

ADVOCATING FOR THE RIGHT TO INFORMATION – THE SWEDISH “ODDITY”?
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The history of freedom of information in practice in the world is extremely varied and complete --Thomas Blanton

INTRODUCTION: GENERAL ADVOCACY TIPS

Using the Communication Initiative's site¹ search engine a search for the term “advocacy” brings up 2537 matches. So, one could be forgiven for not doing justice to the complexity of the concept in a short paper. However, quoting a couple of stipulative, working definitions might be helpful.

Firstly, the USA-based Advocacy Institute states that,

Advocacy is pursuit of influencing outcomes - including public policy and resource allocation decisions within political, economic, and social systems and institutions - that directly affect people's lives. Advocacy consists of organized efforts and actions based on the reality of ‘what is.’ These organized actions seek to highlight critical issues that have been ignored and submerged, to influence public attitudes, and to enact and implement laws and public policies so that vision of ‘what should be’ in a just, decent society become a reality. Human rights - political, economic, and social - is an overarching framework for these visions. Advocacy organizations draw their strength from and are accountable to people - their members, constituents, and/or members of affected groups. Advocacy has purposeful results: to enable social justice advocates to gain access and voice in the decision making of relevant institutions; to change the power relationships between these institutions and the people affected by their decisions, thereby changing the institutions themselves; and to bring a clear improvement in people's lives.

[Excerpted from Volume I: Reflections on Advocacy by David Cohen, Co-Director, Advocacy Institute from the forthcoming Advocacy Learning Initiative by [Oxfam America](#) and the Advocacy Institute]²

Secondly, the India-based National Centre for Advocacy Studies defines its conception of “public” [sic] advocacy as,

Much more than legal advocacy [it] is a planned and organised set of actions to effectively influence public policies and to get them implemented in a way that would empower the marginalised. In a liberal democratic culture, it uses the instruments of democracy and adopts non-violent and constitutional means³

Recently (October 2002), the Commonwealth Foundation and the UK's Foreign and Commonwealth Office organized a seminar on 'Civil society and Government – Partners or Protagonists?'⁴ The seminar invited participants to discuss “the challenge for civil society to prove its legitimacy and accountability, the question of where the line should be drawn between advocacy and party politics, and the issue of what space was available for debate and dissent.”

On a more conceptual level, one seminar participant, John Samuel (the National Centre for Advocacy Studies in India), described several “different types of engagement that civil society can have with government”:

- *invited space*, where civil society is consulted at the behest of governments;
- *claimed space*, where civil society mobilises to the point where governments have to listen;
- *illusive space*, where consultation is meaningless and done for the sake of form;

- *competing space*, where government and civil society see themselves as competitors, perhaps competing for funding;
- *unused space*, where opportunities for discussion are being squandered due to a lack of preparation, resources or knowledge; and
- *engaged space*, where genuine consultation takes place.

Another participant, The East London Communities Organisation's Paul Bunyan, took the view that "tension is necessary" as the basis of the relationship. "Power...does not concede willingly; civil society has to develop its own power so that it is taken seriously and given a seat at the table."

ADVOCATING FOR THE RIGHT TO INFORMATION

As regards the "right to information", advocacy (however it is defined) can usefully be differentiated into two basic approaches - the direct and the indirect.

The former focuses on advocating the general human/fundamental right to information (usually based on Article 19 ICCPR). Representative examples of such advocacy groups are e.g., Bulgaria's Access to Information Programme (see <http://www.aip-org.bg>) and, in the UK, the Campaign for Freedom of Information (see <http://www.cfoi.org.uk>). The main point here is that this approach is independent of any issue area; it is, rather, concerned with the information rights of all vis-à-vis public authority information holders.

The latter approach focuses on achieving the same right, but the gain is instrumental, i.e., it's sought in the context of some specific campaigning issue. Examples of representative groups here are the Access Initiative, which "seeks to improve decisions and policies that affect the environment and human lives by establishing common global practices for public access to information, participation, and justice in environmental decision-making" (see <http://www.accessinitiative.org/about.html>) or The Right to Know Initiative, "a global youth communication initiative - led by youth, for youth. Right to Know uses the creative and transformative powers of youth to ensure they have the necessary information and skills to make informed decisions and lead healthy lives" in particular regarding HIV/AIDS awareness and prevention (see <http://www.comminit.com/pdsRTK/>).

