

Right to Information

- The Madhya Pradesh Experience

Swasti Rana

Research Officer, Right to Information Programme

“The best method of finding out the truth is the free exchange of opinions. The only reason to prohibit this can be the fear that the truth would come out.”

Among the many shortcomings of Indian democracy is that citizens are routinely denied information they need to make meaningful choices. The Constitution of India, the primary legal document of the country, is visibly silent about the right to information as are numerous states in the country.

Despite this gloomy picture, debate on Right to Information and the need for a legislated framework has gradually taken shape in India. Though a central law on Right to Information is yet to see the light of day, six states¹ have taken the initiative in passing a law on this controversial issue.

Though Madhya Pradesh is attempting to do the same, its effort is yet to translate into a concrete law.

However, executive orders have been passed to fill in the vacuum created by the lack of legislation in this area.

Admited this growing wave, CHRI's main efforts over the past four years have been to advocate and build awareness on the Right to Information as a fundamental and indivisible right for all. In this context, a conscious decision was taken not just to advocate to governments and policy-makers, but also to elicit the views of the general public while framing and implementing these laws. In pursuance of this objective, CHRI has been conducting a series of workshops at the national level. The purpose of the workshops is two fold- establishing why free access to information is crucial to good governance, and conversely, eliciting the views of the general public.

By establishing crucial links between RTI and good governance, public participation; and democracy, the primary focus of the workshops has been on discussing the significance of RTI in everyday life. Other objectives have been to analyze pending central legislation, various state laws on the subject, relevant executive orders and perhaps the most important of all administrative measures taken to implement the law.

Well represented by over 160 participants from diverse backgrounds², the workshops were held at Satna and Shahdol³ on 24th and 26th June. Keeping in view the natural power of the media to disseminate information to a large audience and that an informed and responsible press can often act as a force multiplier, our prime target group in the course of these workshops has been the media. Jayant Verma⁴ opened the discussion speaking on the practical importance of Right to Information, with special focus on how Indian government officials are required to take an oath of secrecy under the Indian Constitution He spoke on

the urgent need to replace this antiquated practice with an oath of transparency for any other efforts to bear fruit.

CHRI's presentation, in turn, brought out the link between right to information and the provisions in the constitution, which is fundamental to this right. The practical importance of this right was further amplified by examining cases like the Bhopal gas leak tragedy. The focus then shifted to the analysis of the still pending Central Bill, its strengths, weaknesses and the areas that it had left uncovered

What finally emerged

- ® It is important to generate awareness on this issue - to facilitate this a group of 10 people were formed, in both districts.
- ® This group has undertaken to print and make available to the people of Satna and Shahdol, the executive orders that have been passed to implement the right to information.
- ® To overcome the prevailing culture of secrecy, a sustained and consistent effort is needed.
- ® There is urgent need for an enforceable and practical framework in MP to make the Right to Information a meaningful right.

The primary concern that emerged in the course of the discussions was undoubtedly the prevailing culture of secrecy, which must be overcome prior to any meaningful change. The overall response at both the workshops was extremely encouraging and in the course of the next few months CHRI is committed to follow up on the developments in Satna and Shahdol and will be corresponding with the groups formed in order to purposefully extend support to the movement there.

Station Diary: Police Reform & Human Rights

Dr. Doel Mukherjee

Project Officer, Police, Prisons & Human Rights Programme, CHRI

This quarter India once again found itself at the center of negative attention for its insensitive handling of the Gujarat communal killings. Sparked off, in February, by a brutal train massacre which left 59 dead the riots carried on for weeks after and resulted in hundreds being brutally killed and maimed, besides leaving over a 100,000 homeless and dispossessed. Media reports, civil society's fact finding teams, international scrutiny, the National Human Rights Commission and indeed our own research teams all strongly suggest that the riots were pre-planned, premeditated and could not have continued for so long without the support of the state machinery. The continuing violence for over four months and the undercurrent of potential violence still flaring up points to the absolute inability of the law enforcement agency for failing to control the mayhem.

Given the fact that the perpetrators sought to destroy and selectively targeted members of a particular community and amidst claims that this was no "spontaneous uprising" but a "carefully orchestrated" attack, the nature of the atrocities committed can fall within the definition of , crimes against humanity¹ or, genocide .

The 1984 anti-Sikh Riots²; 1992 demolition of the Babri Masjid; the excesses committed on Uttarakhand agitators at Muzzafar Nagar, U.P., in 1994, are all examples of human rights violations that routinely take place in a country where the police has seemingly not only been partisan but has shown total disregard in upholding the rule of law. To date the Central and State governments have done very little to reform the police or ensure their autonomous functioning without fear or favour in accordance with the law.

