



Commonwealth Human Rights Initiative

&

Katiba Institute

Right to Information Learning Programme in India

*for civil society and media representatives from Kenya
supported by the Commonwealth Foundation*

03 – 09 September, 2017

Shyama International Inn, SDA, New Delhi

Event Report

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Executive Summary

Objectives of the RTI-LP

Kenya enacted its Access to Information Act in August 2016. Although this law has become operational with immediate effect, Regulations for detailing the procedures for seeking and obtaining information and deciding information access disputes are still in the works. Meanwhile, several civil society actors have started testing the efficacy of the law by making requests for information of public interest and a handful of cases have reached courts for adjudication.

India enacted its *Right to Information Act* in 2005. Hundreds of thousands of citizens and collectives are making use of this law to seek information to make the functioning of public authorities transparent and accountable. According to CHRI's estimate in recent times between 5-5.5 million information requests are received across the thousands of public authorities spread across various jurisdictions in a year. Civil society not only participated in the law making exercise in 2004-05 but monitors the implementation process and continues to actively engage with the establishment by providing inputs to governments at the Central and State level to strengthen the regime of transparency.

Given the similarities of governance structures and legal systems in Commonwealth countries, there is a wealth of experience and best practices that can be shared across borders to assist in the process of planning the implementation of Kenya's ATI Act. CHRI facilitates such experience sharing through week-long learning programmes on the right to information for governments, civil society and media representatives of Commonwealth countries from time to time.

CHRI organized an RTI Learning Programme in New Delhi, India for six delegates representing civil society and media organisations in Kenya in September 2017, with the support of the Commonwealth Foundation. The specific objectives of the RTI-LP were as follows:

- 1) to enable participants to better understand the significance of the right to information (RTI) in the context of democracy, rule of law, accountable and corruption-free governance, sustainable development and human rights;
- 2) to arrange interactions for participants with RTI campaigners and practitioners in India to better understand campaign strategies for enacting and implementing the RTI Act in India;
- 3) to familiarise participants with the measures taken to implement the Right to Information Act (RTI Act) in public authorities through interactions with key functionaries and site-visits;

- 4) to apprise participants of the manner of use of RTI by citizens, civil society and the media in India; and
- 5) to identify opportunities to widen the base of the RTI coalitions in the participants' country and to identify collaborative activities.

Profile of the participants

CHRI worked with Katiba Institute, Kenya to select participants in accordance with the overall objectives of the RTI-LP. Nominations were invited from civil society and media organisations based in Kenya. CHRI selected six participants from among the nominees based on criteria such as involvement in the campaign for the ATI Act, previous work on- the promotion and protection of human rights, improving governance, combatting corruption, environmental issues and participatory decision-making involving indigenous communities. Two of the selected participants were women – one each from the civil society and the media sector.

Overview of the activities during the RTI-LP

During the RTI-LP participants interacted with representatives of a range of stakeholders in India including government, the Central Information Commission which adjudicates information access disputes, civil society advocates and activists and senior journalists who have used RTI for accessing information relating to public interest issues. CHRI staff also provided participants with rich resource materials relating to various aspects of implementation. Audio-visual methods, group work and lecture sessions were the methodology used for experience sharing during the workshop. All sessions were targeted towards discussions around Kenya's ATI Act, its potential for use and the steps that need to be taken for ensuring its effective implementation. At the end of the RTI-LP a formal evaluation was undertaken in order to elicit feedback from the participants about the usefulness of the RTI-LP.

Key learnings and take away

Participants identified the following learning as being of major relevance:

1. The need to create ownership of the RTI implementation efforts among the citizenry as has happened in India in order to encourage implementing authorities on a sustained basis to bring more and more transparency in their functioning. Participants also felt the need to expand the ATI campaign outside Nairobi in towns and villages across Kenya to spread awareness about RTI at the community level. The citizens' experience of apathy or maltreatment in government offices would change considerably if they had more access to information about decision-making processes in real time;
2. Encouraging the media to use RTI for the purpose of investigative journalism that would move beyond merely covering issues of political interest. This would not only enhance the confidence levels amongst people about journalists, but also make significant contributions to engendering greater degree of accountability for decisions relating to development and governance. A strong RTI law would enable journalists to do their work much better with support from the editors and the management;
3. Participants felt that RTI can be used to collect primary data about governance and the implementation of developmental programmes which can serve as evidence for demanding accountability from the government;
4. Participants internalised the fact that RTI is an effective enabler of the full realization of human rights and effective implementation of extant laws. RTI can also go a long way in improving citizens' access to essential public services provided by the government rather being a standalone right.
5. Learnings from the experience in India the strategies employed by civil society groups where necessary for increasing the effectiveness of the campaigns at the national level and tackling the impediments and barriers created by the bureaucracy; and

6. To collaborate with CHRI to develop and design programmes that will promote the participation of the public in making RTI requests, to develop further learning materials together, to also design programs that will promote a culture of pro-active disclosure and disclosure generally;

Action points identified for leveraging policy change

The RTI-LP identified the following actions points for advocating for the implementation and massifying the use of the RTI law in Kenya:

- To discuss the matters of implementation of the ATI Act with the Commission on Administrative Justice (CAJ) and the Government. Establishing relations with the CAJ Commissioners and advocating for effective implementation of the ATI Act;
- To bring together all the groups already working on the ground around implementation of the ATI Act in Kenya. The strategy would require to call meetings with all stakeholders and form a Task Force and organise conferences and consultations around implementation issues;
- Involving the relevant committee of Parliament in Kenya in the process of implementation would also be strategically important. Participants agreed that they should be involved from the beginning. The action plan may include such consultations on a pilot basis with private entities, public entities and counties;
- To focus energies on building alliances with sympathetic lawmakers and policymakers to ensure effective implementation of the ATI Act. Identify RTI ambassadors and champions across sectors – such as Parliament, the Executive and the Judiciary to plan and promote the implementation process;
- To hold sensitisation sessions on the ATI Act at universities and academic institutions with students and ToT training sessions on ATI in local languages would help spread awareness and use of the ATI Act in a big way. Making the media aware about ATI by meeting media persons, publicity of ATI through both print and broadcast media, training journalism students and interaction with editors and sensitising them about ATI would be strategically important for popularising the law.
- To collaborate with donors who are showing interest to support implementation efforts. E.g- USAID etc. It is crucial to explore possibilities of partnership and funding for ATI advocates in civil society in this regard.

Follow-up action

CHRI does not believe in forcing any implementation model on other countries. The purpose of the RTI-LP was to impress upon the participants the strategies and efforts that went into the campaign for securing a strong RTI law and the manner in which its use is becoming widespread in India. A model may work for one country, but may not do so in another. However the lessons from India that would be of great use in as far as broadening the base of the RTI campaigns, garnering public support, advocacy around implementation of the existing ATI Act, drafting the regulations and identifying champions of RTI in various sectors in order to improve the punch and effectiveness of the respective campaigns.

As the ATI promotional project in Kenya is scheduled to continue for two more years, CHRI will take RTI experts from India and Africa to Kenya to discuss matters of implementation with the Government, CAJ and civil society and media persons. CHRI will provide technical assistance to all stakeholders for strengthening the regulations and creating guidance notes, user manual or guides. CHRI will work with Katiba Institute to broaden the support-base for the RTI coalition in Kenya during the next two years.



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Event Report

Background

CHRI and Katiba, Kenya Institute organised a Learning Programme on the Right to Information (RTI-LP) for representatives of civil society, media from Kenya, in New Delhi, India from 03-09 September 2017. This programme was organized as part of the 3-year project, for building the capacity of Kenyan civil society organisations to advocate for an effective access to information regime in that country, supported by the Commonwealth Foundation. Kenya enacted its Access to Information Act (ATI Act) in August 2016. Several provisions in the ATI Act draw inspiration from India's Right to Information Act (RTI Act) enforced since 2005. CHRI provided technical assistance to governments and civil society in both countries during the drafting stages of these laws. Katiba Institute is a key civil society organization working for the promotion of an effective regime that guarantees people access to information from public authorities in Kenya. CHRI is partnering with Katiba Institute for ensuring effective implementation of the ATI Act in Kenya.

Objectives

The overall objective of the RTI-LP was to two-fold:

- a) to showcase the Indian experience of using and implementing the RTI law to ensure greater transparency and accountability in Government; and
- b) to broaden the base of the coalition in Kenya that is advocating for the implementation of the ATI Act by encouraging representatives of civil society organisations and the mass media who have not been part of the coalition but who are working for greater transparency and accountability in government in their own spheres of action.

The RTI-LP sought to achieve the following specific objectives:

- 6) to enable participants to better understand the significance of the right to information (RTI) in the context of democracy, rule of law, accountable and corruption-free governance, sustainable development and human rights;
- 7) to arrange interactions for participants with RTI campaigners and practitioners in India to better understand campaign strategies for enacting and implementing the RTI Act in India;

8) to familiarise participants with the measures taken to implement the Right to Information Act (RTI Act) in public authorities through interactions with key functionaries and site-visits;

9) to apprise participants of the manner of use of RTI by citizens, civil society and the media in India; and

10) to identify opportunities to widen the base of the RTI coalitions in the participants' countries and to identify collaborative activities.

The candidate selection process

CHRI worked with Katiba Institute to select participants in accordance with the overall objectives of the RTI-LP outlined above. Nominations were invited from the following civil society and media organisations based in Kenya: Isiolo Human Rights Network, Transform Empowerment for Action Initiative (TEAM), MidRift Human Rights Network, The Star Newspaper, The Nation Newspaper and TV, The Institute of Social Accountability (TISA), Save Lamu, International Budget Partnership (IBP), Article 19 and Transparency International. Katiba Institute was also requested to nominate a representative for the RTI-LP.

CHRI selected the following participants based on criteria such as involvement in the campaign for the ATI Act, previous work on: the promotion and protection of human rights, improving governance, combatting corruption, environmental issues and participatory decision-making involving indigenous communities. Two of the selected participants were women – one each from the civil society and the media sectors.

Sl.	Name	Profile
1	Ms. Sandra Khagayi Musoga	Senior Programme Officer, Article 19, Kenya (Article 19 works around Freedom of information and Media Law reform)
2	Ms. Maureen Mucheyi Kakah	Journalist, Nation Media, Kenya (Nation Media is the largest newspaper and one of the largest TV stations in Kenya)
3	Mr. Nyabira Ben Christopher	Programme Officer, Katiba Institute, Kenya. (Katiba Institute works around diverse issues of governance and rule of law)
4	Mr. Walter Kyalo Mwanja	Programs Manager, MidRift Human Rights Network (MidRift Hurinet), Kenya. (MidRift Hurinet is a community based organisation that promotes accountability in policing and respect for human rights)
5	Mr. Philip Nyakundi Gichana	Programme Officer, Transparency International, Kenya

		(TI, Kenya works to develop a transparent and corruption free society through good governance and social justice)
6	Mr. Omar Mohamed Elmawi	National Liaison Officer, Save Lamu, Kenya (Save Lamu works with communities to promote participatory decision making for sustainable development and environmental conservation)

Selection of resource persons

The RTI-LP was designed to facilitate interaction of the Kenya delegation with a wide variety of stakeholders from both the supply and the demand side of access to information, namely, RTI campaigners and activists involved in advocacy and use of the RTI Act in India at the grassroots level, senior representatives of government and representatives of the access dispute resolution body in India, namely, the Central Information Commission. CHRI's own staff also shared their experience of advocating for RTI laws across Commonwealth countries and using the RTI law in India strategically in the access to justice sector. The sessions were organized in a manner that facilitated discussion about what it takes to implement an ATI law effectively, what lessons Kenya could learn from India and other S. Asian countries where similar laws are being used by citizens and civil society groups extensively and the myriad uses to which ATI can be put in order to deepen democracy, secure greater accountability of public functionaries and advocate for governance reform based on evidence gathered from the use of ATI laws.

RTI – Learning Programme Proceedings

DAY 1: 04 September, 2017

Session 1

1.1 Opening Session:

The RTI-LP began with a brief round of introductions with participants voicing their expectations from the 5-day long interaction. Participants expressed their eagerness:

1. to better understand the strategies adopted by civil society actors to promote awareness about and the use of RTI at the grassroots level, in other words India succeeded in 'massifying' knowledge of the RTI law;
2. to understand the practical challenges in implementing the ATI Act across jurisdictions – from national to the sub-district/county level;
3. to learn about the manner in which citizens and communities at the grass roots level and influencing change through rights-based advocacy especially on policing, prisons and the security sector;
4. to know more about the manner in which journalists have used RTI to highlight human interest stories;
5. to better understand how the RTI Act had impacted various aspects of governance especially transparency and accountability;
6. to learn what are the practical challenges that are likely to come up while filing ATI requests; and
7. to understand trends in the development of the jurisprudence around RTI in India (outputs of courts and Information Commissions tasked with resolving information access disputes).

CHRI resource persons noted these expectations and assured participants that they would be addressed during the appropriate business sessions throughout the RTI-LP. Participants were also encouraged to make note of pending issues from a day's session to be raised during the recapitulation session scheduled for the next day. Later, Venkatesh Nayak, CHRI took the participants through the sessions planned during the course of the RTI-LP and explained the rationale for including them in the programme. A copy of the agenda is added as **Annexure-1** in this document.

1.2 Introduction to CHRI and its work on RTI:



RTI-LP Participants attending the session

CHRI's senior advisor and former Director, Ms. Maja Daruwala gave a brief introduction to CHRI's work highlighting the experience of promoting RTI laws across Commonwealth countries with particular reference to the South Asian region. She explained that the RTI-LP was an example of South-South Cooperation that CHRI has always tried to promote. She pointed out the need to broaden the membership base of coalitions advocating for the adoption or the implementation of RTI laws in order to get more traction for their efforts and serious attention from government and lawmakers. She explained how people from smaller groups working across the country on a wide range of developmental and governance issues came together as part of the National Campaign for People's Right to Information (NCPRI) in India in 1997 and the impact was such that

the policymakers could not ignore the very public and vocal demand for a strong access to information law. She narrated how CHRI went out to sensitise big and small organisations about the value that an RTI law could add to their work. CHRI partnerships with the pioneers of the NCPRI in order to spread the message of RTI across various States in India. Many national conventions and regional meetings were organized bringing people from far flung areas together to discuss the contours of a strong RTI law and how such a law would help improve people's participation in decision-making processes and provide them with a democratic tool to demand accountability from government.

CHRI had become a dependable resource on RTI for both public and private sectors and that too as strategy worked immensely well. India being diverse and large it was difficult to keep the strategy linear. "Kenya being a smaller geography it will be best to have a linear strategy", she advised. She went on to point out the importance of civil society push to tease the information out from government files, which private citizens may not be able to accomplish acting individually. Government collects massive amounts of statistics and data in the routine business of governance and often such information sits in government files. RTI laws enable people to access such information as a matter of right.

Ms. Daruwala pointed out that it will be very difficult to get everything through information requests and in such a situation proactive or voluntary disclosures are the way forward. It is often seen that civil society groups tend to abandon advocacy for the effective implementation of proactive or *suo moto* information disclosures focusing their energies and resources to make more and more citizens submit formal information requests to public authorities. CHRI, on the other hand, strives to make proactive information disclosure a reality because this reduces people's need to make seek information from government through formal requests. Consequently, CHRI undertakes studies on the status of compliance of public authorities with their obligations of voluntary information disclosure, from time to

time. CHRI has been a member of the Task Force established by the Central Government for developing guidelines for improving proactive information disclosure for public authorities at all levels of the administration, she added.