During the Commonwealth Foundation seminar (see above), John Samuel presented a paper on the Right to Information, which he described thus:

Campaigners for the right to information in India [notably Mazdoor Kisan Shakti Sanghatana Rajasthan] have taken the view that information is the lifeline of people's advocacy for rights and justice. Without information, they say, how can people act? The right to information is understood, not simply as an attempt to get legitimate access information, important though this is, but as a part of a people's struggle to develop people-centred participatory governance. A well-informed public is a basic ingredient of a participatory democracy, so open government is crucial.⁵

Samuel argued that "in itself, the issue of access to information does not have a natural constituency. What is required is to connect the issue with peoples' daily pressing concerns, and ensure that people see their right to information in the broader context of their right to development."

The claim that there is no "natural constituency" for the issue of the right to information most clearly describes the main difference between the two approaches to advocacy in this field outlined above.

The final point to make regarding advocacy in general is that the whole phenomenon has something to do with the transformation/evolution noted by John Pilger:

My guess is that a great many people would agree...with Peter Mandelson's prediction that "the era of representative democracy is coming to an end"...It is a truth that has eluded many journalists and broadcasters, understandably, as the main function of so much political reporting is to run a cigarette paper between the parties and to channel spin.⁶

In other words, advocacy is the term to describe that engagement in the policy/political/process that is, in some novel form, out-with the framework of traditional party politics (and the policy-makers/legislators which spring therefrom). Crucially, though, advocacy and advocates – whether for the right to information or not – seek to, and to be seen as, having (as Bunyan put it) a legitimate, meaningful and effective “seat at the table”. The key for advocates is to affect the policy/law-making creation/implementation process.

Advocacy Lessons From The New Europe And Asia

Article 19 has recently published (November 2002) a Report and survey⁷ on “ten countries (Albania, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Moldova, Romania, Slovakia, and Ukraine), but the main part of the information presented and analysis offered concerns developments and initiatives in Bulgaria, Romania, Slovakia and the Baltic States. The survey does not attempt to provide a comprehensive account of freedom of information in these six countries. Instead it takes a thematic approach to the issue of FOI, seeking out examples of civil society initiatives which have resulted in successful campaigns, educational and monitoring activities to guarantee proper and vigorous implementation of legislation.”

The essence of the Report, and the main lesson for advocates for the right to information, is that, as stated in the Introduction,

The structure and chronology of the report reflects the oft repeated assertion by those involved in promoting FOI, that the adoption of a FOIA is merely the beginning of the process to guarantee the public's right to know.

Of course, as Tom Blanton's “general law of FOI emergence” proposes,⁸

“Almost every freedom of information law in the world today, came about not because of any sudden conversion to enlightenment philosophy or rationality, but because of specific conditions of competition for political power. Competition between parliaments and administrations, competition between ruling and opposition parties, competition between present and prior regimes, competition between bribe-takers and muck-rakers.”

Thus, Blanton suggests⁹ that (a) in Hungary, which passed its Freedom of Information Law in 1992, after the fall of the Berlin Wall, after the end of the cold war, the relation of privacy and openness is the key controversy; (b) in Germany, which has some of the most stringent privacy protection laws in the world, we [sic] see a counter-example to the Hungarian experience. The notorious Stassi files, of the former East German secret police, are now open by application to individuals seeking their own files, and to scholars seeking documentation for history. But privacy is protected by censoring the names and personal identifiers of individuals, on what amounts to a sliding scale of privacy; and (c) in South Africa, the Act emerges out of, again, from a change in a regime.

The themes covered in the Article 19 Report offer a framework for RTI advocates regarding what a full advocacy package entails. It starts, obviously, with the pre-condition: that there be a comprehensive knowledge and understanding of the “fundamental principles which should be

included in a FOIA and the complementary measures which need to be put in place in order to bring about effective realisation of the right of access guaranteed by the law.”¹⁰

The Report’s other themes transcend and are common to all jurisdictions. But, their specific content will vary depending on each contexts own characteristics, background drivers, political structure etc.

The themes are

- Knowing what campaigning techniques work; the essential elements of a FOIA campaign and the strategic options available to FOIA campaigners
- Understanding the importance of educational and awareness raising activities to ensure that the FOIA is correctly applied by public officials dealing with information requests and ordinary people are aware of their rights under it and
- Appreciating the role which civil society can play in monitoring the implementation of a FOIA and appealing its misuse – an ongoing task and one which may well result in renewed campaigning for amendments to improve or broaden the scope of the FOIA as test cases reveal loopholes and limitations to its effectiveness.