The savagery of the present killings and the continuous string of incidents since then once again brings the need for police reform into sharp focus. CHRI has been advocating for police reform for the past four years. In particular it has targeted the need for the police to be accountable only to law, be free from political interference, and have functional autonomy. Had this call been heeded perhaps the scope for vested interests to continue the carnage could have been prevented or at least reduced. But lessons seem not to have been learned.

Nevertheless CHRI has recently begun yet another initiative in one of India's newest states Chhattisgarh. In November 2000, Chhattisgarh came into existence, with the Reorganization Act of Madhya Pradesh. The state has a sizable tribal majority and suffers from many developmental problems primary among them being the lack of proper resource allocation of forest, land and water. This maladministration has made many parts of the state sympathetic to the Naxalite³ movement. However, the one and a half year old government has emphasized the need for good governance as one of the critical areas of its "Chhattisgarh 2010 – State Vision Document" policy. The State Government has also

recently constituted an expert committee to redraft the Police Manual in the state. Another positive development is the newly constituted State Human Rights Commission.

A new government which seems committed to translating rhetoric into reality is also more welcome towards NGO's who wish to advocate for change. Early this year, CHRI stepped into Chhattisgarh with a basic vision of attempting police reform (based on recommendations of the National Police Commission, 1981). The early phase of CHRI's work centered around public education, research and policy level advocacy. However it soon realised that in order for policy level advocacy to gain momentum, a bottom-up approach needed to be adopted. Therefore, one of its more recent endeavors has been to try and make inroads at the grassroots level, and thus reach out to the intended beneficiaries of this entire exercise.

With this broad framework, CHRI held a strategy meeting at Raipur on June 10th, 2002 where some key issues were discussed. Though not a workshop in the true sense of the term, this meeting intended to initiate the process of police reform in Chhattisgarh, and be a forerunner for CHRI's further campaigns in the state.

At the outset we wanted to:

- ® Introduce the concept for the urgent need to reform the police.
- ® Understand the constraints in policing a new state, of which the layperson is usually not aware.
- ® Network with civil society and government departments and encourage them to carry the message of reform further in their agenda.
- ® To catalyse and provide a platform to debate the issue of police reform in a free and open manner.

The participants for the discussion were well represented by key actors of members of the judiciary, members of the Bar Association, the media, academicians, senior bureaucrats, advisors to the Government, serving and retired police personnel of different ranks, members of the civil society, mass based organizations and the members of the SHRC of Chhattisgarh.

Key issues discussed:

- ® Awareness and education on police related issues and citizen's rights are important for reforms.
- ® To bring in greater levels of awareness, mechanisms need to be adopted for information dissemination.
- ® To ensure reform there is need for holistic change.

CHRI is now collaborating with the newly formed Human Rights Commission to carry out public awareness education on the rights of citizens and the need to repeal the 1861 Police Act.

Furthermore, CHRI aims to hold a series of interactive sessions with the lower functionaries in the police, lawyers, doctors associations, professional groups, media, civil society and mass based organisations and the business community of the state. Nevertheless, many parts of the state are inaccessible, thus to reach out at the grassroots level may well prove to be an

arduous task. Nodal areas will be taken to facilitate these meetings. Through open-ended discussions CHRI will prepare a People's Police Act, which will be of practical relevance to the people.

Chhattisgarh is right at the beginning of its political life. It has no reason to remain with old and irrelevant legislation. It can experiment boldly and put its best foot forward to serve as a model of what can happen and happen quickly where there is political will to act radically for the benefit of all the people. It is hoped that this pilot project taken up by Madhya Pradesh and Chhattisgarh is adopted by other states as well to make it a truly national initiative.

Where angels fear to tread - Reflections on Gujarat

Navaz Kotwal

Research Officer, CHRI

Before I left for Gujarat in April I had read all the reports and newspaper articles, and thought I was prepared for everything. But when I reached the first relief camp set up for riot victims who fled their homes to escape certain death at the hands of their attackers, I was left aghast. Hundreds of inmates were squatting on threadbare gunnysacks, no roof over their heads, the sun blazing mercilessly, no fans, little water and even lesser hope. Children ran around unattended, giggling and shouting aimlessly. I later learnt that some of these children had witnessed some of the most gruesome murders. Were they hiding their memories?

I saw a group of women and sat down with them. They thought I had come to offer something. I told them otherwise. Yet they decide to sit around me and slowly their stories begin to unfold. Stories, which speak of such brutality and bestiality that I want to shut my ears if I wish to retain my sanity. Pain is everywhere, in every word, in every sigh. Someone has lost a brother, another a husband, a son or a daughter, some have lost more than one and many have lost them all. Common threads that bind them together - sorrow and hopelessness. A pattern emerges as each story pours out. In the first days of the carnage a large mob of 1500-2000 people had attacked their village. They were surrounded from all sides and the attackers entered their houses. They first snatched away all the money and jewellery, and then pulled out all the young women and children. Begging, pleading or crying brought no help, no mercy.