As an important lesson for dividing up responsibilities in an active campaign, Ms. Daruwala pointed out that all interventions for better implementation or compliance monitoring need not be done by one person or organization. She suggested developing of partnerships with academics and universities to research the manner in which RTI laws are implemented and used in every country. It is very important to identify people who will work on RTI in a sustained manner, protect it and defend it from roll back, because experience has shown that authorities are not always enthusiastic about the demands for transparency even though legislatures enact such laws with a reformist mindset. The public authorities often make an effort to curb the scope and ambit or the efficacy of such game-changer laws. So it is important for civil society and the media to be every vigilant against such efforts. She pointed out that at the Government had made at least three serious efforts to curb the scope of RTI since 2005 and all such efforts failed because civil society and the media in particular and the citizenry in general were quick to rise to defend the law from curtailment.

Ms. Daruwala pointed out that very often the data and statistics collected and published by government agencies are inaccurate or have huge gaps in them. She narrated how the National Crime Records Bureau (NCRB) which publishes a vast array of data about crimes and the State's response to crimes in India, has gaps in their data collection. CHRI was able to point out the discrepancies in the published data including the problems in the data collection method only after undertaking an in-depth analysis of the crime and prisons-related statistics that NCRB publishes annually. CHRI pointed out these problem areas to NCRB during formal interactions with them. Eventually, they agreed to make changes to their crime data collection proforma. So civil society organisations working for transparency can also play a major role in improving the informational outputs of public authorities, impacting the entire system, she added.

Ms. Daruwala admitted that digitisation has its draw backs (in so far as it excludes people who are not digitally literate) but in the past decade major changes have come about due to the deep penetration of mobile phone network across both developed and developing countries. She pointed out the urgent need for civil society organisations to be able to meet the challenges that this phenomenon posed because, government and the private sector would work much faster than civil society sector. Sometimes, these technological advancements may create roadblocks in the way of people's access to information. For example, recently, in India an effort was made by mobile telephony service providers to limit people's access to internet websites through select platforms that could be accessed through payment only. Civil society organisations across the country strongly advocated for Net Neutrality and the telecommunications regulatory authority was compelled to issue directives against such restrictive practices of private service providers.

Reflecting on the gains made by civil society sector in India since 2005, Ms. Daruwala said that the idea is to capacitate the grassroots and not merely mobilizing them but also ensuring that the impact of their work is properly documented. Civil society is poor at documenting their interventions, especially in rural areas as most of the time the focus is on doing the work rather than documenting what has actually been done and what has been achieved. Urban-based groups and the mass media sectors could come to the rescue of rural-based organisations in this regard, she said. She said, evidence based advocacy is time and energy intensive and is at times boring and technical but it is a fact that such work has a better chance of meeting with success as opposed to ideological claims and demands made by politically charged groups.

Pointing out that the media is increasingly publishing stories of challenges and obstacles to people's access to information in recent times, she said that it makes one wonder whether the glass is half empty or half full. She pointed out that as opposed to the manner in which RTI laws are used in western democracies, RTI in India and S. Asia are used more as an instrumentality or rights-based and evidence based advocacy. To this extent the glass is half full, she said. She also pointed out that before going out to work on transparency sector wise, such as in relation

to environmental issues or the criminal justice system or for combatting corruption, it is important to make major efforts to increase overall awareness about RTI across Kenya.

Key issues emerging during the discussion:

Proactive information disclosure:

One of the participants enquired as to how to go about advocating for proactive information disclosure because public officers do not understand this imperative and are consequently very resistant. Ms. Daruwala replied that proactive information disclosure is key to the success of any RTI law as the grain of the law is to ensure transparent governance. This cannot be achieved if information is made accessible only upon formal requests being submitted to the public authorities. Often, the resistance to proactive disclosure comes from the poor state of records management in public authorities as this is one of the most neglected areas of government work. In India also, civil society organisations are struggling to secure better compliance with proactive information disclosure obligations and it is an uphill task despite several guidelines being issued over the years. She said that a system of incentives and competition for awards may be introduced to ensure that public authorities take this responsibility seriously and make their functioning more transparent voluntarily.

RTI as a game changer:

Another participant enquired if RTI has been a game changer in India. Ms. Daruwala said that it has been a game changer because it has changed the public narrative. India had its own secrecy regime from before independence from colonial rule. But now the RTI law has made presumption in favour of transparency. Some 12 years ago something like children dying in hospitals due to lack of oxygen supplies (as was the case in a district hospital in the north Indian State of Uttar Pradesh during July-August, 2017), would have been swept under the carpet but with RTI now the accountability for wrongdoing can be fixed. People will use RTI as a tool to demand details of action taken by public authorities in relation to such incidents making it very difficult for them to sit quietly without fixing responsibility.

Prioritising RTI interventions:

Ms. Daruwala went on to advise that capacity building along with mobilizing larger partnerships is the ideal strategy for Kenya to follow because it keeps the RTI advocates secure and protected from harm. She said some organisations may like to work for improving records keeping in a public authority as a matter of priority. But others may like to work on spreading awareness about the RTI at the grassroots level in order to encourage more and more use of the law. Similarly another set of organisations might like to work with public authorities for better compliance with voluntary information disclosure obligations. Each organisation may like to have its own priorities, but it is important to join the dots to ensure that no part of the RTI law is neglected in implementation. Every organization may not be able to work on every aspect of implementation, she pointed out. Some might be very good at the job of monitoring implementation across public authorities. Some might use RTI as a tool to get access to information and then mobilise community level groups to demand systemic reform. These individual interventions overall, must lead to the effective implementation of the RTI law in its entirety, she added. Therefore it was important for RTI advocates to work together in a coordinated manner rather than in silos, she added.

Mobilisation versus capacity development: One of the participants commented that he likes the idea of mobilisation as opposed to capacity building based on experience and enquired what CHRI's priorities were. She said it is often very difficult to prioritise because of the sheer enthusiasm to work on all aspects of implementation. However, CHRI beat this urge to stretch too thin. Instead CHRI worked to create more RTI advocates who would work in solidarity at the international, national and sub national level. In the initial stages, CHRI opted more for a proselytizing role focusing more on awareness raising activities, but it has subsequently changed its priorities over time. CHRI now focuses on monitoring compliance of public authorities and strategic use of RTI to do evidence-based advocacy for policy reform, particularly in the criminal justice sector – targeting the police and prison

administrations. CHRI also assists other organisations in their work by sharing its expert knowledge with them on request.

Another participant pointed out that budgets are generally pro-actively disclosed in Kenya but their current concerns are different. For example, mineral extraction is an area of concern in Kenya which may not be a priority issue in India. To this Mr. Venkatesh Nayak, CHRI said that it is true, issues around mineral extraction is yet to become a priority in India. He advised that the plan of action should be holistic in knowing about finer points and choices have to be made keeping in mind what is in the public interest.

RTI as a means for people's informed participation:

Another participant said that for ensuring police reforms at the county level, selling the benefits of having a transparent police will go a long way in ensuring effective implementation of the ATI law in the police jurisdictions. He added that partnership between government and civil society is a very effective mechanism and as for data management they worked to an extent to advocate effective methods and also engaged with the community by distributing simplified versions of the budget in form of easy to read brochures. People felt empowered to question the authorities about the utilization of allocated money and demanded accountability from the government using the information they had accessed.

Ms. Daruwala pointed out that sectoral modeling is fine but institutionalizing transparency across the entire public sector is very important. Sufficient bandwidth within the community needs to be developed to sustain the community's interest to question the current state of affairs and bring in change. It is not enough to have large numbers of people out on the streets in the name of mobilization. Instead the practice of town hall meetings needs to be inculcated and then using those as catalytic factors feed in to the law and policy making process at all levels of government.

Mr. Venkatesh Nayak added that the core of RTI is to create informed participation of people in decision making processes and problem solving using RTI as a tool is only a precursor to this exercise. It must be admitted that in India participatory democracy is yet to take off. In India the debate has been grievance redressal versus transparency vis-a-vis the role of an Information Commissioner (IC). There was a feeling that IC should not involve itself into grievance redressal. He also added that as per the Kenyan constitution it is good that the legislators are required to find out about the developmental projects from the beneficiaries which fixes accountability. Nevertheless ICs having grievance redressal provisions is better than having a separate grievance redressal mechanism altogether, the only question that remains is of the capacity and capability of the IC to be able to do justice to both the roles.

One of the participant said that she had filed for information on certain statistics from judiciary in Kenya she felt that the data is being dictated i.e. the data is not given out in the format its asked for, also sometimes the information do not reflect the realities on the ground. Mr. Venkatesh Nayak replied to this saying perspectives matter, from the government's point of view it is how it maintains the data and for the civil society its why it seeks the data, it is important that both are on the same page regarding this and for this dialogue between civil society, media, citizenry and the government is important. Also institutionalisation of consultation process is important. People's audit is an important aspect of participatory democracy which has been possible due to easy accessibility of the data. Our laws are not geared to problem solving mode, to make transparency meaningful a lot more needs to be done beyond implementation of the law, he pointed out.

1.3 Audio-visual clipping on the importance of RTI - viewing and discussion:

In the next session participants watched a 3.5 minute [audio-visual clipping about a student](#) approaching a government office to offer her services as a freelance researcher who negotiates the maze of bureaucratic procedure by being well informed of the procedural requirements for submitting her application. The Spanish language audio-

visual snippet was developed to convey the image of a citizen who is empowered with information about governmental procedures and is able to engage with public functionaries with confidence and on an equal footing.

Mr. Venkatesh Nayak, CHRI facilitated a discussion on the participants' impressions and takeaways from the short film. Discussions centered on the actual experience of many citizens who visit government offices to seek access to some service but are often frustrated by bureaucratic procedures and red tape. The film also brought out the importance of proactive disclosure of information by government offices so that government decision-making processes become predictable for citizens i.e., with adequate prior knowledge of such procedures a citizen will have some degree of certainty about the outcome of such procedures if all requirements are fulfilled. Participants agreed that the citizens' experience of apathy or maltreatment in government offices would change considerably if they had more access to information about decision-making processes in real time. Venkatesh Nayak also pointed out that RTI not only empowers people with information but it also holds up a mirror to public authorities about the impact their functioning has on people who approach them.

1.4 RTI and its links with democracy, human rights, accountable governance, sustainable development and eradication of corruption:

Next, Mr. Venkatesh Nayak, CHRI gave a presentation on the linkages between RTI and democracy, accountable governance, realisation of human rights, combating corruption attainment of the Millennium Development Goals and achieving sustainable development. The presentation highlighted the following truths: RTI is inherent in the concept of equality of all human beings that underpins democracy and makes them equal stakeholders in a democratic set up. As people are the primary stakeholders in a democracy they are the true 'owners' of all information that is generated, collected or collated in the course of the routine business of government. Public authorities and government functionaries are only the 'custodians' of the information that they hold or control. He pointed out that the very idea of people's right to know what the government is doing originates with the emergence of the human rights discourse, most notably during the aftermath of the French Revolution in 1789 when the twin Declarations of the Rights of Man and Woman are drawn up by the revolutionary thinkers of the time. Article 14, of these declarations recognizes the right of every person to know how much taxes must be paid and how the tax funds are being used. Further, Article 15 of the twin declarations also recognize the right of every person as a member of society to demand accountability of every public functionary for his or her actions. So the idea of RTI is as old as the human rights discourse and predates the Universal Declaration of Human Rights drawn up in 1948 which recognizes people's freedom to seek, receive and impart information as a matter of right.

Next, he pointed out the emphasis placed on RTI in key international human rights instruments of the modern era in which international consensus had developed about the status of people's right to know what the government does in their name, such as, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights (right of access to information is recognised as an inseparable part of the rights to water, food, health, education and adequate housing) the Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child, International Convention on the Rights of Migrant Workers and their Families, Convention on the Rights of Disabled Persons, the UN Convention Against Corruption, the Sustainable Development Goals (Goal 16 of Agenda 2030). The purpose of this presentation was to show that Kenya had signed or ratified almost all of these international instruments and has a duty ensure the protection of all the recognised rights and entitlements including the right to access information from government and other public bodies. He also explained how RTI is not only a civil and political right any more as has been understood conventionally, but it is increasingly recognised as an important part of economic and social rights. Apart from being recognised as the right of an individual, more recent human rights instruments relating to group rights such as the rights of women and children and migrant workers recognise its crucial role in the empowerment of such groups.

To illustrate this point, he narrated the true story of a resident of the western Indian State of Gujarat who had filed RTIs with local the health department seeking information on the availability of government medical officers and health workers who were not adequately serving his remotely located village. The RTI intervention resulted in a sea change in the attitude of these public health functionaries resulting in better access to healthcare services for all residents of the village – all through the power of RTI used by an individual to find out what kinds of services the villagers were entitled to from the local primary health centre established by the Government. Participants agreed that RTI can go a long way in improving citizens' access to essential public services provided by the government.

Key issues emerging from the discussion:

RTI as an overarching right that enables the realisation of other human rights:

A reference was also made to Open Government Partnership (OGP) and how its commitment to provide an international platform for domestic reformers and making their governments more open, accountable, and responsive to citizens can be realized through ATI. One of the participants said that emphasizing on OGP commitments which are essentially voluntary in nature and left to the governments to implement, might give the governments an easy way out of their international obligations to deliver on human rights commitments including RTI. So to link implementation of RTI and transparency in government to the realization of socio-economic rights of people through is a better strategy. In response, Venkatesh Nayak, CHRI pointed out that ultimately, these are choices that every citizenry must make keeping in mind local realities and the politico-cultural context of each country. These are essentially strategic choices that people should make based on their real life experiences and cannot be dictated from outside as policy prescriptions. It is important that prioritization reflects the people's aspirations more accurately.

Session 2

2.1 Presentation on the salient features of the Indian RTI Act and the implementation experience:

Mr. Wajahat Habibullah, Chairperson, CHRI and former Chief Information Commissioner, Central Information Commission, India gave a presentation on the salient features of and procedures for accessing information under India's RTI Act.

Mr. Habibullah explained that India has all the characteristics of a post-colonial society that is shaping up into a functional democracy. The major step in achieving true democracy is acknowledging the importance of RTI which reestablishes the people as the masters and shapers of their own destiny. They are the real rulers, not the bureaucrats or the political leadership who are merely agents acting to fulfil the aspirations and expectations of people who are the principals in a democracy. He said, we have a very good legislation but having a good legislation is not enough-how it is used by the impoverished and marginalised segments of society is what matters most. He said that much of the success of the RTI Act in India is due to civil society interventions for the crafting of the law and later on for facilitating effective implementation. He quoted Mahatma Gandhi in that context: *"The real Swaraj will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused."* He explained how India's information revolution came through various stages of politico-economic development- the Constitution recognising fundamental right of freedom of speech and expression, the Supreme Court interpreting this right to discover that people's right to information is implied within its meaning and scope, the poverty alleviation programmes implemented in the early 80s which placed emphasis on proactive information disclosure and the revolution in Information Technology onwards of the 1990s. He explained that with the withdrawal of Government monopoly on Information & Broadcasting and the entry of private satellite TV channels in 1990s helped open up the erstwhile controlled access to information regime. Private players telecast news of political, economic and social developments across the country which portrayed a different picture from what the government controlled media used to portray. Meanwhile in the background the initiatives of civil society organisations which had expanded after the phase of economic liberalisation during the 1990s also contributed to the vocalisation of peoples demand for access to information about the government. For example, the grass roots level movement that emerged

in Rajasthan, initially connected to people's concerns about livelihood and corruption in the implementation of social development programmes and welfare schemes for the most impoverished segments of society took the shape of a movement for realising people's fundamental right to information about what the government was doing. These synergies led to the passing of the Freedom of Information Act, in 2002 which the then Government never implemented. Finally in 2005 with the election of a new government at the Centre, the Right to Information Act, was adopted by Parliament based on widespread consultations with civil society actors in particular and the citizenry in general.