Some general conclusions emerging from the study include from the survey include

Campaigning

- Analyse the specific socio-political contexts and driver(s) which prompt people to want a FOIA as these will affect the make-up of forces for/against a FOIA
- Civil society should take the initiative in both raising the issue and preparing the draft text for a law; the former can be achieved by publicising the general principles which foster the public’s right to know using e.g., Article 19’s helpful publication *The Public’s Right to Know* (<http://www.article19.org/docimages/512.htm>)
- Arguably, the campaign should move from the classic, oppositional and (mainly) critical approach to campaigning to one which is more prepared to enter into a constructive dialogue with authorities, to persuade them of the necessity/desirability of the value and principles of the RTI.
- Campaign for the FOIA by creating an *inclusive* coalition of like-minded ngos; civil-society organisations (comprising both the urban elites and the non-urban elites) parliamentarians; and the media
- Learn to use the media as a means of publicising the campaign and for what it stands; beware of media elements that implicitly regard the push for freedom of information as treading on its privileged toes
- Beware parliamentarians who co-opt the campaign for prestige reasons
- Be involved at the drafting stage
- Lobby to ensure that the draft Bill is available and put out for consultation - this should be a normal part of democratic governance; there must be a reasonable time for responses which should be publicly available and also treated positively regarding the re-drafting of the Bill
- Involve international experts in the process of consulting on the draft and organise seminars on the issue
- Create a popular sentiment for the principle of FOI
- Lay the groundwork for monitoring the implementation of the FOIA and the evolution of a culture of openness
- Where appropriate, focus the campaign on “following the money”

Monitoring

- A good FOIA should contain provisions for monitoring the way in which public authorities are carrying out their duties under the Act
- Civil society organisations and NGOs should be pro-active in systematically monitoring the law's implementation
- Recruit "coordinators" in each discrete area of the country
- Help the public sector by promoting the recruitment of journalists to assist it to enhance its capacity to produce what the law obliges
- Create a template to ensure consistent and comprehensive reporting
- Use the media, and phase in with the media's need for stories, so that any results of monitoring can be "newsy"

Educating the rights-holders

- Have a provision in the law that makes creating public awareness of the FOIA and educating users of the FOIA a specific duty
- Raise awareness generally about the existence of the law and the rights under it by holding public meetings and distributing information leaflets/brochures etc
- Prepare and publish handbooks for the general public
- Empower citizens indirectly through creating ngos which work for access for others
- Create an train a national network of volunteers
- Publish model letter(s) of request

Educating/training the duties-holders

- Educate/train the educators/trainers regarding the principle(s) of freedom of information and the specific duties arising under the FOIA
- Educate/train public authority officials about the purpose(s) of freedom of information
- Train public authority officials regarding their duties according to the FOIA
- Offer education/training seminars etc for obligated officials
- Develop publications to guide obligated officials
- Develop a training strategy which would support the effective implementation of FOI legislation; this may employ the so-called "staggered" approach

Litigating: monitoring application norms: punishing

- Don't stop the campaign after securing the adoption of the FOIA - it is only one step to securing a society based on the principles of freedom of information
- Remember to focus on aspects other than the content of the primary FOIA, e.g., its place in the legal hierarchy and what anti-disclosure competitors there are
- Seek to have as many anti-disclosure sections/laws listed and repealed
- Challenge litigation pursued by anti-disclosure forces and only use litigation when the chances of a pro-disclosure outcome are high
- Be aware of and fight for pro-disclosure application norms and Codes of Practice and other norms#
- See all norms in draft form; be consulted about them; and have responses acted upon meaningfully
- Publicise failures to react meaningfully to responses to draft norms
- Ensure that authorities' "internal guidance" is accessible
- Advocate sanctions, mainly for grossly abusing authorities - rather than against individual officials
- Press for court judgements to be transparent and, where of significance for understanding freedom of information, that they be available for use beyond the instant case

Whilst the Article 19 report focuses on Bulgaria as one of the prime examples of a newly democratizing country which benefited – and still does – from an important civil society Programme, another useful source of knowledge about that country is the study, BULGARIA - The Access to Information Programme: Fighting for Transparency during the Democratic Transition.¹¹ Equally informative, is the study concerning Japan: Breaking Down the Walls of Secrecy: The Story of the Citizen's Movement for an Information Disclosure Law.¹²

The latter states that

For more than 20 years, citizen's groups, and opposition political parties and other freedom of information advocates lobbied for a national information disclosure law in Japan. Until the late 1990s, their efforts were frustrated by a powerful professional bureaucracy and a parliament dominated by a single political party throughout most of the postwar period.

Whilst this underscores a point made later in this paper, that the pattern of advocacy in the field of RTI is virtually indistinguishable from all other advocacy for all other socially progressive causes/issues, a significant fact is referred to: the length of time taken to achieve even the adoption of a law on RTI – “more than twenty years”. Coincidentally, this period mirrors almost exactly the period taken in the USA and the UK!

Right to Information: Early Advocacy Successes

Sweden

Everyone knows that the first advocacy achievement in the field of RTI/FOI was the passage of the Swedish FOI law in 1766 (actually, literally translated, it was the “Freedom of Printing Act”¹³, and it probably only became properly effective after 1809).