Voices begin to crack as they relive their pain. "Our clothes were stripped." "My child was snatched from my hands." "I was raped in front of my own house in front of everyone." "Then in front of our house, in full view of the others in the area, we were humiliated and sexually assaulted by the mob. We were made to walk naked in front of huge mobs and then raped again."

Naked, hurt and bruised, some of these women were then doused with petrol about to be set on fire. "While we tried to flee the mobs stood around us and cheered lustily." Our neighbours and co-workers who were part of the crowd joined '**them**' in humiliating us." Tears begin to flood my eyes. I die for shame with my sisters, I rage with anger and helplessness. We all sat there weeping silently. I hug and cry with them and offer, no hope, little consolation, and no justice.

What I heard left me shaken. Is the human being capable of so much bestiality and violence? I wondered what could transform normal ordinary people into blood thirsty, murderous mobs. Do I also face this risk of becoming transformed into a beast some day? The fate of these women bothered me. They swore they would never return to their village. With what faces would they go back to their homes?

I stayed on in Gujarat. Everyday I tried to help wherever I could. People continued to live in make-shift camps - brutalized, bereaved and destitute. The elements also go against them. Fear of the monsoons soon breaking out loomed large. No help came from the government to reconstruct their shattered houses leave aside their shattered lives and souls. Offers of compensation seem designed to add insult to injury. Sabera lost her husband during the communal violence. She has five young children to look after. Her arm is broken, her leg injured and stitches on her head. Her house has been completely burnt. The administration gave her a cheque for Rs. Five hundred (US\$ 10). In general, compensation for loss of property has ranged from a few hundred to a thousand rupees (US\$10 - US\$ 100). How does one rebuild a house with those amounts?

Worse than the inhuman conditions in the camps was the nightmare of their forced closure. These traumatized people who had lost everything and had nothing to go back to now face the prospect of going into a hostile village to endure penury and starvation. That too only if they survive another possible attack from neighbours emboldened by the fact that most of the attackers have not been arrested so far. Unconcerned by human suffering and breaking its promise to the National Human Rights Commission, the government has been unilaterally closing down the camps one by one. The justification given - "it is socially unhealthy for the victims to live in camps for extended periods of time."

The first camp was closed on the 26th of April and by the 30th of June all camps were shut down. Today, with what little shelter they had having been snatched away, more than a hundred thousand, brutalised, and bereaved people are forced to return destitute and humiliated to places full of fear and memories of terror.

My mind goes back to those women. I was sure they would never have returned home. But I find that the same women who a month ago had sworn that they would never return home had done just that. I went to see them in their village. I found them there but they were not the same women I had met in the camps. Their faces showed a resemblance but, the tears had dried and their pain buried deep within. But the humiliation lives with them each day. They said they could not even manage a meal a day. They had no shelter. They were sent back without any police protection. The same men, who had raped and torn at them, killed their men and children and burnt their homes, continued to live in the same area. I could sense their fear. Suddenly one woman came up to me and put her year old child in my lap and asked me to kill her. The child had been crying since morning. There was nothing to feed her with. The mother could not bear her suffering but could not get herself to strangle her child. She wanted me to do what she could not, as a friend. Once again I had nothing to offer her. I asked them why they had returned to the village. It was a mistake. Thirty pairs of eyes stared back at me blankly. Behind these blank stares lay their helplessness, their anger. Somewhere in their silence I could hear screams of pain and anguish. The terror in their minds is so great, it hits me like a wave. It begins to rain. We continue to sit there. There is no shelter in sight. Akbar slowly walks up to me. He has a plastic sheet in his hand. He holds the sheet over my head to protect me from the rain. I seat him on my lap. Within minutes this six-year-old falls asleep. Akbar has lost both his parents to the communal violence. I leave the village with the lone thought of Akbar's future lingering in my numbed mind.

In every small village where people have gone back, families now live in the open. There is no shelter and hardly any food. The rain hits hard as if whipping them for daring to be alive.

The destruction of this section of society has been so perfectly planned. But maybe I am wrong - the morning headline says; "Normalcy returns as camp inmates go back home".

I returned to Ahmedabad (capital of Gujarat) the next day. My pain only deepened as I once again came across Gujarati society, which seemed not remotely affected by the anguish of more than a lakh of people. As time passes, psychological and emotional wounds fester and just like physical wounds many of these wounds will turn gangrenous. Soon there will be no remedy left leaving a crippled society in its wake. Long ago I had heard somewhere that there are causes worth dying for, but today it seems there are causes worth killing for.