Moving on, Mr. Habibullah explained that a democracy requires accountability, and accountability requires transparency. He pointed out that how a developed country like the USA also attaches so much importance to RTI. He mentioned about the Freedom of Information Act (FOIA), which encourages accountability through transparency. It is the most prominent expression of a profound national commitment to ensuring an open Government in that country. At the heart of that commitment is the idea that accountability is in the interest of the Government and the citizenry alike and that RTI is not inimical to government functioning. He described that RTI was recognized in India as a fundamental right much before the RTI Act came into existence through court rulings. He quoted from a landmark judgment of the Indian Supreme Court in *State of UP Vs Raj Narain (1975)* to make his point. Thanks to judicial interpretation RTI is recognised as a fundamental right implied within the meaning and scope of Article 19(1)(a) of the Constitution which guarantees every citizen the fundamental right to freedom of speech and expression.

He then went on to explain the harm in withholding information. It had two major consequences for both individuals and collectives. When secrecy rules, remedies for wrongdoing in public authorities are difficult to obtain. This leads to internal discontent among the citizenry against the State and has the potential of resulting in violent reactions. He explained that RTI provides an alternative to violence in seeking remedies. The consensus in the political arena for the need of freedom of information developed when the system understood that to avoid harm to public good transparency is necessary. He said that RTI is a movement that characterizes the West in the middle of the 20th century. Redressing exploitation of the citizenry and entrenching preventive mechanisms are key features of emerging democracies in recent times. He explained that the measure of success of RTI is from perception of the public and from its usage. Despite all shortcomings of implementation, the RTI law in India has been a huge success, he pointed out.

Next Mr. Habibullah dwelt on some of the key concepts of the RTI Act such as transparency and accountability in the working of every public authority. He highlighted key features of the Indian RTI Act, namely, the right of any citizen of India to request access to information and the corresponding duty of the government to be transparent, except in relation to information that is legitimately exempt from disclosure and the duty of government to pro-actively make available key information to all citizens through *suo moto* disclosures. He added that the responsibility of making *suo moto* disclosures a reality lies not only on public authorities but also on all sections of society namely the citizenry, civil society groups and the mass media. In India proactive disclosure fundamentally restructures the debate from what information the Government thinks should be revealed to people to a scheme of disclosure that is mandated by law. This undoubtedly reflects the strength of India's vibrant democracy, he said where the law does not leave transparency to the discretion of the government. He also added how information commissions and public authorities must maintain all their records duly catalogued and indexed in a manner and in a form which facilitates the right to information under the Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated. He concluded by saying that a good legislation alone is not enough to ensure transparent government. A strong push for the implementation of the law from below is equally important. Or else the law will remain a dead letter, he said.

Key issues emerging during the discussion:

Involvement of civil society:

One of the participants asked as to how the citizenry was engaged in the implementation of the legislation. Mr. Habibullah replied that non-governmental organisations like Mazdoor Kisan Shakti Sangathan (MKSS) and CHRI spread awareness at grassroots levels and were engaged in social audit of the development programmes implemented by the Government using information about the same accessed from public authorities. Information obtained from government files was put to use to track actual expenditure at the ground level to see if there was value for money- whether the developmental works are actually visible on the ground to the same quality and quantity mentioned in the official records. These interventions, he said helped to a great extent in the implementation of the RTI Act. He recollected how “file notings” (i.e., opinions on any official matter recorded on the file by public functionaries involved in every decision-making process in a public authority) were once treated by the Government exempt information despite the RTI Act stating to the contrary. It was civil society actors who convinced the government to accept that “file notings” were covered by the definition of the term ‘information’ contained in the RTI Act just like other categories of disclosable information. He said this push should come from the public and the public gets involved when they are affected directly or are made aware.

Central versus provincial legislation:

Another participant asked whether counties or state governments having a separate ATI legislation would be of any value. Mr. Habibullah replied that it is advisable to have a uniform access to information regime across all administrative jurisdictions within a country to ensure that every person enjoys the right to information in similar measure from every public authority. Multiplicity of laws creates confusion and differential standards of transparency depending upon legislative content. In India, he said, there was only one law applicable to the entire country at all levels of the administration. States are empowered to make their own Rules for implementation within the overall framework provided by the RTI Act.

Coverage of the private sector and public sector commercial enterprises:

One of the participants raised the issue of misusing of private information by corporates and asked whether the same can be challenged under RTI laws. Mr. Habibullah said that privacy is an important right and although corporates are not government authorities but they still can be under the ambit of RTI laws. However, a good RTI law provides for exemptions to cover their legitimate interests for keeping certain information confidential such as trade secrets or intellectual property rights or any other legitimate commercial interest.

Mr. Venkatesh Nayak also added to the discussion saying commercial organisations in the public sector such as State-owned or controlled or funded corporations may have teething troubles implementing the regime of transparency especially when their information can be accessed openly by their competitors in the private sector. So in India in the initial years there was resistance by State-owned corporations to coverage under the RTI Act. But more recently, they have come around to appreciating the value added to their credibility by RTI. Heads of such corporations are now openly admitting that their credibility in the international markets has gone up considerably because of transparent ways of conducting business. A deeper understanding of the RTI Act helped them to invoke exemptions for not disclosing information that would adversely affect their legitimate commercial interests. So the fear of private sector players gaining undue commercial advantage over them through the RTI Act has subsided considerably in recent years, he added.

Appointments in Information Commissions:

Participants also asked questions about how the information commissioners are appointed in India, to Mr. Habibullah said that although there is set procedure for appointing Central Information Commissioners, the pattern in States is not uniform and often there are issues of tenure and stability. He pointed out that it was important to have an open, transparent and participatory process to ensure that deserving and qualified candidates were appointed Information Commissioners. Such a process also goes a long way in establishing people’s confidence in the institutional integrity of such bodies.

Day 2: 05 September, 2017

Session 1

1.1 Use of RTI for evidence-based human rights advocacy:

This session was addressed by Ms. Jayshree Bajoria of Human Rights Watch (HRW), India office. She was invited to resource the RTI-LP because she has recently authored a study on custodial deaths and custodial torture based on evidence gathered through use of the RTI law. She began by saying that there are good laws in India but accountability systems are not adequate and impunity for the wrongdoer is a common occurrence. She pointed out that there is not enough independent oversight over the functioning of the police and other security forces and independent monitoring of their functioning is also weak. Even after all procedural safeguards and documentation provided by the law such as the requirement of drawing up arrest memo (while arresting a crime suspect), medical examination of the accused, entering the fact of arrest and medical examination in the general diary of the police station, production before the magistrate within 24hrs as required under the fundamental rights chapter of the Constitution, still unlawful arrest and confinement is common. Custodial torture is rampant across police jurisdiction. Data published by the National Crime Records Bureau (NCRB) states that deaths often occur in police custody within 24hrs i.e. before the arrested person is produced before the magistrate as per law. Lack of training, poor understanding of forensics, pressure to resolve the criminal case quickly are some of the reasons why such police resort to such unlawful practices, she said.

She added that custodial deaths also do not provide an accurate picture of custodial torture because death in custody is a result of torture gone wrong. She pointed out that in HRW's recently published study, she took up 17 cases of custodial deaths, 16 of which were pending trial in courts against the accused police officers. In only one case the erring police personnel were convicted – a rarity in India, she pointed out. She said, she used RTI to collect copies of official records that evidenced irregularities that were committed by the police in each case. RTI requests were filed with various agencies that are involved in such matters to make sure that all documentation was collected to check whether every procedural compliance was done by the police. So RTI applications were filed with the National Human Rights Commission (NHRC) and the relevant State Human Rights Commissions (SHRCs) which ensure oversight on the police authorities and are mandated to ensure that such incidents do not happen. NHRC and SHRCs also recommend payment of compensation for the victim of custodial torture and the families of victims of custodial deaths.

The first round of RTIs were made regarding procedures of arrest and various documents around it while the second lot was on post arrest procedures and compliance with guidelines regarding crime investigation. The RTIs to NHRC and SHRCs were submitted to find out whether such incidents were reported to them or not as reporting is a mandatory requirement. In order to be doubly sure, she sought the same set of documents from the human rights commissions also as those sought from the police. This strategy was adopted to obviate the possibility of not getting any information from the police who often reject access to such documents in order to cover up their wrongdoing.

Although the responses from the police were not very encouraging, the information obtained eventually from all authorities showed the manner of functioning of human rights commissions especially the gaps in compliance with the requirements of the lawful procedures laid down for these oversight bodies. Some of the human rights commissions replied that they had destroyed the files after closing the cases. This also indicted that records management in such bodies was poor. In a rare instance, information supplied under the RTI Act showed that the doctor who conducted *post mortem* examination of a victim who died in police custody, recorded the fact that the victim had sustained several fresh injuries on the body while being in police custody and was later brought to a hospital for the mandatory medical examination. The police compelled the victim's father to sign a statement that the injuries were self-inflicted with a blunt object even though the victim was repeatedly saying that the injuries had been inflicted by police officers who held him in custody. The father of the victim was pressurised by the police who said

that unless he signed the false statement exonerating the police the victim would not be produced before the magistrate. Later the victim died and the police claimed that he tried to escape from their custody and was hit by a train while running on a railway track to run away. The doctor who conducted the post mortem mentioned in his report that the police who brought the victim for medical examination pressurised him to give a favourable report. However, the doctor resisted the pressure and instead recorded his observations from the medical examination in a professional manner. Ms. Bajoria said that copies of such reports would have to be accessed only through courts in the absence an ATI Act. Access to such information through RTI is crucial for the purpose of establishing accountability for wrongdoing and human rights violations.

Later, Ms. Bajoria shared her observations on different methods that the police employ for custodial torture and how the menace is very systemic and widespread in many parts of the country. She explained that often in such cases at the discretion of the special investigation officer of the Crime Investigation Department investigations are reopened and but for the reopening we would never know that a case is that of custodial torture. She pointed out that initially, in several cases the police gave cursory replies to the RTI applications. In many instances they invoked the exemption available for ongoing investigations to prevent access to information. The human rights commissions gave some information but most of this was already in the public domain in the form of court documents. As for other crucial bits of information they cited bureaucratic procedures to deny access, such as the Commission still being seized of the case, the information could not be disclosed. She pointed out that despite these difficulties posed by public authorities, RTI is still a very useful tool to pull out official information in order to demand accountability from public functionaries. Transparency is the first step towards seeking accountability, she said.

Key issues emerging out of the discussions:

Ms. Bajoria said that, HRW India office had started using more and more RTIs in their research and that they also encourage their partner groups also to do so. One of the participants asked her about how she determined which cases should be taken up for such interventions, she mentioned that such decisions were made on the basis of inputs received from grassroots level organisations and lawyers who have deep knowledge of such cases. Often the criteria for selection of cases for inquiry is the poor socio-economic status of the victim.

Another participant asked if there is a violence observatory in India to which Ms. Bajoria explained about the police complaints authorities and how these entities are not effective most of the time. Another participant quizzed her on how would she counter the government's narrative of no wrongdoing in such cases. She replied that she compared the data given by the human rights commission with that of NCRB and there was a mismatch in the numbers of custodial deaths. She mentioned that governments' narrative is challenged on such discrepancies in data although they would often resist to accept such findings. On being asked about her future RTI interventions in human rights issues she said that they are now aiming to study the implementation of new procedural compliances under the criminal procedure code in India for rape survivors.

1.2 Civil society's experience of using RTI to empower disadvantaged communities and seek accountability of elected representatives:



Resource person Ms. Anjali Bhardwaj speaking

During this session Ms. Anjali Bhardwaj and Ms. Amrita Johri of Satark Nagrik Sangathan (SNS) gave their presentations and interacted with participants about the use of RTI by people at the grass roots level. RTI-LP participants had on Day 1 voiced their expectations to learn more about linking information obtained under RTI with social audit as an accountability tool. This session provided a snapshot of the SNS's experience of demanding information

about government spending on developmental programmes for disadvantaged segments of society and using that information for the purpose of social audit to make a qualitative and quantitative assessment of the impact of such spending at the ground level. They explained how SNS has educated women living in slum clusters in New Delhi about the procedures for demanding and accessing information under the RTI Act and then helped them use it for bringing about greater transparency and accountability in the functioning of the targeted public distribution system (TPDS) through which government distributed foodgrains to marginalized and vulnerable segments of society at highly subsidized prices.

They pointed out that the TPDS system was not functioning well initially and there were hundreds of complaints of people not getting their rightful entitlements or siphoning of subsidized food grains meant for the poor by unscrupulous traders. SNS representatives explained how women members of the adversely affected families used RTI to demand details of people's entitlements under these schemes, check the sales and stock registers held by the licensed shopkeepers and also inspect the documents held by the Food and Civil Supplies Dept. of the Government of Delhi to find out the reasons why the TPDS system was not functioning in proper order. Records revealed that the vigilance committees mandated to monitor the implementation of the TPDS simply had not met even once since their constitution. These bodies tasked with oversight of the TPDS had abdicated their duties- a direct cause of the broken service delivery mechanism.

Ms. Anjali Bhardwaj explained how unlike developed nations where RTI is used by academics, lawyers and journalists, in India, most RTIs are being filed by the underprivileged and marginalized communities- most of whom are school dropouts or semi-literates. She added that illiteracy which may have been a hurdle in obtaining information by these groups was overcome through handholding and making them aware of their entitlements and rights by the educated activists. The experience with this initiative has been that women in large numbers use RTI to demand accountability from the government and they have been successful in substantial measure with several success stories documented and reported by the mass media. Ms. Bhardwaj also pointed out how the people's experience from the ground level culminated in advocacy initiatives for the enactment of strong anti-corruption laws such as the Lokpal and Lokayuktas Act of 2013 and the Whistleblowers Protection Act of 2014. Affected citizens are at the centre of the movement demanding a strong law that would ensure quick redress of people's grievances against poor the poor quality and quantity of service delivery by public authorities.

RTI as a tool for demanding legislative accountability:

Later Ms. Bhardwaj explained how SNS moved further to train people at the community level to monitor the performance of their elected representatives – a task that had not been taken up by any grassroots level movement in the past. They used RTI to obtain information about the manner of spending of constituency development funds provided to the State Legislators (Members of the Legislative Assembly – MLAs) and Municipal Councillors in Delhi every year. The women members of the community obtained data about the manner of spending of these funds through RTI, collated data about the performance of the legislators and published snapshots of their findings prior to the last Assembly elections held in 2015. These MLA reports cards helped raise awareness about the performance of the elected representatives amongst the electorate of Delhi. It also showed how public funds were wasted on embellishing parks with fountains while slum clusters in the neighbourhood suffered severe water supply shortages – a case of mismatched priorities. In one instance a senior party member was denied a ticket for the next round of elections as her public response to the findings of her poor performance in the State Assembly was lackadaisical. Grassroots level activism was able to influence even political parties to take remedial measures due to public pressure.

These examples show that armed with information even disadvantaged communities can raise their concerns in an impactful manner and demand socio-economic and administrative justice. She added that a similar exercise was done with attendance records of members of parliament (MPs). The information about the number of days and sessions that MPs attended was obtained from the Secretariat of the respective Houses under the RTI Act. After

analyzing this data, SNS and its women volunteers published a several news stories profiling the performance of MPs through a vigorous media campaign in collaboration with a prominent national daily newspaper.