Most people, however, don't inquire into the circumstances leading up to that event. How was it that such a revolutionary /radical piece of legislation came into being? Why did it happen then and there? And, importantly, was there some constellation of social forces that can stand as a beacon and guide for 21st century campaigners?

Blanton outlines the circumstances from which the 1766 Act emerged¹⁴

The reason was not Jean-Jacques Rousseau. The reason was *realpolitik*. Sweden enjoyed an extended period of parliamentary rule between about 1718 and 1772. And the new majority party in 1766 wanted to see the documents that the previous government had kept secret.

The historical evidence is, inevitably complex (and contested). But, the truth, as often is the case, seems (as is often the case) by contemporary standards to be rather prosaic: there existed a combination of a hospitable background political culture; an inspired/significant pro-disclosure intellectual pamphlet was published around that time; and there was a fight in the Swedish Parliament.

If anything can be learned from the Swedish example, it is that – whatever the novelty of the principle underlying the law – the forces that brought it about are the all-too-familiar ones known (or should be) to advocates/campaigners for any “cause” everywhere and at all times.¹⁵

The Background Principle

Sweden's self-understanding lauds its “proto-democratic” traditions, extending back to the middle ages:

In the Middle Ages the kings were elected for life by representatives of the different "landskaps". Even when the monarchy was made hereditary, the elected Riksdag retained substantial power (though the King sometimes managed to push this power back.¹⁶

But, what is really significant/crucial is the emergence of the "offentlighets-principen", i.e., "all state documents are *a priori* public (unless declared secret under special laws)."¹⁷ It is, admittedly, easier to describe this than to explain *why* (or exactly when) it emerged. It has two parts:

The right, for whoever it may be, to be present as listener at court and other public proceedings. The rule is at least from the 15th century, and is of course no oddity at all. Most legal systems state the same. But the other part is: the right, whomever it may be, to anonymously and without giving any reason, immediately and on the spot read public papers in courts and agencies of the municipalities and the state, and to get copies, and publish them, irrespective of the wishes of the original author.¹⁸

The pamphlet and the fight

1766, the year of the passage of the Swedish law, was shortly after a bruising intellectual struggle. Peter Forsskal, the celebrated naturalist, wrote *Tänkar om borgerliga friheten* (Thoughts on Civil Liberty 1759)¹⁹, a seminal Enlightenment pamphlet, advocating freedom of the press and information. It was condemned, confiscated and selling, purchasing or making it accessible was subject to a penalty of one thousand daler in silver.

As regards the fight between the two main Swedish political parties, Peter Seipel notes

During the 18th century, struggles between two early political parties, the "hats" and the "caps", led to a general discontent with regard to the lack of information about important state matters and the ensuing abuse of power by an irresponsible bureaucracy. The struggle for increased openness resulted in the adoption of the Freedom of the Press Act of 1766. Among other things, the Act regulated the publicity of official documents and enumerated a number of such documents which could be printed freely by anyone, for example the documents of the Parliament, the courts, and the civil service. Anyone who so claimed could obtain access to such documents and should have a right to copy the documents on the premises of the keeper or to receive certified copies of them. It should be noted that from the outset the Swedish principle of openness has been strongly connected with the right to disseminate information²⁰

So, the moral from the first RTI/FOI example, the Swedish case, seems to be that advocating/lobbying on this issue is subject to the same timeless principles, rules and constraints which hold for any other socio-political issue. In similar terms, the Canadian Information Commissioner has said

From whence came the Canadian **Access to Information Act**? The primary push for freedom of information laws in Canada came in the late 1960s and early 1970s from backbench members of Parliament through the use of Private Members' bills and other parliamentary and extra-parliamentary techniques. An opposition Conservative private members' bill was, in 1974, referred to a joint Senate – House of Commons committee²¹.

Crucial, though, was the emergence of the "offentlighets-principen". What occasioned it seems lost in the mists of time. Embedding that in a hitherto unreceptive socio-political culture may well be the most significant task for right-to-information advocates.

Colombia and Finland

The background drivers for the next two legislative achievements - Colombia (1888) and Finland (1919/1951)- are even less inquired into or known about. The latter is at least understandable, as Finland was, historically, part of Sweden and, obviously, shared many of its socio-political traditions. The historical background to Colombia's 1881 Code of Political and Municipal Organisation (permitting individual requests for access to records in government agencies and archives unless specifically forbidden by other laws) cries out for further publicity and research²².

United States

After Sweden, the next most talked about law is the 1966 United States' FOIA. People often assume that the USA was somehow "naturally" receptive to RTI/FOI, and open society, quoting First Amendment, etc. and Jefferson's aphorism... Again, interest and/or inquiries into the FOIA's origins are all too rare.

