Pragati Vivaran (The Annual reports of the department of Women, Child Development and Nutrition, (GOR) 1995-1999, (Hindi).

<sup>42</sup> In 1984, there did exist several programmes on women's development in the State. These programmes included: functional literacy for adult women under the ICDS programme, special nutrition programme, women's polytechnics, the industries departments programme of 1000 household industries and the various schemes of the department/board for social welfare (WDP, DRDPR, GOR 1984:18).

<sup>43</sup> The state including its feminist partners in the WDP harboured a shared assumption that the *sathin* would by virtue of her 'empowerment training' somehow be able to extricate herself from the prevailing power relations and gendered hierarchies and transcend her subordinate social positioning in order to achieve development goals of the WDP. Questions of the sheer precariousness and the personal insecurity that such a working role would involve were shifted onto the *sathin* herself and it was often pointed that it was the *sathin* who would create solidarity for herself through the creation of women's groups in the village which would be her insurance policy against overt aggression. Both the state and its feminist development partner upheld a transgressive politics for the fulfilment of development goals without too much soul searching on the personal costs of this transgression. In fact, when the injuries resulting out of such a transgressive politics became clear, the response by both the main actors (the state and the feminist groups) was the scaling back of the program both in terms of its institutional depth and training element thereby leaving the individual agent even more vulnerable. For more

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on the instrumentalisation of women's agency within development see Madhok and Rai '*Agency, Injury and Transgressive Politics in Neoliberal Times*' (forthcoming).

<sup>44</sup> There were two exceptions to the state being the first point of contact with the idea of rights although they are in an indirect way. One of them was a daughter of a former Military man and the second *sathin* is married to a 'malaria Inspector'. It is important to note that both these men were and are employees of the state.

<sup>45</sup> See Annemarie Schimmel (1975). I am grateful to Shail Mayaram and Pnina Werbner for drawing my attention to the invocations of 'Haq' within mystical Islam (personal communication, Sheffield 2007)

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