One of the participants raised a question as to whether the parliament was open in disclosing information about members of parliament. Ms. Bhardwaj said that with objective data the parliament was open and the advantage was that the MPs could not challenge the data that they had themselves collected and furnished. Another participant asked as to whether media houses frequently collaborate with groups like SNS. Ms. Bhardwaj responded that collaborations happen only when the media houses and civil society actors are on the same page regarding particular categories of information. Sometimes media houses were even willing to buy such information from RTI applicants. However organisations like SNS shared the information with media houses only when there was a commitment made to faithfully report on the data and the analytical findings without putting a political spin or slant on them.

Issue of frivolous RTIs and challenges:

Ms. Johri later shared excerpts from a study of the manner of use and implementation of the RTI Act conducted by SNS and RTI Assessment and Analysis Group (RAAG). To participants' questions about the phenomenon of frivolous and vexatious RTI applications being filed by some individuals, she pointed out that the phenomenon was being bandied about based on anecdotal information. This had unfortunately created an impression that there was large scale misuse of the RTI Act by applicants. SNS and RAAG studied this phenomenon through a sample study of RTI applications across multiple jurisdiction around the country and found that the proportion of RTI applications that may be characterized as frivolous was barely 1% of the total (According to CHRI's estimate, across India on an average between 20-25 million information requests are received from citizens by various public authorities every year). Frivolous use of RTI has often been a matter of debate. Government uses this bogey as an excuse to justify its own poor performance in responding to RTIs and sharing accurate and complete information with the citizenry. She added that this study helped identify the number of pending RTI appeals and the information commissions' capacity in resolving the disputes and also in pointing out the challenges in implementation of the RTI law like poor quality of orders from the commissions, unfilled vacancies in commissions and the poor quality of oversight exercised by such bodies on the manner of compliance of public authorities with their obligations under the RTI Act.

Key issues emerging during the discussion:

One of the participants admired the way the media is engaging through RTI and agreed that there is immense scope for the same in Kenya for RTI-based stories of human interest. As a strategy to popularise usage of RTI among masses Ms. Bhardwaj suggested that in the initial years hundreds and thousands of RTIs must be filed on diverse issues by different groups to test the waters. Unless serious efforts were put in to spread awareness about RTI and its potential among people to encourage them to use it, the law would not take off and fulfil its objective.

1.3 Use of the RTI Act for environmental protection:

During next session, advocate Ms. Shibani Ghosh, a well-known researcher and academic working on environmental issues gave a presentation on the use of the RTI Act in India for protecting the environment and ensuring environmental justice for people. Ms. Ghosh pointed out that citizens and environmental activists had used the RTI Act most to find out details of environmental clearances given by the Government for infrastructural, industrial and mining projects. She explained how the procedure of conducting an Environmental Impact Assessment (EIA) of a proposed developmental project which is a prerequisite for the grant of environmental clearance for the project was skewed in favour of the seeker of such clearance. EIAs are undertaken by the company or entity which is desirous of implementing the development project instead of being conducted by an independent, impartial and qualified environmental agency.

She explained how activists and citizens had used RTI to get project-related documents from the government agencies responsible for giving environmental clearances and submitted them to the National Green Tribunal- the independent appellate statutory authority for all environment-related disputes. Evidence gathered through RTI was used to point out loopholes in an Inland waterways project. This resulted in the stalling of the project due to faulty environment impact assessment that was done. The matter is still pending before the National Green Tribunal. She also narrated how documents were obtained with great difficulty under the RTI Act to fix responsibility on Ministers who had issued instructions against the prevalent law to permit the establishment of a polluting colliery in Chhattisgarh. She pointed out that citizens had used the RTI Act to put government officers on their toes in such matters and business was no longer as usual. This had helped bring in greater accountability in the decision-making process. She pointed out that merely pointing out discrepancies in environmental clearances and issues of environmental concern from news reports or other such sources is not enough to prove a case before the tribunals. Evidence collected through the RTI route comes to the rescue of aggrieved citizens and collectives. Through RTI the government's own data is being used to challenge the government's own narrative about the salutary effects of development projects. However, she pointed out that there were several challenges to obtaining information under the RTI Act – one of which was the non-appointment of appropriate authorities who are tasked with the responsibility of giving people access to information.

Ms. Ghosh also highlighted the poor state of record keeping in government departments responsible for environmental protection. She also pointed out a strange instance of time-limited transparency that was being practised by the Union Ministry of Environment and Forests. Records relating to environmental clearances granted by the Ministry were accessible on its website only during office hours. Those web pages were somehow disabled after office hours for reasons best known to the Ministry. She pointed out that in the rush towards economic progress decision-makers in government paid little attention to the often irreversible damage to the environment that developmental activities would cause.

Key issues emerging during discussions:

RTI and climate change:

One of the participants asked whether Ms. Ghosh could throw light on the manner of use of the RTI Act in India to explore the funding received for activities to slow down or reverse climate change. She replied that she was not aware of such initiatives, but there was growing concern within the environmental activity community about receiving foreign funding on this account.

Contracts between government and private entities:

Another participant asked if there are a lot of RTI applications made around extractive industries for finding out about the contracts signed between the government and private industries. Mr. Venkatesh Nayak responded to this question saying though this is yet not a priority in India there were some instances of people and movements using RTI to challenge the destructive impact of extractive industries on the environment and tribal communities living in the area who often get displaced by mining projects. However, RTI was not being used in India for calculating resource theft in the manner that is done under the extractive industries transparency initiative. In some of the States, activists were using RTI to expose illegal sand mining (a minor mineral) leading to erosion of river beds and substantial environmental damage. However, in India several mining projects were being carried out by private corporations of domestic and foreign origin which were not directly covered by the RTI Act. He pointed out that the Kenya ATI Act was more advanced than the Indian RTI Act in this respect because the former contains crucial provisions that bring in private entities involved in natural resource extraction based on contracts with government, within its ambit. Kenyans would be able to make better use of the ATI Act to make such activities transparent and the involved entities accountable for their actions.

Day 3: 06 September, 2017

Session 1

1.1 Recapitulation exercise:

The day's session began with a brief overview of the ground covered so far and the current day's planned sessions. Later Venkatesh Nayak, CHRI, briefed participants about the contents of the flash drive containing resource materials put together by CHRI for the RTI-LP. Mr. Nayak explained the relevance of the documents stored in the flash drive for planning the implementation and the use of the ATI Act in Kenya.

1.2 Use of RTI for evidence-based research and advocacy for prison and police reform:

This session began with Ms. Shikha Chhibbar of CHRI sharing her experience of using RTI to gather information for her study "Status of Policing & Law & Order in Delhi". The study completed in 2015 was the first of its kind in India relating to the actual state affairs of the manner in which the police recorded statistics of crime. She explained the purpose of the study, namely, to examine the relation between crime rates and the strength of police personnel deployed across police stations in New Delhi. In order to undertake this study, accessing accurate data about the number of crimes reported to the police and actually registered by them was crucial. She narrated that once the RTI applications were filed across police stations in Delhi and the responses started coming she realised that these RTIs have actually opened up the police stations which are otherwise not very accessible places to ordinary citizens. She said that she began visiting police stations to inspect the crime-related data as the police replied to the RTI applications saying that the data was held in a disaggregated manner and copies could not be provided in compiled form as desired in the information request. So the Information Officers invited her to visit the police station to inspect the records containing the statistics in a disaggregate form. It was only when she went for the inspection of the relevant files did she understand how information and data were maintained in records room of every police station. Information about crime was recorded in various registers.



Ms. Chhibbar's presentation during the session

Thanks to the inspection of the relevant files did she find out that the police followed the practice of reporting only the crime which carried the highest punishment from amongst all others that occurred in one incident to the crime data aggregator, namely, the National Crime Records Bureau (NCRB). This despite the fact that the police meticulously recorded every crime that occurred during an incident in their own records which were never made public. As a result the national and State- level crime statistics published annually by NCRB did not portray the true picture about the totality of crimes that occurred during a given year. Ms. Chhibbar explained that such discrepancies would never have come to the notice but for the RTI requests made and the actual inspection of the various registers maintained by the

police. Accessing knowledge about the true picture of crime is crucial for formulating better policing strategy and ways and means of preventing crime. She later showed the participants the data she gathered and tabulated through the RTI requests. The analysis of the data showed that the discrepancy between crimes actually registered by the police and the statistics reported to the NCRB was quite significant. For example the difference between total number of cases of rape was 4% when compared. These findings were publicized widely through the media and also shared with the Delhi Police. As the study was based on evidence collected from their own official records, the Delhi Police

were not able to question the findings or the methodology of the study as is the usual practice of governments when they intend to discredit the findings of any civil society sponsored study.

During the latter part of the session Mr. Raja Bagga of CHRI's Prison Reforms Programme explained how his team has been using RTI to open up the opaque prison administration in India. He explained how RTIs have provided civil society actors the means to verify the NCRB data which was the only source of statistics on prisons across the country till date. He pointed out that as in several other developing countries India also faced several problems in the functioning of its prisons, namely: overcrowding, lack of adequate infrastructure and under staffing, a disproportionately large number of prisoners awaiting trial as compared to convicts etc. Filing RTIs and analyzing the data received from the Prison authorities was helpful in quantifying these problems. As a result, CHRI was able to change its strategy from ideological advocacy to evidence-based advocacy. RTI has helped civil society organisations to become good monitors of the prison administration in various parts of the country. He pointed out that his team periodically monitored the functioning of the prison visiting system (oversight mechanism) and the government is on its guard as it is aware that civil society is watching their actions. He explained how initially they found out that the prison visiting mechanism of oversight was not functional in many of the prisons across the country. Barely 1% of the existing prison visiting systems observed the rules laid down for doing their work such as visiting prisons, observing prison conditions in the context of health, sanitation, medical facilities, infrastructure facilities etc. We asked through RTI official records detailing the roles and responsibilities of prison visitors, their appointments etc. Using the evidence gathered through RTI, the team made state specific recommendations for improvement, he added. He also pointed out that from State-specific studies that the Team conducted it had graduated to conduct nation-wide studies using RTI to collect evidence about prison visiting system, access of undertrials to legal aid and the functioning of mechanisms for identifying inmates who languished in prisons for more than 50% of the maximum prison term they would have received had they been convicted. This helped CHRI to develop and disseminate meaty publications which contained irrefutable evidence about the shortcomings in the prison administration. So advocacy for reform could be made in more credible fashion. This also ensured that the Government took such initiatives seriously.

Key issues and ideas emerging during the discussion:

One of the participants pointed out that in Kenya generally the police before the coming into force of the ATI Act rejected such requests for information about crime statistics citing security reasons. However, the twin CHRI presentations demonstrated the potential of ATI to open up such data for civil society as it would be difficult for the police and prisons authorities to deny access to information in violation of the provisions of the transparency law.

Another participant observed that generally the public authorities dictate the format of the data and do not provide what is actually sought for by a requestor. So how can a requestor overcome this problem? To this Ms. Chhibbar replied that the success of an RTI request depends upon its formulation. It was important for a requestor to identify the problem that he or she seeks to interrogate using RTI and then draft precise and concise requests that make it difficult for the police to reject. Often, the public authorities and the information seeker are not on the same page which is why a poorly drafted RTI request may not yield the desired results. Mr. Venkatesh Nayak, CHRI pointed out that the rate of success depended upon drafting skills. This is a crucial area that requires training of civil society actors in particular and the citizenry in general to enable them to make intelligent requests which will make it difficult for the public authorities to reject easily.

Session 2:

2.1: Media's use of the RTI Act for the purpose of investigative journalism – The Indian experience:

Mr. Shyamlal Yadav, Senior Assistant Editor, Indian Express, the largest circulated English language national daily in India, gave a presentation on his experience of using RTI for the purpose of investigative journalism. He explained how his RTI based investigative stories on the amount of foreign travel undertaken by public functionaries resulted in the Central Government launching austerity measures to reduce expenditure on foreign visits for Ministers and senior bureaucrats. He pointed out that this intervention resulted in systemic reform with the Central Government making it compulsory for reports of such foreign tours to be placed on the websites of the respective departments for the reference of the general public. His RTI intervention also showed that the Government did not have in place a policy for using the frequent flyer miles accumulated on account of air travel of government functionaries and they were using it for personal purposes. When his investigative stories highlighting these gaps were published, the Government decided on a new policy to pool in those miles for official use and issued a circular prohibiting their use for personal purposes. He demonstrated how media could use RTI for bringing about greater accountability in government and also initiate policy reform. He emphasized that RTI was very useful for strengthening and successfully exercising the right to freedom of speech and expression and the freedom of the press.

In another case Mr. Yadav was able to show through information obtained under the RTI Act, that most ministers under the Central Government were not making mandatory disclosure of their assets and liabilities under the Code of Conduct applicable to them. After he published this story, the practice had improved and in 2016 all Ministers had declared their financial assets and liabilities publicly. His RTI-based stories brought to light several developments within government agencies that had remained secret until then. He said through RTI he had exposed a story about a public sector company – Life Insurance Corporation of India, which had pocketed huge amounts of premiums because the policies had lapsed without giving any warning to the policyholders. This resulted in the company announcing revival of the policies as and when the policyholders paid their due premia. He also shared his experience of how he brought to light the lapses in implementation of the financial inclusion scheme meant for the impoverished segments of society in India called the Prime Minister's Jan Dhan Yojana. His RTI interventions showed that bank officials were depositing a rupee each in these accounts from their own pockets in order to prevent them from becoming dormant. This investigative story also showed that the newly opened bank accounts were not being used by the rural poor despite the government's best intentions. Another RTI intervention that he made was in relation to the illegal surveillance mechanisms that security agencies had put in place. In India, rules laid down by the Supreme Court and the Indian Telegraph Act and the Information Technology Act required authorisation from the Secretary of the Ministry of Home Affairs before the security agencies eavesdrop on the telephonic conversations of suspects of crime. These rules have been laid down to protect the citizen's fundamental right to privacy. However security agencies were illegally tapping telephones, without proper authorization in many cases. RTI interventions carried out by Mr. Yadav revealed this serious violation of lawful procedures. As a result of the widespread uproar caused by the media story on this issue, the government was compelled to streamline its telephone tapping procedures further. So Mr. Yadav said that RTI was not only a source of information for an exciting media story but it could also lead to systemic reform. He also informed participants about his latest book on investigative journalism using RTI as a tool and urged them to read it to better understand how useful RTI can be for a media professional.

Key issues emerging during the discussion:

The participants quizzed Mr. Yadav about measures taken for his personal safety when he was challenging the high and mighty in such sensitive cases. He pointed out that as he was associated with a major media house he was relatively safe and there were no instances of him being threatened. Mr. Yadav conceded that RTI-based investigative journalism was not an easy task for stringers and media persons working in small towns and rural areas as there were multiple instances of their being threatened for exposing corruption and mismanagement of public funds. However this was a professional hazard that must be accepted if one believed in free and fearless journalism.

Kenyan participants also pointed out how the government came down heavily on media houses that published adverse news stories about their functioning. However Mr. Yadav pointed out that RTI-based investigative journalism required enormous patience as getting information was a time-consuming process under ATI laws. The timelines for such investigative journalism had to be more relaxed than beat journalism he explained. This requires a positive policy environment and support created by the editors and management. In the absence of such an atmosphere journalists would be hard-pressed to use RTI for doing investigative stories as it requires considerable investment of time. However given the time bound nature of RTI procedures, he said that journalists could engage in beat journalism or political reporting and analysis in between the stages of seeking information. For example, an RTI application is required to be processed within 30 days of submission. So in between a journalist who seeks information can go about other tasks and will not be required to work on RTI until he or she gets the information or if the request for information is rejected. A first appeal in cases of rejection is required to be filed within the next 30 days and its disposal by the first appellate authority within 45 days of its submission. The second appeal needs to be filed in such cases only within 90 days of receiving the decision on the first appeal whose disposal may take between 6-12 months. So a journalist will not be preoccupied with a single RTI request for so long, he explained.