The fond belief that the USA was a willing/natural home for a FOIA is not borne out by the facts. Indeed, nothing could be further from the truth. President Johnson may have said, on signing the law, "A democracy works best when the people have all the information that the security of the nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest."

Blanton's assessment of the US real-politik²³ is

Even though 1966, when the FOIA was passed, was the height of President Johnson's Great Society legislation, the Freedom of Information Act in the United States was really based on ten years of previous hearings in the Congress that began with pressure from Democratic legislators trying to open up the deliberations of the Republican government under President Eisenhower.

But, as George Kennedy notes²⁴, the President

Gave no hint, however, of either his own animosity toward the law or of the political struggle that had produced so important and so flawed a piece of legislation. The story of that struggle is a story of high-minded principle and aggressive lobbying, of selfless and selfish interests in uneasy alliance, and of a handful of heroes - *most of them newspaper editors* who put aside any pretense of detachment to lead a movement that many of their most influential colleagues regarded with skepticism and apathy.

Kennedy's research shows that the advocacy that was ultimately successful (at least in legislative terms) was a coalition of certain newspaper editors, working through an American Society of Newspaper Editors sub-committee; a retired lawyer – Harold Cross; and a Congressman, John Moss.²⁵

The advocacy lessons, then, from Sweden and the USA, are that getting a RTI/FOI law requires, as a pre-condition, some combination of

- Individuals committed and passionate about the access principle and
- That some of these should be professionally situated in the newspaper industry, the law and the legislature

The United Kingdom²⁶

The United Kingdom offers a rather different model from the USA or Sweden. In the UK, ultimately, the central, core advocacy activity was taken by organized, "elite" civil society, notably coalescing around the Campaign for Freedom of Information²⁷. This is in contra-distinction to e.g., India's grass roots right to information movement or the USA's journalist/lawyer/congressman model. CFI's first director was Des Wilson, and he came to

CFOI with campaigning skills and experience honed at Shelter; Friends of the Earth; and the Campaign for Lead Free Petrol.

However, there were, it is true, an amalgam of contributions towards achieving the FOI law (passed in November 2000) from academia; think tanks; political parties; and MPs. The lawyers group Justice, the British chapter of the International Commission of Jurists, published an important pamphlet in 1978: *Freedom of Information*. Further, an under-noted driver was the 1968 Report into the reform of the UK Civil Service –

In fact, it took another half-generation before Whitehall began to address the possibility that there might be a case for substantially greater press and public access to official information. The declassified records suggest that it needed the 1968 Fulton Report on the Civil Service, and the glancing blow it struck in the twentieth of its 22 recommendations suggesting a further inquiry was needed into 'ways and means of getting rid of unnecessary secrecy both in policy-making and administration,' to provide the momentum for an examination of the virtues and the perils of a deliberately created increase in openness.²⁸

A useful summary of the background moves which, ultimately, led up to the 2000 Act is provided in the Report from the House of Lord's Select Committee appointed to consider the Draft Freedom of Information Bill:

Freedom of Information: the British perspective

The first proposal for such a law in the United Kingdom came in evidence given by Professor Wade of Oxford University to the Franks Committee on section 2 of the Official Secrets Act 1911, which was published in 1972. The Labour Party promised in its manifesto for the second general election in 1974 to "replace the Official Secrets Act by a measure to put the burden on the public authorities to justify withholding information." No legislation was introduced by the Labour government, although a White Paper on reform of section 2 of the Official Secrets Act 1911 was published in 1978. In 1977 the "Croham Directive" was promulgated, directing civil servants to separate background information from policy recommendations in order to facilitate disclosure of the former. The Croham Directive seems to have worked well for a time. In 1979 a Private Member's Bill to reform section 2 of the Official Secrets Act and to introduce a public right of access to official documents was introduced by Mr. Clement Freud MP, with the support of the Outer Circle Policy Unit, which had published a report and draft bill. The Freud bill had completed its committee stage in the House of Commons when it lapsed with the dissolution of Parliament. On the very last day of the 1974-79 Parliament the government published a Green Paper on *Open Government*, together with a report on *Access to Official Documents: the Overseas Experience*, which proposed a non-statutory Code²⁹

An important fact concerning the think-tank advocacy referred to, the Outer Circle Policy Unit, is its dependence on funding from non-charitable monies from the Joseph Rowntree Trust. Such (mainly) charitable socially progressive foundation support has been important in the infra-structural funding of UK advocacy bodies.

Crucially, the (1984) Campaign for Freedom of Information structured itself into a coalition of advocacy groups - some 80 national bodies including leading consumer, environmental, civil liberty and legal groups, professional bodies, civil service and other trade unions and organisations representing journalists, newspapers and authors and a (policy-formulating) Council (co-chaired by leading parliamentarians from the major political parties) as well as the Campaign (day-to-day activist/lobbying body). CFOI also successfully employed media-friendly activities such as the publication of the *Secrets* newspaper and the annual, sponsored Freedom of Information Awards (begun in 1985). Another very significant tactic that the CFOI successfully employed was to advocate/lobby for sectoral access laws and freedom of information at the local

government level. In other words, aware of the difficulties of obtaining a national, general FOI law, the Campaign realized that “lesser” achievements would maintain advocacy momentum towards the greater goals as well as produce inherently valuable gains. Finally, CFOI was also successful in attracting senior civil service union support and also from ex-senior civil servants.

The CFOI, UK

There is only limited material available on how the coalition actually happened. The “history” of such a process usually is only written up years after the events took place. However, some insights can be gleaned from the book CFOI’s first Campaign Director, Des Wilson, wrote in 1984, *the Secrets File: The Case for Freedom of Information in Britain Today*. In it, Des Wilson writes that his “personal concern” regarding official secrecy was finally spurred on during his previous campaign, the Campaign for Lead-free Petrol and the shenanigans surrounding the non-availability of information about the amount of lead in petrol:

It was because of my experiences on these [sic] environmental issues that, in my capacity as Chairman of Friends of the Earth, I invited a number of voluntary organisations and pressure groups to a meeting in June 1983 to ask whether they, too, were frustrated by secrecy. I found widespread support for my proposal of a coalition to form a major campaign in the appropriate year of 1984. We decided to call it the Campaign for Freedom of Information...

The coalition comprised “all of the most experienced anti-secrecy campaigners to date” and then the next step was to garner support for the coalition. Within weeks, the campaign was launched with the support of 25 national organisations and 150 MPs, over 50 members of the House of Lords and “all three major opposition leaders”. Other organisations followed [now, around around 90 supporting and observer organisations, see <http://www.cfoi.org.uk/suppsorgs.html>]; launch meetings were held in major cities; and several “secrets files” (on environmental pollution and access to individual files) were published. The influential *Guardian* newspaper waxed lyrical in support: “It is a more than worthy cause: the campaign is being organised with considerable intelligence and impressive support; and perhaps most most significant of all, there is already considerable nervousness in Whitehall about its chances of success...”.

Another important impetus, also described by Des Wilson, was the work of the *Community Rights Project*, which investigated the extent of compliance with then-existing freedom of information regulations by *local* government authorities (CRP, supported by the CFOI, was instrumental in achieving the Local Government (Access to Information) Act 1985, a private member’s bill, which provides wider rights of access to council meetings, reports and papers). Finally, Wilson notes the “spectacular week in May 1984, when all of the civil service unions came fully on board, one after another. These included the Civil and Public Services Association, the Society of Civil and Public Servants and the Institution of Professional Civil Servants, all of which passed resolutions in support of the Campaign. The major surprise, however, was the First Division Association of Civil Servants, which made headlines by supporting the principles of freedom of information and then deciding for the first time in its history to affiliate with a pressure group...

In addition, Sir Douglas Wass, Permanent Secretary to the Treasury 1974-83 and Joint Head of the Home Civil Service 198-83, announced he was prepared to assist the Campaign for Freedom of Information. This was just after his BBC Reith Lecture series, *Government and the Governed*, in which he proposed the need for a more informed public.

Wilson’s book is a useful resume of that tumultuous year. However, two points should be made (a) however promising the Campaign’s initial success were, it still took until the year 2000 before the UK Parliament passed the Freedom of Information Act; and (b) there were some freedom of

information supportive steps/events leading up to the launch of the Campaign, documented by Wilson (pp 124 – 139), which provided fertile ground into which the Campaign slotted itself. An interesting area looked at by Wilson is the attitude of the civil service:

It is widely assumed that the civil service is the main opponent of freedom of information. It is not as simple as that. Closer examination of what the civil service unions have published on the matter, indicates that the problem is mainly at the top – resistance by a combination of Ministers and the more senior civil servants...[T]wo of the civil service unions...had actually called for repeal of Section 2 of the Official Secrets Act and for freedom of information legislation well before 1984.