On being asked if he ever went to court to access information when a public authority rejected his request, he said that he never went to court but had filed appeals before the Central Information Commission against non-disclosure on four occasions only. He added that the priority of his journalism is to have his story and therefore he tries to avoid legal battles that are likely to be long drawn. Participants agreed that a strong RTI law would enable journalists to do their work much better. They pointed out that the editors and the management must support such initiatives for better success. Individual initiatives may not lead to much impact and could even endanger the life and safety of the journalist unless supported by the editorial and management board, they agreed.

2.2 RTI-Documentary Film viewing- Writing on the Wall:

The participants watched CHRI's documentary about how proactive disclosure was made a reality through low-tech and low-cost solutions in rural areas of the western Indian State of Gujarat as a prelude to the session on Indian experience of proactive disclosure that followed. [This film](#) may be accessed on Youtube.

2.3 Implementing proactive disclosure provisions in an ATI Law, the Indian Experience:

Mr. Venkatesh Nayak, CHRI shared with participants the experience of implementing proactive information disclosure contained in India's RTI Act. He pointed out that a prerequisite for the successful implementation of proactive information disclosure provisions is a clear delineation of the responsibility for doing so in a public entity covered by the ATI Act. Unless the responsibility of proactive information disclosure is pinned on a specific public officer, it would not be implemented. The Indian RTI Act does not specify which officer in a public authority is responsible for implementing Section 4 which prescribes proactive disclosure of a wealth of information in the public domain through a variety of methods so that it is accessible to every citizen. He said that in India for eight years after the RTI Act came to being officials did not do much about proactive information disclosure saying they were not clear as to compliance was whose responsibility within their public authority. For example there are several divisions within ministries and departments each of which handles specific areas of governance and is required to publish a great deal of information on websites. However, the ministry or department as a whole sets up one website and often there is little coordination between its constituting divisions for disclosing information about the work of all of them in a comprehensive manner. Further, the quasi-federal structure of government in India poses additional problems to effectively implementing proactive information disclosure provisions. Not all State Governments are equally enthusiastic about displaying information on their websites in a uniform manner. In the absence of coordination between the governments, it is often seen that while some categories of information are displayed in great details on some government websites, information about similar categories may be severely limited on websites of other governments. For example, rules and regulations (subordinate legislation) made under statutes passed by State

legislatures or budgets passed by them are not often displayed in a comprehensive and comprehensible manner in many jurisdictions. So there is considerable difference in the quantity and quality of information displayed by government departments in different parts of the country despite a common RTI Act placing proactive information disclosure obligations on them.

Further, Mr. Nayak pointed out that proactive disclosure forms the heart and soul of a good RTI law. Nevertheless civil servants frequently complain that the RTI law imposes an additional burden on them while their remuneration package remains the same. So they often argue that they should be paid for doing extra work such as proactively disclosing information through websites and other means without realising that the RTI Act requires them to become transparent about their actions and decisions as a matter of routine. This in fact is the paradigm change that the RTI Act envisions but the mindset of resistance often frustrates its realization. Officers often think that their additional duties are being imposed upon them when their existing tasking keeps them very busy. He pointed out that the successful implementation of proactive information disclosure provisions of an RTI law requires a whole range of very detailed regulations and internal systems to be put in place for populating websites for every public authority. Website management and maintenance is an everyday business as information and data uploaded once become obsolete over time and must be updated.

Mr. Nayak pointed out that website-based proactive disclosure is useful as it makes a whole lot of information accessible in the public domain. However, in developing countries like Kenya and India where Internet penetration is minimal (ranging from 18-25%), other methods must be adopted for ensuring that those who are not digitally literate are also able to access the same information. Pointing out to the RTI film that was viewed earlier, Mr. Nayak pointed out that a combination of low-tech and high-tech solutions is ideal to make the system of proactive disclosures work in favour of the digitally empowered and the unempowered segments of society. He referred to the film which documents the implementation experience in rural Gujarat where the walls of the village administration office (panchayat) were painted on to display crucial information about service delivery, budgets and dates of regular meetings, so that people were not required to formally seek such information. The film also documents how a young woman was able to access funds earmarked for the impoverished segments of society under the government's housing assistance by simply apprising herself of the information painted on the walls and following the procedures described there. He added that websites do not always ensure universal accessibility, a combination of solutions would go a long way in making proactive information disclosure a living reality for the citizenry.

Next he pointed out that when the law falls short on the categories of information that are required to be proactively disclosed, the regulations route may be used to expand them. For example, Sri Lanka which enacted its RTI law in the same year as Kenya, drew up extensive regulations to expand the portfolio of categories of information that was required to be proactively disclosed to the public by every public authority. He said that this amounts to constructive use of the power given to the Government by the principal statute to ensure effective implementation of the RTI Act.

Key issues emerging during the discussion:

The participants were very appreciative of the session and they agreed that such steps for ensuring proactive disclosure can be replicated during the implementation of the proactive information disclosure provisions contained in the ATI Act of Kenya.

On being asked about an ideal strategy for proactive disclosure by one of the participants, Mr. Nayak responded that the ideal strategy for effective implementation, is to train pre-designated officers in every public authority to record their decisions on paper or in electronic form and then take steps to proactively disclose them on websites. This would require improvement of the records management system in every public authority. Further, every public authority could initiate a policy of inviting any member of the citizenry on select days of a week or fortnight to visit their office to inspect the information they hold which are not covered by any of the exemptions. Such proactive disclosure policies would go a long way in establishing high levels of confidence in people's minds about the

commitment of the government and public authorities to transparent governance. In short, he said that implementing proactive information disclosure provisions requires every ministry, department and public authority to do a complete overhaul of their manner of functioning. Earlier they would provide access to information on a need to know basis. The ATI Act requires them to provide people with quick and easy access to all information that is not covered by any exemption specified in the law.

Day 4: 07 September, 2017

Session 1:

Using the ATI Act for making Information requests: skill development session including group work:



Participants drafting ATI requests as part of the skill development session.

This session was designed to develop the skills of participants to draft concise and precise information requests under the ATI law. They were divided into three smaller groups and each group was given a news story on a topic of public interest published in the Kenyan media. Each group was asked to go through the allotted story and discuss it in detail in order to:

- a) identify the key issue or problem of development or governance that the story was highlighting;
- b) identify the kinds of information related to the story that may be accessed through the ATI Act and the public authority that holds the information in order to target it with formal requests;
- c) draft the information request to seek the information so identified; and
- d) explain how the participants would use the information if the public authority provided access to it.

The participants were assisted by CHRI staff during this exercise. Participants read the group-wise news stories supplied to them and discussed the issues/problems highlighted in each (the news stories are attached as **Annexure-3** in this document). Then they drafted their RTI applications and presented them to the plenary. The resource persons and participants discussed the quality and content of each draft information request in details and provided suggestions for making them sharper. A gist of the news stories, the information queries drafted and suggestions provided by resource persons is give below:

Group 1: Group 1 was given a story highlighting hiring of nurses for health facilities and reopening of health facilities in Kitui County. The news story can be accessed [here](#).

The ATI queries that were framed by the participants of Group 1 based on the story were designed to elicit the following information:

- The total number of health staff in Kitui County,
- The number of patients on average attended to in the health centers per day,
- Number of clinics that are in-operational in Kitui County,
- Specific dispensaries are targeted for renovation in Kitui and in what area,
- The amount of funding received from Jhpiego for the project,
- The amount of funding directed towards renovation of dilapidated health centre, and towards the employment of nurses respectively,
- The amount of funding from the Red Cross Society for certified seed and rehabilitation of boreholes,
- The amount of funding directed towards the purchase of certified seeds and towards rehabilitation of boreholes respectively, and
- The areas of Kitui County where the dilapidated boreholes situated.

During the discussions Mr. Venkatesh Nayak, CHRI pointed out that participants could also think of a different angle to the story and ask about the qualifications required for such staff and the hiring process followed to assess the quality of recruitment. Often in countries like India many undeserving candidates without the necessary qualifications are appointed to such posts resulting in poor or even non-delivery of services to the general public. He also mentioned that some of the information e.g. the total number of health staff in a county may be already available on the websites of public authority concerned. If some of the information is already it would help to cross-verify the data received through ATI and to point out discrepancies if any to the government. The Group was also advised that it was always better to use only the designation of the public authority instead of the name of the incumbent. This would obviate the possibility of the ATI request coming back unanswered simply because the named officer was no longer holding that post. In India, he pointed out that RTI applications addressed to a public information officer by name are returned unanswered if such officer has been transferred out or has retired from the job. Addressing the ATI request to an officer by designation only would ensure that whosoever is the incumbent, would be duty bound to send a reply to the request.

Group 2: Group 2 was given a news story about the procurement of laptops at lower prices and providing the same at steep prices to the students of a Public University from Taifa Company. The news story can be accessed [here](#).

The queries that were framed by the participants based on the story were designed to obtain the following information:

- The policy making it mandatory for JKUAT students to have laptops,
- Prequalification process and award of tender to Taifa laptops.
- Minutes of the committee meeting that made the decision for compulsory purchase of Taifa laptops,
- steps taken for public participation,
- laptop specifications,
- the study which informed pricing, and

- Business plan on estimated, cost, profits and use of the profits.

During the discussions the group was advised by Mr. Nayak to keep their queries general so that there is greater possibility of receiving the information. He pointed out that one of the queries in the draft ATI request, namely, “the study which informed the pricing” may lead to denial of information by the public authority saying that such a document does not exist, if no such study had been conducted. He also pointed out that prior to making such an information request, it would be useful to apprise oneself about the procurement procedures that apply to such purchases. Often these procurement procedures are published as a separate document for guidance or are included in the General Financial Rules applicable to all public authorities as was the case in India. The ATI request could then be drafted in a manner to detect any deviation from these laid down procedures. Often such deviations are the cause and effect of corruption, he said.

Group 3: Group 3 was given a story about Kenya signing a free trade agreement with Pakistan in relation to certain products. The news story can be accessed [here](#).

The queries that were framed by the participants based on the story were designed to get hold of the following information:

- The Kenyan consumption needs in relation to products such as wheat, rice, edible oil, sports goods, and textiles,
- The Kenyan annual production figures for the following products: wheat, rice, edible oil, sports goods, textiles,
- The number of the Pakistani businesses in Kenya operating in the fields of wheat, rice, edible oil, sports goods, and textiles,
- The number of the Kenyan businesses in Pakistan,
- Comparative figures in terms of revenue of the Kenyan imports and exports with Pakistan, and
- The list of businesses/companies/individuals involved in the importation of the above goods from Pakistan

During the discussion the ATI drafted by the 3rd Group Mr. Nayak appreciated the precision with which the queries had been framed. However if the participants seek to have detailed information it is always better to have some background research of the domain with respect to which the queries are raised. So keeping track of news reports about free trade agreement negotiations, discussions and debates about similar exercise being conducted by other countries in Africa and Asia would be useful to understand the nitty gritty of such negotiations, he said.

Overall, the participants agreed that the session was useful and relevant and it has motivated them file ATI requests more frequently to get in the habit of accessing information through ATI requests.

Session 2:

Transparency of budgets and tracking public spending through RTI and evidence based research using RTI:



Mr. Khan from CBGA presenting on Transparency of budgets and public spending

Mr. Jawed Khan of CBGA began his presentation by explaining the structure of government in India and how each tier of the government prepares the budget annually (IN India there are three tiers of administration – national, State and the sub-district level of popularly elected rural and urban self-governing bodies called “panchayats” and municipalities, respectively). He also explained some key budget terminologies so that the participants could better understand the framework being used by CBGA for tracking public spending in terms of financial outlays, outputs and outcomes at all three levels of the administration. He went on to list the points of data that he gathers for reporting on public spending and budget transparency using RTI which includes funds approved by the concerned legislature in the annual budget, amount of allocation for each item of expenditure or developmental programme, amount released by the sanctioning authority in the finance unit of every department and the actual manner of utilization of the released funds at the level of the actual implementation of these programmes.

He pointed out that transparency in budgetary processes is a necessary prerequisite for responsive decision making by the government apparatus. It brings in better insights and strategies, encourages timely and effective implementation of policies, and helps create public confidence in the willingness as well as the ability of the government to work for the best interests of the people.

He added that, more and more people across the country are keen to understand policy decisions pertaining to government budgets and participate meaningfully in discussions on budgetary priorities. But, the limited transparency in government budgets in India at different levels along with the complexity of the accounting system has been a hindrance in this regard. The budget is drafted in a manner that people who are not accountants will not be able to comprehend easily. One of the tasks that CBGA has set for itself is to simplify the information for use of general public. BY using RTI, CBGA collects information based on official records to cover the gaps in transparency and accountability mechanisms in budgets as well as seeks ways for improving the norms and practices involved in the process. CBGA strives to enhance public understanding of Union and State Budgets and brings more clarity in the discourse on issues relating to fiscal policy and participatory budgetary processes.

He pointed out that in India a top-down approach is followed as far as drawing up the budget is concerned. He mentioned that participatory budgeting is done in India in a limited way. The government invites public comments on budgets and also from social sector. 15 to 20 NGOs are invited for their inputs and their demands are compiled and presented before senior government functionaries tasked with the budget-making exercise. This is at the Central and State-level budget making exercise. On the other hand, the local governments have established some processes for participation but rarely people take interest or participate in those processes. Some states like Kerala have a strong culture of participatory budgeting but other State do not necessarily follow this practice. In order to facilitate public involvement, the budgetary process in a country needs to be transparent not only at the national level, but also at the sub-national levels. In this regard, our endeavour is to sensitise and encourage the government authorities towards making budget information available in the public domain in a timely and accessible manner, at all levels of governance, he emphasised. Every year CBGA releases a report on the budget to this end. The information for this report is by accessing data through various means. Some of the information is collected through RTI requests. He

explained that they use RTI to get disaggregated data on sanctions and expenditure which is otherwise not available digitally. He pointed out that it is not possible to go to each level of government for specific sectors to collect those data sets in a limited time. Also sometimes the information officers misguide by forwarding the information request to some other unit or department irrelevant for the purpose causing further delays in getting responses. He pointed out that sometimes RTIs do not yield desired results because the queries are not framed properly. He emphasised that accuracy in drafting information requests is crucial for the success of an RTI application.

Key issues and ideas emerging during the discussion:

On being asked about the challenges that are involved in such a study (referring to CBGA's Budget Transparency Study) through RTI, Mr. Khan replied that the generation of disaggregated data by different departments relating to spending on different sectors is weak in India and record management is poor. So to even obtain information through RTI takes a lot of effort. Therefore as an alternative they sometimes visit the office of the public authority to persuade them to disclose the information. Many times this work faster than an RTI process which gets delayed due to bureaucratic red tape. He said that RTI was not a panacea for everything and that informal processes of seeking information will continue even in an RTI era. It is important to pursue such methods for collecting information especially in the case of reports that are required to be produced in a time bound manner due to project-based compulsions of the civil society organization conducting such an exercise.

One participant commented that ATI has opened doors for different levels of engagement with the police department with respect to information about the budgetary allocations within the department and devolving powers also ensures a strong system of accountability. The participants agreed that tracking public expenditure is a major plank for ensuring accountability of public authorities.