As regards the “alternative strategy” mentioned above - the Campaign, in order to maintain momentum in the face of difficulties in securing Parliamentary passage of an omnibus FOI law, drafted, promoted and secured several private members’ Bills viz.,

- Access to Personal Files Act 1987, which gives council tenants the right to see their housing records, social services clients the right to see their social work records and parents and older pupils the right to see school records;
- Access to Medical Reports Act 1988, which gives people the right to see reports supplied by their doctors to insurance companies and employers; to correct inaccurate information and to withhold consent for the report to be sent if they find it unacceptable;
- Environment and Safety Information Act 1988, which requires safety & environmental authorities to set up public registers of the enforcement notices they serve on factories, shops and other premises where public hazards or breaches of safety or environmental laws have occurred; and
- Access to Health Records Act 1990, which allows people to see information recorded after 1 November 1991 on their manually held medical and health records; to obtain copies of the records; and to have misleading or inaccurate information corrected

As already mentioned, the Campaign collaborated with the Community Rights Project to secure the passage of the Local Government (Access to Information) Act 1985 and with Public Concern at Work to secure the passage of the Public Interest Disclosure Act.

CONCLUDING POINTS

In so far as there can be any generalisations about advocating the right to information (which, obviously, is not confined to legislation), it can be said that

- Advocacy in this area is subject to the general rules of advocacy; but, as the Recommendations (above) show, specific guidance can be offered for the RTI issue-area
- Every RTI campaign emerges from a country-specific, socio-political context as well as being based upon a “universal value/idea”
- Whilst RTI campaigns emerge out of specific situations, it helps to focus minds and clarify aims to unite around some principle which can be succinctly, as in Sweden – the “offenlighetsprincipen”. For those connected to the internet, another strategy is to employ a catchy URL: In Scotland, e.g., the website (and slogan) of the new Scottish Information Commissioner is <http://www.itspublicknowledge.info>!
- A significant distinction can be made between advocating for the RTI as the primary aim and advocating it as a secondary/instrumental aim
- As a generalisation, an analysis of most RTI advocacy campaigns reveals that the principal players are “the usual suspects”: “elite” civil society - academics; journalists; lawyers; certain political activists, policy-makers, politicians and legislators etc. This is connected to the fact that campaigning for the RTI brings activists into collision with core elements of the society’s government and administration (and guardians of the established order). What is often missing is a more broadly-based, socially-inclusive

movement. Two examples are (a) the CFI in the UK, which, particularly in the early days, attracted trades-union interest and membership and (b) India's Mazdoor Kisan Shakti Sangathan (MKSS) or the Organization for the Empowerment of Workers and Peasants. It is a good example of a very differently based campaign, totally connected to the fact that it started when "a worker from Kot Kirana, a village in the Pali district of Rajasthan, complained that he was being denied his wages. The MKSS promised to fight on the condition that he demand access to records covering the entire period of his employment. He agreed, and the campaign began." (see the March 2003 interview with Aruna Roy, http://www.worldpress.org/article_model.cfm?article_id=1123&dont=yes). Thus, the campaign (i) emerged out of a specific socio-economic grievance which required access to information to verify rather than to realise a general principle/human right (ii) it was driven from the grassroots and (iii) it used the system of the Jan-Sunwai [public hearing] which is better suited to inclusivity and an orally-based culture.

¹ Communication Initiative <<http://www.comminit.com>>

² What is 'Advocacy'? <<http://www.advocacy.org/definition.htm>>

³ What is Advocacy? <http://www.ncasindia.org/ncas_aboutadvocacy.htm>

⁴ Partners or protagonists? - case studies in civil society advocacy <<http://www.commonwealthfoundation.com/news/news343.html>> October 2002

⁵ Partners or protagonists? - case studies in civil society advocacy <<http://www.commonwealthfoundation.com/news/news343.html>> October 2002. On the 16th December, the Lok Sabha passed the Freedom of Information Bill <<http://www.freedominfo.org/news.htm>> December 2002

⁶ Pilger, J, The New Protest Movement <http://www.civicus.org/cc/portal/index2.cfm?contentid=117&link_url=> November 2002

⁷ PROMOTING PRACTICAL ACCESS TO DEMOCRACY: A SURVEY OF FREEDOM OF INFORMATION IN CENTRAL AND EASTERN EUROPE <http://www.article19.org/FOI_survey_web_finaltext.htm> November 2002

⁷ Japan-United States Symposium: The Internationalization of Japan and Open Government UN University, Tokyo, Japan <<http://www.gwu.edu/~nsarchiv/japan/1995foiaconferencetranscript.htm>> June 1995

⁹ Japan-United States Symposium: The Internationalization of Japan and Open Government UN University, Tokyo, Japan <<http://www.gwu.edu/~nsarchiv/japan/1995foiaconferencetranscript.htm>> June 1995

¹⁰ Important sources are other Article 19 publications, *The Public's Right to Know: Principles on freedom of information* [available at <<http://www.article19.org/docimages.512.htm>>] and *Model Freedom of Information Act* [available at <<http://www.article19.org/docimages.1112.htm>>]