Day 5: 07 September, 2017

Session 1:

1.1: Interaction at the Central Information Commission and observing of the official proceedings:

The Central Information Commissioner Mr. Yashovardhan Azad met the participants in his office. He began by saying that the freedom of speech cannot come without freedom of information. He described the history behind the RTI campaign and the role of organizations like the Mazdoor Kisan Shakti Sangathan (MKSS) and well known activists like Mrs. Aruna Roy who initially were asking the heads of village administration about the public funds they spent on welfare and developmental programmes. These were the beginnings of people's awakening and realization about their right to information. Then the civil society campaign for transparency evolved. Several conscientious and socially sensitive ex-bureaucrats joined the movement. The media played a key role in highlighting the lack of transparency and accountability in governance as the basis for a strong law that guarantees people the right to know what the government and public authorities are doing in their name. He pointed out that after the implementation of the RTI Act, in India, some of the bureaucrats were more engaging and more forthcoming with information but many of their colleagues continued to be guided by the closed regime of governance. RTI has changed the game nevertheless, he said. Initially the officers appointed as public information officers were not prepared to implement the law. It took several years of training to sensitise them about their roles and responsibilities under the RTI Act. He regretted that proactive information disclosure is not fully implemented even today, especially in rural areas although NGOs are doing phenomenal promotional work with RTI. The people have realized the power of RTI and they are using it in hundreds and thousands. About 70% to 80% of people's information requests were grievance related, i.e., they seek information about the poor quality or non-delivery of public services or siphoning off of funds meant for rural and urban development. Many RTI applications are about requestors wanting to know why they have not

received their entitlements under the government's programmes and schemes despite being entitled to them and completing all official procedures. The first official assessment as to how RTI has fared took place within less than five years of the implementation of the law. Subsequently, civil society groups have conducted multiple rounds of assessment of the manner of use and implementation of the RTI Act (e-copies of these study reports were supplied to RTI-LP participants in flash-drives along with other resource materials).

Mr. Azad said, the question now is, whether RTI is really a sunshine legislation, in other words has it really opened up governance processes to public scrutiny and are people able to contribute to the decision making processes in public authorities. He regretted that the Central Information Commission and its counterparts in the States, namely the State Information Commissions often functioned in silos. IN several instances the adjudication process on similar matters has yielded differential results, with some jurisdictions ruling in favour of disclosure of certain categories of information while others withholding access to similar categories in other public authorities. For example, what amounts to personal information of a public functionary is interpreted differently by different Information Commissions. In this confusion several categories of information concerning the performance of the public duties of such officers or other matters pertaining to them which are of public interest such as their declarations of assets are withheld from public scrutiny.

He also pointed out that there are structural problems with the functioning of the Information Commissions. There are issues relating to vacancies, inadequate staffing and resourcing, pendency of appeals and complaints for long periods without effective resolution etc. Another issue is that officers appointed as PIOs frequently get transferred to other departments where they may not handle such duties. So their successors require training in handling RTI applications. This often does not happen after the initial round of trainings. So an ill-experienced PIO handles RTI applications in ad-hoc manner. This creates further problems of burgeoning internal appeals within the public authority and external appeals before Information Commissions for adjudication. Often the rejection of information requests are unusually high and exemptions are often liable to misuse. Despite the law providing for imposition of penalties, the Information Commissions rarely impose sanctions on errant officials which results in impunity. There is also the problem of vexatious and frivolous information requests filed by some disgruntled employees of public authorities or citizens who seek to harass public authorities by making repeated requests for similar information or voluminous information which is impossible to collect or collate within the stipulated time of 30 days. In many cases appellant appearing before the Central Information Commission speak local languages while the Commission's proceedings are held in English or Hindi which they do not comprehend easily. However, Mr. Azad pointed out that these challenges are not insurmountable.

Mr. Azad said, the need of the hour is to project RTI more and more into rural and remote areas and empower people with knowledge of how to make use of RTI. He advised that in Kenya also focus must be placed on rural areas to make the most of ATI. The real impact of such a laws will be in rural areas and civil society actors in Kenya must have the requisite sensitivity to take it there. More questions from the people and increase in the number of RTI requests shows we have achieved a lot. But is also indicates that we have still a long way to go. In India poor infrastructure in public authorities at the district and the sub-district level is a challenge, he said. We still do not know how many citizens we are missing out because nobody has educated them about the power and potential of RTI but it is a reassuring fact that we are taking RTI to its logical culmination. About 30% of the RTI queries that we receive are on basic amenities that people are not able to access despite government spending, he said.

Key issues emerging during the discussion:

One of the participants asked if the Commission functions like a Court vis a vis recording of evidence. Mr. Azad responded saying that in very few cases when the issue is demanding and pressing we ask for submissions affidavits. However in most cases whatever is written in the appeals and the plain paper submissions or oral submissions of the appellants and the representatives of public authorities is generally considered to be adequate for use during the proceedings. In a large number of cases there is no lawyer present to argue in favour of the appellants or a public authority. This is how simple the process of adjudication is in India, he emphasized. Making the appeals procedures more complicated would defeat the very purpose of setting up Information Commissions, he said.

Another query was that the CIC being a quasi-judicial body where the line is drawn whether an issue is to be resolved by the court or the CIC. Mr. Azad said that the CIC is vested with all powers given to a civil court and these powers are used where necessary. Parties to an appeal are at liberty to challenge the Commission's decisions before the concerned High Court or the Supreme Court, he said. One participant asked if individual sanctions were imposed on errant officers, to which Mr. Azad replied in the affirmative. He said that the RTI Act in India empowered the Commissions to impose monetary penalties on public information officers for refusing to receive information requests or not supplying information within specified time limits without reasonable cause, knowingly supplying misleading, false or incomplete information, malafidely denying information, destroying information that is the subject matter of a request or creating any other kind of obstruction in the process of supplying information. The monetary penalty is paid by the errant officer from his or her pocket. Additionally, he pointed out that Commissions have the power to award compensation to appellant for loss or detriment suffered due to wrongful denial of access to information. Compensation is paid up by the public authority concerned. When a public information officer is found to be persistently violating the provisions of the RTI Act, the Commission can recommend disciplinary action against such officer to the concerned public authority, he pointed out.

To a query whether public officers now are more aware about their duties and responsibilities under the RTI Act, he replied that the trend of giving replies within specified timelines is growing and more and more websites for public authorities are also coming up to proactively disclose information as per the law. As for penalties, he said that he does not impose them in every case but only in deserving cases. He recounted how he has INR 25,000 as fine because an officer was clearly in contravention of the provisions of the law. That officer challenged the decision in the High Court which initially stayed the order. However, subsequently, the Court upheld the penalty order.

The participants also enquired whether Mr. Azad would be willing to travel to Kenya to meet the Commission for Administrative Justice which is the adjudicatory body under the ATI Act for sharing of his experience as Information Commissioner and provide advice for the implementation process. Mr. Azad said that he would be happy to do it if it can be planned with enough advance notice.

1.2: Challenges of implementing the RTI Act: a supply side view-Interaction with Government representatives:



Participants with CHRI staff in front of North Block

Later in the day the participants met Mr. K. Srinivas, Joint Secretary at the Department of Personnel and Training, which is the nodal department for implementing the RTI Act across the Government of India. Mr. Srinivas pointed out that the Kenyan Civil Service Model is like that of India and so a lot of similarities will be there in the implementation stage. He mentioned that in India RTI Act was revolutionary step. The objectives of the Act signaled openness which was otherwise not common because of a closed bureaucracy. But it must be said that the objectives have been achieved significantly by the RTI Act which is being implemented effectively. It has empowered citizens to break the veil of secrecy, increased information accessibility and has a huge impact on society-state and intra-society relations. It is

by nature an enabling legislation almost like a social welfare legislation, which provides a tool of empowerment for the disadvantaged and the vulnerable segments of society. He added that the government is committed to improve the implementation of the RTI Act and is also partnering with civil society in these endeavours.

Key issues emerging during the discussion:

One of the participants asked how the challenge of lack of awareness of public officials is dealt with and what kind of strategy was adopted to expand training and capacity building activities. He also sought to know what is the role of elected representatives to take the message of RTI forward? Mr. Srinivas mentioned about the increasing number of Public Information Portals and the efforts of the government to reach out to the people by proactively disclosing information. Efforts were also being made to channelize CIC decisions to public authorities regularly, so that they do not make the same mistakes in favour of secrecy repeatedly. Another participant wanted to know about the efforts in the establishment of State Information Commission (SIC) in the newly formed State of Telangana, to which Mr. Srinivas assured that it is just a matter of time and the SIC will be established soon. To the question on how can civil society engage effectively with government on ATI, Mr. Srinivas explained that both NGOs and government are committed to the rule of law. He urged that common platforms must be created for consultation without institutional and formal posturing by either side do that free and frank exchange of views can take place eventually leading to the identification of solutions for specific implementation problems. He emphasised that an alternative platform complementing the existing governmental framework strengthens governance. RTI is driving towards the creation of such citizen-civil-society-government engagement, he said. As for the training needs, he mentioned that we need to have multiple channels of communication, case study methods etc. The participants also suggested linking of institutions like [Institute of Secretariat Training and Management](#) (ISTM) which has developed specialisation in conducting high quality training programmes on RTI and other governance-related subjects with the Kenyan School of Government for developing training programmes for information officers tasked with implementing the ATI Act in Kenya. Mr. Srinivasan agreed to look into such proposal for collaboration if sent through proper governmental channels.

Session 2:

2.1 Planning interventions for implementation of the ATI Act in Kenya- Interactive Session:

During the last session of the RTI Learning Programme, participants discussed the way forward as to how they would go back to make use of the knowledge and experience gained during their interactions with various stakeholders in India. They agreed on the following broad points which can eventually become a plan of action for ensuring effective implementation of the ATI Act in Kenya:

- **Consultation with CAJ:** The strength of CAJ staff is around 80 members including the three members. They have offices in the counties across Kenya as well. The CAJ is still trying to organise themselves and get resources for implementation of the ATI Act. One CAJ member designated for ATI- Ms. Sadiya Mohamed (her term ends in 2 months). Participants said that it was important to find a replacement for her position soon after she demits office. CAJ is focused on capacity building of its own staff at all levels. Art XIX will hold a training programme on ATI for them in November, 2017. They are focusing on developing Regulations for the ATI Act. Art XIX has had one-on-one strategic meetings with CAJ on implementation issues. The Director in charge of ATI matters at CAJ is positively disposed and knowledgeable about ATI issues. However no meeting has taken place yet with the acting Chair or the Commissioners has taken place. CHRI along with Katiba Institute during its visit to Kenya after the RTI-LP could discuss the matters of implementation of the ATI Act with the CAJ and Government.
- **Consultation with Civil Society:** 22 civil society groups as of now are working on a strategy for implementation and generally the discussion has been around capacity issues, financial resources issues and a work plan to seed other sectors with knowledge of RTI like anti-corruption, disability and environmental issues etc. CHRI could further add to these discussions if the outcome document from such meetings can be shared by Article XIX. Mr. Wajahat Habibullah, Chairperson CHRI and former Chief Information Commissioner suggested that it is important to establish relations with the CAJ Commissioners and discuss implementation as this would be crucial for the success of the implementation of the ATI Act. Article XIX should take the lead on engaging them in a dialogue with civil society and the citizenry.
- **Engaging with Government/Civil servants:** The Ministry of Information is working on the ATI Regulations with the CAJ. In order to ensure that the Ministry does not delay this process, it would be strategic to call meetings with all stakeholders and form a Task Force and organise conferences and consultations around implementation issues. Involving the relevant committee of the parliament in the process would also be strategically important. Participants agreed that they should be involved from the beginning. The action plan may include such consultations on a pilot basis with private entities, public entities and counties. Connecting the advocacy to OGP and SDG Goal 16 would be strategically important to get international traction. Article XIX is already involved in some of such efforts could take the lead in these matters. The next step is identifying champions of transparency and ATI within the government so that they could become the team that would guide the implementation process at all levels including at the level of the counties. Training of



Participant Ms. Musoga interacting during the session

Trainers (ToT) programmes on pilot basis for capacity building in districts and departments should be planned. CHRI can assist by providing technical assistance for strengthening the regulations and creating guidance notes, manual/user guides etc.

- Encouraging the media to use RTI for the purpose of investigative journalism that would move beyond merely covering issues of political interest. This would not only enhance the confidence levels amongst people about journalists, but also make significant contributions to engendering greater degree of accountability for decisions relating to development and governance. A strong RTI law would enable journalists to do their work much better with support from the editors and the management.
- To hold sensitisation sessions on the ATI Act at universities and academic institutions with students and ToT training sessions on ATI in local languages would help spread awareness and use of the ATI Act in a big way. Making the media aware about ATI by meeting media persons, publicity of ATI through both print and broadcast media, training journalism students and interaction with editors and sensitising them about ATI would be strategically important for popularising the law.
- Donors are showing interest to support implementation efforts. E.g- USAID etc. It is crucial to explore possibilities of partnership and funding for ATI advocates in civil society in this regard.

Participants suggested the following areas where collaboration with CHRI is required:

- Resource persons from India for meetings and trainings to be held in Kenya
- Advice on advocacy around regulations and guidance notes
- Advice on using the Act at the ground level by citizen groups and the media
- Creating a User guide containing a template for access to information (ATI) requests.

The RTI-LP ended with a vote of thanks to all concerned.

Evaluation and Feedback:

CHRI sought an evaluation of the RTI-LP from the participants through a structured questionnaire that was designed to elicit both quantitative and subjective responses. The questionnaire used for the purpose is attached below as **Annexure-2** in this document. The main findings of the evaluation exercise against each query are given below:

1) What was your overall level of satisfaction with the learning programme?

(Rating: definitely high, high, somewhat high, unsure/undecided, somewhat low, low or definitely low)

The ratings were to be done on a scale on 1 to 7 ranging from definitely low to definitely high. 2 out of the 6 delegates rated their satisfaction as 7 out of 7 while 4 delegates rated it as 6 out of 7.

2) What was your level of satisfaction at meeting your initial expectations from the programme?

(Rating: definitely high, high, somewhat high, unsure/undecided, somewhat low, low or definitely low)

The ratings were to be done on a scale on 1 to 7 ranging from definitely low to definitely high. 3 out of the 6 delegates rated their satisfaction as 7 out of 7 while 3 delegates rated it as 6 out of 7.

3) Based on your learning experience during the programme, what is your current ability to understand the value and significance of RTI?

(Rating: definitely able, probably able, unsure/undecided, probably unable or definitely unable)

The ratings were to be done on a scale on 1 to 5 ranging from definitely able to definitely unable. All delegates rated their ability levels as 5 out of 5.

4) Based on your learning experience during the programme, what is your current ability to understand the RTI campaign and implementation experience in India?

(Rating: definitely able, probably able, unsure/undecided, probably unable or definitely unable)

The ratings were to be done on a scale on 1 to 5 ranging from definitely able to definitely unable. 3 out of the 6 delegates rated their ability levels as 5 out of 5 while 3 other delegates rated it as 4 out of 5.

5) Based on your learning experience during the programme, what is your current ability to better appreciate the opportunities and challenges presented by the ATI Act in Kenya for giving effect to the fundamental right to information guaranteed by the Constitution?

(Rating: definitely able, probably able, unsure/undecided, probably unable or definitely unable)

The ratings were to be done on a scale on 1 to 5 ranging from definitely able to definitely unable. 5 out of the 6 delegates rated their ability levels as 5 out of 5 while 1 delegate rated it as 4 out of 5.