¹¹ Jouleva, G. Bulgaria: The Access to Information Programme: Fighting for Transparency during the Democratic Transition <<http://www.freedominfo.org/case/bulgaria.htm>> July 2002

¹² Information Clearinghouse Japan, Japan: Breaking down the walls of secrecy: the story of the Citizen's Movement for an information disclosure law <<http://www.freedominfo.org/case/japan1.htm>> July 2002

¹³ Gothe, Erik. THE SWEDISH TRADITION OF FREEDOM OF PRESS <<http://www.fecl.org/circular/1507.htm>> May 1993

¹⁴ Japan-United States Symposium: The Internationalization of Japan and Open Government UN University, Tokyo, Japan <<http://www.gwu.edu/~nsarchiv/japan/1995foiaconferencetranscript.htm>> June 1995

¹⁵ The classic text is still Wilson Des, *Pressure: The A-Z of Campaigning in Britain* (London: Heinemann Educational Books, 1984)

¹⁶ Sweden – Government: 7.2.3 Government & its spendings <<http://www.lysator.liu.se/nordic/scn/faq723.html#demo>>

¹⁷ Sweden – Government <<http://www.lysator.liu.se/nordic/scn/faq/>>

¹⁸ The Finnish-Swedish Offentlighetsprincipen <<http://www.lysator.liu.se/nordic/div/offentlighet.html>>; see also Michael James, (1995) Freedom of Official Information. Available <<http://www.osce.org/odihr/documents/periodicals/bulle5-1.pdf>> Micahel describes the evolution of the right to information emerging from access to court proceedings/documents: "Open government laws are not simply for the satisfaction of citizens' curiosity. They usually derive from rights of access to records relevant to a legal interest and there is a continuing connection between the interest which a citizen has in how the country is governed and a right of access to records about government." *Freedom of Official Information*, see <http://www.osce.org/odihr/documents/periodicals/bulle5-1.pdf>

¹⁹ A photocopy of the work, translated into English by Theresa McGrane-Langvik and Maria Lindstedt is on file with the author. A Note on Forsskal is to be published in a forthcoming issue of FOI Review.

²⁰ Seipel Peter. Public access to public sector-held information and dissemination policy - the Swedish experience <<http://europa.eu.int/ISPO/legal/stockholm/en/seipel.html#12>> June 1996. The nomenclature was based on the headgear and orientation of the parties - the former favourable to France, and the latter to Russia. Carlyle says the latter were called caps, meaning night-caps, because they were averse to action and war; but the fact is that the French partisans wore a French chapeau as their badge, and the Russian partisans wore a Russian cap. See Hats and Caps <<http://www.bartleby.com/81/8018.html>>

²¹ REMARKS TO FREEDOM OF INFORMATION SEMINAR. <<http://www.infocom.gc.ca/speeches/speechview-e.asp?intspeechid=16>> February 2000. Blanton's take on Canada is that "In Canada, scandals relating to police surveillance and to government regulation of industry, led to passage of the Canadian Freedom of Information Law, together with a significant privacy law, in 1983.

²² Banisar D. Freedom of Information and Access to Government Records Around the World. Entry on Colombia and footnote reference to Alberto Donadio's *Freedom of Information in Colombia*, Access Reports February 1994 <<http://www.freedominfo.org/survey/survey.pdf>>

²³ Japan-United States Symposium: The Internationalization of Japan and Open Government UN University, Tokyo, Japan <<http://www.gwu.edu/~nsarchiv/japan/1995foiaconferencetranscript.htm>> June 1995

²⁴ Kennedy George. How Americans got their right to know: Getting Congress to guarantee access to federal information through FOIA 30 years ago was a press triumph <<http://www.johnemossfoundation.org/foi/kennedy.htm>> [emphasis added] 1996

²⁵ Freedom of Information Pages <<http://www.johnemossfoundation.org/foi/foi.htm>> For Cross' contribution, see Cross H, *The People's Right to Know* (Columbia UP: Morningside Heights, NY 1953)

²⁶ see Lewis, Jeremy, "Freedom of Information: Developments in the United Kingdom", *International Journal of Intelligence and Counterintelligence*, 3(4):465-474 (Winter 1989)

<<http://fs.huntingdon.edu/jlewis/Prof/FOI-UKarticle1JIC-89.htm>>

²⁷ Campaign for Freedom of Information <<http://www.cfoi.org.uk>>

²⁸ Hennessy, Peter. Accelerated History? Whitehall & the Press since 1945

<<http://www.charter88.org.uk/pubs/brief/0011hennessy.html>> November 2000

²⁹ Report From The Select Committee Appointed To Consider The Draft Freedom Of Information Bill
<http://www.publications.parliament.uk/pa/ld199899/ldselect/ldfoinfo/97/9702.htm#a9> July 1998