6) Based on your learning experience during the programme, what is your current ability to identify the opportunities and challenges to effective implementation of RTI law in Kenya?

(Rating: definitely able, probably able, unsure/undecided, probably unable or definitely unable)

The ratings were to be done on a scale on 1 to 5 ranging from definitely able to definitely unable. 4 out of the 6 delegates rated their ability levels as 5 out of 5 while the remaining 2 delegates rated it as 4 out of 5.

7) Based on your learning experience during the programme, what is your current ability to identify the opportunities and challenges for empowering people to use RTI law in Kenya?

(Rating: definitely able, probably able, unsure/undecided, probably unable or definitely unable)

The ratings were to be done on a scale on 1 to 5 ranging from definitely able to definitely unable. 4 out of the 6 delegates rated their ability levels as 5 out of 5 while 2 other delegates rated it as 4 out of 5.

**8) As result of your participation in the programme, please rate your level of understanding of the following:
*(Rating: much better familiarity after the programme, better familiarity after the programme, same level of familiarity as before)***

a) Relevance to democracy, human rights, sustainable development and accountable governance: 66.66% of the participants affirmed a “much better” familiarity after the programme and another 33.33% affirmed “better” familiarity after the programme.

b) Salient features of RTI law in India: 50% of the participants affirmed a “much better” familiarity after the programme and 50% affirmed “better” familiarity after the programme.

c) Use of RTI for Human Rights based advocacy: 66.66% of the participants affirmed a “much better” familiarity after the programme and 16.66% affirmed “better” familiarity after the programme while another 16.66% “same level” of familiarity as before the programme.

d) Civil Society experience of using RTI to empower disadvantaged communities and seek accountability: 50% of the participants affirmed a “much better” familiarity after the programme and 50% affirmed “better” familiarity after the programme.

e) RTI and environmental issues: 66.66% of the participants affirmed a “much better” familiarity after the programme and 33.33% affirmed “better” familiarity after the programme.

f) Use of RTI for evidence-based research and advocacy for police and prison reforms: 66.66% of the participants affirmed a “much better” familiarity after the programme and 33.33% affirmed “better” familiarity after the programme.

g) Media’s use of RTI Act for investigative journalism: 83.33% of the participants affirmed a “much better” familiarity after the programme and 16.66% affirmed “better” familiarity after the programme.

h) Implementing proactive disclosure provisions in ATI Law, an Indian experience: 66.33% of the participants affirmed a “much better” familiarity after the programme and 33.33% affirmed “better familiarity” after the programme.

i) Using the ATI Act for making information requests: skill development: 83.33% of the participants affirmed a “much better” familiarity after the programme and 16.66% affirmed “better” familiarity after the programme

j) Transparency of budgets and tracking public expenditure through RTI: 50% of the participants affirmed a “much better” familiarity after the programme and 50% affirmed “better” familiarity after the programme.

k) Working of the Central Information Commission: 100% of the participants affirmed a “much better” familiarity after the programme.

l) Challenges of implementing the RTI Act: a supply side view-interaction with Government of India representatives: 50 % of the participants affirmed a “much better” familiarity after the programme and 33.33% affirmed “better” familiarity after the programme while 16.66% same level of familiarity as before the programme.

m) Planning interventions for implementation of ATI Act in Kenya: 83.33% of the participants affirmed a “much better” familiarity after the programme and 16.66% affirmed “better” familiarity after the programme.

9) Would you explain any of these responses in greater detail?

Individual responses:

- a) The training was a great experience and I personally managed to learn a lot in a very short period of time. Going forward maybe we could have longer periods of training (more than a week) so that individuals can get to interact with more RTI practitioners.
- b) The training delivery was well researched and presented.
- c) The themes were presented with clarity and relevant examples given to explain the practical experiences.

10) Please rate the quality and usefulness of the following resource materials provided: (Rating: very good, good, poor and very poor)

a) India’s RTI User Guide: 50% of the responding delegates found it “very good” and 50% found it “good”.

- b) Resource materials provided on Flash Drive: 100% of the delegates found it very good.
- c) RTI Implementation Guide: 50% of the responding delegates found it very good and 50% found it good.
- d) Tshwane Principles on RTI and National Security: 66.66% of the responding delegates found it “very good” and 33.33% found it “good”.
- e) Guidance Note on the Role and Responsibilities of Information Commissions: 33.33% of the responding delegates found it “very good” and 50 % found it “good” and 16.66% found it “poor”.
- f) Guidance Note on Third Party Procedures in India: 16.66% of the responding delegates found it “very good” and 50% found it “good” and 33.33% found it “poor”.

(The poor rating by some of the delegates is perhaps because of these publications were designed specifically keeping in mind the implementation of the Indian RTI Act. As the Kenyan ATI Act does not provide for an Information Commission and “third party” procedures have not yet emerged as a serious implementation issue in Kenya, a minority of the participants may not have found much use for it.)

11) Please rate the ATI Team’s ability to design the programme.
(Ratings: very good, good, poor and very poor)

100% of the delegates rated the design of the programme “very good”.

12) Please rate the ATI Team’s ability to explain scheduled activities and tasks clearly.
(Ratings: very good, good, poor and very poor)

66.66% of the delegates rated the explanations “very good” while 33.33% rated it “good”.

13) Please rate the degree of participatory nature of the meetings and discussions.
(Ratings: very good, good, poor and very poor)

50% of the delegates rated degree of participatory nature “very good” while 50% rated it as “good”

14) Please rate the ATI team’s choice of resource persons.
(Ratings: very good, good, poor and very poor)

66.66% of the delegates rated the explanations “very good” while 33.33% rated it “good”.

17) Please rate the resource persons on their knowledge levels:
(Rating: very knowledgeable, reasonably well informed and not well informed at all)

- 1) **Mr. Wajahat Habibullah:** 83.33% of the participants found him a “very” knowledgeable resource person while 16.66% of the participants rated him as not well informed at all.
- 2) **Ms. Maja Daruwala:** 83.33% of the participants found her a “very” knowledgeable resource person while 16.66% of the participants rated her as not well informed at all.
- 3) **Mr. Venkatesh Nayak, CHRI:** 83.33% of the participants found him a “very” knowledgeable resource person while 16.66% of the participants rated him as not well informed at all.

- 4) **Representatives of Department of Personnel and Training, Government of India:** 66.66% of the participants found them to be “reasonably” well informed and 33.33% of the participants rated them not well informed at all.

(The Joint Secretary, who met the Kenyan delegation was transferred to that post only a few weeks prior to the meeting. So CHRI was not able to secure a meeting for the delegation with his immediate predecessor who is more knowledgeable about the implementation efforts within government)

- 5) **Mr. Yashovardhan Azad, Central Information Commissioner:** 33.33% of the participants found him a “very” knowledgeable resource person while 16.66% of the participants rated him “reasonably” well informed while 50% rated him not well informed at all.

(CHRI had initially requested a meeting for the delegation with the Chief Information Commissioner. However, the Central Information Commission in its own wisdom decided to give an appointment with Mr. Yashovardhan Azad instead.)

- 6) **Ms. Shikha Chhibbar, CHRI:** 66.66% of the participants found her “very” knowledgeable resource person while 16.66 % of the participants rated her as “reasonably” well informed and 16.66% rated her as not well informed at all.

- 7) **Mr. Raja Bagga, CHRI:** 50% of the participants found him very knowledgeable resource person while 33.33 % of the participants rated him as reasonably well informed and 16.66% rated him as not well informed at all.

- 8) **Mr. Shyamlal Yadav, Indian Express:** 83.33% of the participants found him a “very” knowledgeable resource person while 16.66% of the participants rated him as not well informed at all.

- 9) **Ms. Jayshree Bajoria, Human Rights Watch:** 66.66% of the participants found her a “very” knowledgeable resource person while 33.33% of the participants rated her as not well informed at all.

- 10) **Ms. Anjali Bhardwaj and Ms. Amrita Johri, SNS:** 50% of the participants found them as a “very” knowledgeable resource persons while 16.66% of the participants rated them as reasonably well informed and 33.33% rated them not well informed at all.

- 11) **Ms. Shibani Ghosh, Centre for Policy Research:** 50% of the participants found her as a “very” knowledgeable resource person while 33.33% of the participants rated her as reasonably well informed and 16.66% rated her not well informed at all.

- 12) **Mr. Jawed A. Khan, Centre for Budget and Governance Accountability:** 66.66% of the participants found him a “very” knowledgeable resource person while 16.66% of the participants rated him as reasonably well informed resource person and 16.66% rated him as not well informed at all.

18) What has been the most significant change in your perceptions or ideas as a result of this programme?

Individual responses:

- a) The fact that RTI can be used to collect primary data.
- b) The importance of focusing on the public in implementation of the Act.
- c) The fact that ATI can be used in all the different spheres of our work and how we can get all the information we need from those bodies that have always denied us the information.

- d) I have realised that RTI is an effective enabler of the full realisation of human rights and implementation of other legal provisions.
- e) That priority should shift to empowering the local citizen creating grass root movement.
- f) Knowing and understanding tricks employed civil society to ensure RTI worked and overcame government and bureaucracy as well as intimidation.
- g) The uptake of use of RTI by citizens in India would be great to have such replicated in Kenya.

19) Please tell us how you would like CHRI to collaborate with your organisation in Kenya.

Individual responses:

- a) As far as experience of implementation of the ATI is concerned CHRI is a great resource for us to tap into. I look forward to CHRI & Katiba Institute partnering to design programmes that will promote the participation of the public in making RTI requests, to develop further learning materials together, to also design programs that will promote a culture of pro-active disclosure and disclosure generally.
- b) Advise whenever we have bottlenecks in the use of ATI Act in our line of work
- c) Connect environmental struggles and the use of ATI in India with us to better understand how best to implement the ATI Act.
- d) If we manage to set up a meeting with the county officials, CHRI could dedicate to have at least one of their representative to talk of the importance of counties to comply with the Act.
- e) We would like further collaboration to enable us effectively engage in Prison reforms in Kenya.
- f) We wish to have CHRI meet with key grassroots CSO and community leaders in Nakuru county in Kenya to pilot the RTI implementation.
- g) We wish to continue talks on police reforms-comparing experiences, lessons learnt and to have CHRI visit and see how we are addressing violence through strengthening community policing.
- h) Form a media partnership to inform public about the power of using ATI as the first step. With a partnership other areas of collaboration can be explored.
- i) CHRI's assistance will be required in the development of the Regulations i.e. the technical part of drafting and parliamentary engagements.

ANNEXURE-1



Commonwealth Human Rights Initiative & Katiba Institute
Right to Information Learning Programme in India

for civil society and media representatives from Kenya

supported by the Commonwealth Foundation

03 – 09 September, 2017

Shyama International Inn, SDA, New Delhi

Tentative Programme

03 September, 2017 (Sunday)	Participants arrive in New Delhi
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Day 1	04 September, 2017 (Monday)
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Session 1		
9:30 – 11:15am	<ul style="list-style-type: none"> • Welcoming the participants • Participants introduce themselves and voice their expectations from the RTI – Learning Programme (RTI-LP) • Introduction to CHRI’s work and the RTI-LP • Overview of the RTI-LP • RTI audio visual clip viewing and open discussion 	<p>Mr. Venkatesh Nayak, CHRI</p> <p>Ms. Maja Daruwala, CHRI</p> <p>Facilitated by Venkatesh Nayak</p>

11:15 – 11:30am Tea break

Session 2		
11:30 – 12noon	<ul style="list-style-type: none"> • RTI and democracy, human rights, good governance and sustainable development agenda – a presentation 	Venkatesh Nayak, CHRI
12:00 – 1:00pm	<ul style="list-style-type: none"> • Open discussion 	

1:00 – 2:00pm Lunch break

Session 3		
2:00 – 4:00pm	<ul style="list-style-type: none"> • Salient Features of the Indian RTI Act and the implementation experience – a presentation • Open discussion 	Mr. Wajahat Habibullah, Chairperson, CHRI and former Chief Information Commissioner, Central Information Commission, India
4:00 – 4:15pm Tea break		
4:15 – 5:30pm	<ul style="list-style-type: none"> • The ATI Act in Kenya and ongoing implementation efforts • Open Discussion 	RTI – LP participants

Day 2		05 September, 2017 (Tuesday)
Session 1		
9:30 – 10:00am	<ul style="list-style-type: none"> • Recap of the previous day's proceedings and discussions on any pending issues 	Facilitated by CHRI
10:00 – 1:00pm	<ul style="list-style-type: none"> • Use of RTI for evidence-based human rights advocacy <p>(Working Tea)</p>	Ms. Jaishree Bajoria, Human Rights Watch, India Office
1:00– 2:00pm Lunch break		

Session 2		
2:00 – 4:00pm	<ul style="list-style-type: none"> • Civil society experience of using RTI to empower disadvantaged communities and seek accountability of their elected representatives • Open discussion 	Ms. Anjali Bhardwaj Co-Convenor, National Campaign for People's Right to Information and Satark Nagrik Sangathan (SNS) and Ms. Amrita Johri, SNS, Delhi
4:00 – 4:15pm Tea break		
4:15 – 5:30pm	<ul style="list-style-type: none"> • Using RTI for environmental protection • Open discussion 	Ms. Shibani Ghosh, Delhi

Day 3		06 September, 2017 (Wednesday)
Session 1		

9:30 – 10:00am	<ul style="list-style-type: none"> Recap of the previous day's proceedings and discussions on any pending issues 	Facilitated by CHRI
10:00 – 11:15am	<ul style="list-style-type: none"> Use of RTI for evidence-based research and advocacy for prison and police reform 	Prison and Police Reforms Team, CHRI

11:15 – 11:30am **Tea break**

11:30 – 1:15pm	<ul style="list-style-type: none"> Use of RTI for investigative journalism – the Indian experience Open discussion 	Mr. Shyamlal Yadav, Senior Editor, Indian Express (<i>tbc</i>)
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1:15– 2:00pm **Lunch break**

2:00 – 5:30pm	<ul style="list-style-type: none"> Implementing proactive disclosure provisions in an ATI Law, the Indian experience Open discussion 	Venkatesh Nayak, CHRI
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Day 4	07 September, 2017 (Thursday)
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Session 1

9:30 – 10:00am	<ul style="list-style-type: none"> Recap of the previous day's proceedings and discussions on any pending issues 	Facilitated by CHRI
10:00 – 1:00pm	<ul style="list-style-type: none"> Using the ATI Act for making information requests: skill development session including group work 	Facilitated by CHRI

1:00 – 2:00pm **Lunch break**

Session 2

2:00 – 4:00pm	<ul style="list-style-type: none"> Transparency of budgets and tracking public spending through RTI and evidence based research using RTI 	Mr. Jawed Khan, Centre for Budget and Governance Accountability, Delhi.
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4:00 – 4:15 pm **Tea break**

4:15 – 5:30pm	<ul style="list-style-type: none"> Open discussion 	
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Day 5	08 September, 2017 (Friday)
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Session 1		
9:30 – 9:45am	<ul style="list-style-type: none"> Recap of the previous day's proceedings and discussions on any pending issues 	Facilitated by CHRI
9:45 – 12:00pm <i>(includes travel time to August Kranti Bhavan)</i>	<ul style="list-style-type: none"> Interaction with the Chief Information Commissioner at the Central Information Commission and observing the hearings in appeal and complaint proceedings and interaction with Information Commissioners. 	Visit to the Central Information Commission
12:00pm- 2.00pm <i>(includes travel time to North Block and back)</i>	<ul style="list-style-type: none"> Challenges of implementing the RTI Act: a supply side view – interaction with Government representatives. 	Mr. K. R. Srinivasan, IAS, Joint Secretary to the Government of India and senior representatives of the Department of Personnel and Training

2.00 pm – 3:00pm

Lunch break

Session 2		
3:00 – 6:00pm	<ul style="list-style-type: none"> Planning interventions for implementation of the ATI Act in Kenya – interactive session <p>(Working tea)</p> <ul style="list-style-type: none"> Discussions on future collaboration and follow-up RTI-LP Evaluation and goodbyes 	Mr. Wajahat Habibullah, CHRI

Day 6	09 September, 2017 (Saturday)
Participants' departure	

ANNEXURE 2



Commonwealth Human Rights Initiative & Katiba Institute
Right to Information Learning Programme in India

for civil society and media representatives from Kenya
supported by the Commonwealth Foundation

03 – 09 September, 2017

Shyama International Inn, SDA, New Delhi

Evaluation Questionnaire

1. Overall Satisfaction

For each of the following statements, please **circle** the number on the scale that best describes your level of satisfaction.

For each of the following statements, please encircle the number on the scale that best describes your level of satisfaction.	Definitely low Definitely high —————→	<i>Please explain your choice with specific reason(s).</i>
a. My overall level of satisfaction with the RTI-LP organised by CHRI is	1 2 3 4 5 6 7	

b. CHRI has addressed my initial expectations in a manner that was	1 2 3 4 5 6 7	
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**Legend: 1=definitely low, 2=low, 3=somewhat low, 4=unsure/undecided, 5= somewhat high, 6=high, 7=definitely high*

2. Objectives

Based on your learning experience during the RTI-LP, please encircle the number on the scale that best describes your current ability to:	Definitely unable → Definitely able	Please explain your choice with specific reason(s).
a. Understand the value and significance of RTI	1 2 3 4 5	
b. Understand the RTI use and implementation experience in India	1 2 3 4 5	
c. Better appreciate the opportunities and challenges presented by the ATI Act in Kenya for giving effect to the fundamental right to information guaranteed by the Constitution	1 2 3 4 5	
d. Identify the opportunities and challenges to the effective implementation of the RTI law in Kenya	1 2 3 4 5	
e. Identify the opportunities and challenges for empowering people to use the RTI law in Kenya	1 2 3 4 5	

**Legend: 1=definitely unable, 2= probably unable, 3=unsure/undecided, 4=probably able, 5=definitely able*

As a result of your participation in the RTI-LP please rate your level of understanding of the following by marking the appropriate boxes Please tick (✓) one:	Same level of familiarity as before participating in the RTI-LP	Better level of familiarity as before participating in the RTI-LP	Much better level of familiarity as before participating in the RTI-LP
a. Relevance to democracy, human rights, sustainable development agenda (Day 1, Session 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Salient features of the RTI law in India (Day 1, Session 3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Use of RTI for Human Rights based advocacy (Day 2, Session 1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Civil society experience of using RTI to empower disadvantaged communities and seek accountability of their elected representatives (Day 2, Session 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. RTI and environmental issues (Day 2, Session 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Civil society experience of using RTI to empower disadvantaged communities and seeking accountability (Day 2, Session 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Use of RTI for evidence-based research and advocacy for prison and police reform (Day 4, Session 2)			
h. Media's use of the RTI Act for investigative journalism-Indian experience (Day 3, Session 1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Implementing proactive disclosure provisions in an ATI Law, the Indian experience (Day 3, Session 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Using the ATI Act for making information requests: skill development (Day 4, Session 1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

k. Transparency of budgets and tracking public spending through RTI and evidence based research using RTI (Day 4, Session 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Interaction with the Central Information Commissioner and observation of the proceedings (Day 5, Session 1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Challenges of implementing the RTI Act: a supply side view - interaction with Government of India representatives (Day 5, Session 2).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n. Planning interventions for implementation of the ATI Act in Kenya (Day 5, Session 2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Would you like to explain any of the above responses in greater detail?

3. Usefulness of Resource materials. Please tick (✓) one:

Please rate the quality of the following resource materials provided: (please tick one box)	Very Poor	Poor	Good	Very Good
a. India's RTI User Guide	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Resource materials flash drive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. RTI Implementation Guide	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Tshwane Principles on RTI and National Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Guidance Note on the Role and Responsibilities of Information Commissions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Guidance Note on Third Party Procedures in India	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Would you like to provide a detailed comment on any of the responses marked above?

.....

4. **Other inputs.** Please tick (✓) one:

Please rate the following :	Very Poor	Poor	Good	Very Good
a. The ATI Team's ability to design the Learning Programme to provide a clear picture of the RTI campaign, use and implementation experience in India	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. The ATI Team's ability to explain scheduled activities and tasks clearly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Degree of participatoriness of the meetings and discussions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. The ATI Team's choice of resource persons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. **Knowledge levels of Resource Persons.** Please tick (✓) one:

No.	Name of resource person	Very knowledgeable	Reasonably well informed	Not well informed at all
1.	Mr. Wajahat Habibullah, CHRI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Ms. Maja Daruwala, CHRI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Mr. Venkatesh Nayak, CHRI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Representatives of the Dept. of Personnel and Training, Government of India	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Mr. Yashovardhan Azad, Central Information Commissioner			
6.	Ms. Shikha Chhibbar, CHRI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7.	Mr. Raja Bagga, CHRI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Mr. Shyamlal Yadav, Indian Express	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Ms. Jayshree Bajoria, Human Rights Watch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Ms. Anjali Bhardwaj & Ms. Amrita Johri, SNS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	Ms. Shibani Ghosh, Centre for Policy Research	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12.	Mr. Jawed A. Khan, Centre for Budget and Governance Accountability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. What has been the most significant change in your perceptions/ideas (in any area) as a result of your participation in the RTI-LP?

.....

7. Please tell us how you would like CHRI to collaborate with your organization in Kenya.

.....

We thank you for filling out this evaluation. We assure you this information will be treated as a confidential input. If you would like to record your name and contact details, please use the space below. You need not fill this portion if you wish to remain anonymous.

ANNEXURE 3

News Story for Group 1

Kenya: Kitui to Hire More Nurses After Governor Ngilu Gets Donor Aid

1 SEPTEMBER 2017

By Kitavi Mutua

Some 60 closed health facilities in Kitui County will now resume services after Governor Charity Ngilu secured donor support to recruit 60 nurses.

Jhpiego, an international non-profit health organisation affiliated to Johns Hopkins University in the United States, agreed to support the immediate employment of 60 nurses to be posted to the dispensaries that are not operational.

Governor Ngilu announced that the American donor will also renovate the dilapidated health centres and support mobile health services by partnering with Kitui County through the provision four mobile clinics.

"I am happy and I want to thank Jhpiego for partnering with us and seeking to make our county healthy through the employment of 60 nurses," Governor Ngilu said after meeting Jhpiego Country Director, Dr Mildred Mudany, at their Nairobi offices.

MOBILE CLINICS

The governor said she will be unveiling the nurses and flagging off the the mobile clinics to the identified areas on next Monday, September 4, 2017.

"Jhpiego is one of the partners working with us in the health sector in Kitui and has programmes running in Kitui East, Kitui South, Mwingi West, Mwingi Central and Mwingi North sub-counties," she said.

Dr Mudany confirmed the extended support by tweeting that Jhpiego was "honoured to work with Governor Ngilu as we work together to improve the health of women & families in Kenya".

MEET DONORS

On Monday, Mrs Ngilu who campaigned on a platform of exploiting her international networks, kicked off a series of meetings with various donor agencies to build partnerships to fund her ambitious development agenda for the county.

The Governor met US Ambassador to Kenya Robert Godec on Tuesday afternoon in his office ahead of a joint programming meeting with USAID Director Karen Freeman.

Accompanied by a team of Embassy technical experts, Mr Godec and Mrs Ngilu explored possible partnerships between her government and the US in the areas of energy, health, water, agriculture and democracy.

She also met with Kenya Red Cross Society Secretary-General Abass Gullet in a joint programming meeting to identify areas of partnership and assessment on water, health and disaster risk management.

CERTIFIED SEEDS

Kenya Red Cross agreed to provide certified seeds for the November planting season and support the rehabilitation of 107 dilapidated boreholes.

Mrs Ngilu said she is also looking for support on water trucking, diesel for tractors to plough land for Kitui farmers and cash transfers to vulnerable households for three months.

The governor added that the people of Kitui must feel a difference within the first 100 days of her administration especially on her key election campaign pledges of provision of water, better healthcare and food security.

She said her administration will be service-oriented and that she wants to see in the first 100 days, all health facilities well-equipped and fully functioning, access to clean water improved and residents given free certified seeds for the next rain season.

News Story for Group 2

Jkuat to earn big from laptop sales to new students

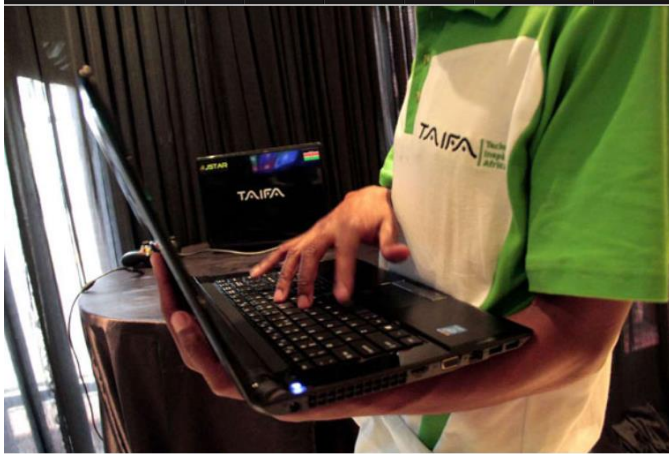
MONDAY SEPTEMBER 4 2017



By OUMA WANZALA
[More by this Author](#)

A public university is once again set to make hundreds of millions of shillings from new students through its controversial laptop programme.

The 4,994 first-years under the government sponsored programme are set to report to Jomo Kenyatta University of Agriculture and Technology (Jkuat) on Monday to the start of their academic year.



The Taifa Laptop during its launch at The Norfolk Hotel on June 12, 2015. New students joining Jomo Kenyatta University of Agriculture and Technology must buy the gadget at Sh41,498. PHOTO | DIANA NGILA | NATION MEDIA GROUP

In Summary

- Of the 4,994 students, the university will make more than Sh207 million as the laptop is going for Sh41,498.
- Fresh students are each required to pay for a laptop.
- The new students are required to pay their first instalment of Sh22,000 this semester and clear the balance next semester.

Fresh students are each required to pay for a laptop.

Last year, there was a push and pull between the administration and parents over the Taifa laptop with many parents claiming that they were not getting value for their money.

Of the 4,994 students, the university will make more than Sh207 million as the laptop is going for Sh41,498.

“It’s a requirement that all new students should have a laptop,” said an admission letter from the university seen by *Nation*.

INTEGRATED ICT

However, Jkuat explained that it has integrated ICT in all its courses and some of the courses will be taught and examined on-line therefore the need for the gadget.

“You will therefore need a laptop to facilitate on-line teaching and examination. The university has put in place provisions for students to acquire high end Taifa laptops at an affordable price of Sh41,498 payable in two instalments without charging interest,” added the letter.

The new students are required to pay their first instalment of Sh22,000 this semester and clear the balance next semester.

Parents who spoke to *Nation* said they can get laptops in good working condition at Sh20,000 and wondered why the institution's price was double.

DEFENDED PROJECT

However, the university has defended the project saying it's ideal for the students.

Meanwhile, most public universities re-open today, after a one-month break for elections, in a week that will see most admit first-year students.

As registration of new students will be going on, lecturers will be holding deliberations on whether to go on strike over failure by the government to pay them scaled up salaries as agreed upon in the 2013-2017 Collective bargaining agreement.

Jkuat, the University of Nairobi and Technical University of Kenya are among institutions that will be receiving freshmen.

A total of 88,626 students were placed in both public and private universities for this academic year.

News Story for Group 3

Kenya seeks to boost business with Pakistan

WEDNESDAY SEPTEMBER 6 2017



By JAMES KARIUKI

More by this Author

Kenya has proposed a number of measures to boost trade between locals and Pakistani private sector after their bilateral deals hit the Sh80 billion mark this year.

Kenya's High Commissioner to Pakistan, Prof Julius Bitok, said the proposals were aimed at introducing trade agreements for specific products that are largely traded by the two countries.



Kenya's High Commissioner to Pakistan, Prof Julius Kibet Bitok (centre), with Pakistan chamber of commerce officials in Islamabad. PHOTO | COURTESY

In Summary

- Kenya's High Commissioner to Pakistan, Prof Julius Bitok, said the proposals were aimed at introducing trade agreements for specific products that are largely traded by the two countries.
- Mr Bitok said private sector driven activities had helped Kenya increase its offering of export products where Kenyan traders participated in trade exhibitions held in Islamabad, Lahore, Peshawar and Karachi cities in the past year.
- Mr Bitok said the High Commission staff in Islamabad and Pakistani's staff at its embassy in Nairobi were involved in helping businessmen solve disputes arising from trading activities.

“Kenya is considering a free trade agreement for specific products with Pakistan to boost our tea volumes. This matter is expected to be discussed during the scheduled Joint Ministerial Commission (JMC) in October 2017 alongside other MoUs,” he said.

He said the deal was aimed at attracting Pakistani businesses to put up manufacturing plants in Kenya to process raw materials among them tea, coffee, skins and hides.

“Pakistani businesses have heavily invested in the auto and pharmaceutical industries in Kenya as well as in the textile industry. With Nairobi becoming a hub and gateway to East and Central Africa region, more Pakistanis have shown heightened interest in investing in Kenya,” he said.

Mr Bitok said private sector driven activities had helped Kenya increase its offering of export products where Kenyan traders participated in trade exhibitions held in Islamabad, Lahore, Peshawar and Karachi cities in the past year.

Mr Bitok said the High Commission staff in Islamabad and Pakistani's staff at its embassy in Nairobi were involved in helping businessmen solve disputes arising from trading activities. This

saw Kenyan businesses verify identity of Pakistani companies seeking trade ties before any exports were made.

“We directly engaged tea businessmen in Karachi, Lahore, Peshawar on a regular basis. We have also worked very closely with Pakistan Tea association to promote tea imports from Kenya. Overall, we have managed to push trade earnings from Sh40 billion in 2013 to Sh80 billion in 2017,” it said.

Data from the Kenya Tea Directorate indicate that Pakistan was the leading export destination for the Kenyan beverage in June 2017 where 19.48 million kilogrammes was sold accounting for 42 per cent of the total export volumes compared to 23 million kilogrammes sold in June last year.

“We need to be more aggressive and market our processed products in Pakistan during trade fairs and workshops we organise in various Pakistani cities. We need to see more linkages among businesses from the two countries made through their respective chambers of commerce and industry,” he said.

Mr Bitok said Kenya had also seen an increase in exported hides and skins, fruits, vegetables and flowers while Pakistan largely exported edible oils, rice, farm machinery, human drugs, medical equipment, sports goods, textiles, furniture and wheat.

The envoy said Nairobi had also confirmed participation in the upcoming exhibition titled Expo in Karachi later in the year with exchange fair also planned in Nairobi.

According to the Kenya National Bureau of Statistics Pakistan was Kenya’s biggest trading partner with exports to Pakistan jumping by 90.8 per cent to Sh24.8 billion in the year to May from Sh13 billion in a similar period last year, marking the fastest growth.