

Development on Right to Information in India From Commonwealth Human Rights Initiative

There are many legislations in India which provide for access to information such as the Factories Act, Environment Legislations, Corporate Laws, etc. The legal impediments comes in the nature of the Official Secrets Act 1861. Over the last decade in India there has been a growing demand for repeal of the Official Secrets Act and for a legislation on the Right to Information that would cast a duty on the state to provide information and make secrecy an exception. The election manifestos of all major political parties in the Country have over the this period promised transparency and administrative reform.

In 1996 and 1997 the Press Council of India and Consumer Education and Research Center (CERC) drafted Bills on Right to Information after consultation with various groups. The CERC Bill was introduced into Parliament as a private members Bill, but was never taken up for discussion. In 1997 the Government of India set up a working group to look into the issue and to draft a law on Right to Information. This 10 member working group was all male and consisted of 8 bureaucrats - as one can imagine the Bill this working group produced left a lot to be desired when compared to the earlier civil society bills. The report of the Working Group was ready in 1997, but the Bill suggested by them was never introduced in Parliament.

Finally, in July 2000, the Freedom of Information Bill, 2000 was introduced in Parliament. During this entire time there was no attempt on the part of the government to publicise the Bill or generate any debate on the issue. The Bill was introduced in Parliament and then referred to a Parliamentary Standing Committee for review, the Committee based in the capital invited views and suggestions from a select group of people and published its report in July 2001. Despite the various suggestions and views presented before the Committee, the report of the Committee did not do much except suggest some cosmetic changes to the Bill. Civil Society in India have been agitating for amendments in the Bill. If passed in its current form the law will be a non-starter. There are no provision for penal consequences on public officials for wrongful denial of information, the law does not provide for an independent appeals body for resolving disputes to make matters worse the law bars the jurisdiction of courts in dealing with issues that arise under the Bill.

The process of law making and subsequent review of the law has been non-participatory, this is true not just of the central legislation, but also the various state legislations that have been enacted. India having a federal form of government, the various states or provinces have the power to enact laws on certain matters as enumerated in the constitution. There are six states in the Indian union with legislation on Right to Information, in addition four other states have operationalised this right by issuing executive orders to various government departments to provide access to official information.

Grassroots Movement for Right to Information in India

The Mazdoor Kisan Shakti Sanghathan is a grass roots level organisation working in the district of Rajsamand in the State of Rajasthan, India since 1987 a region, which is environmentally degraded and chronically drought prone. The sources of livelihood in the area were limited and migration was high.. The group realised that government intervention

in the area was mainly in the form of famine relief works which was infested with extreme corruption. Initially the work of the organisation revolved around ensuring that people of the area were given their livelihood rights, eg: minimum wages, etc. In the course of its struggle for livelihood rights the organisation realised that since a majority of the rural poor depend on the state for development access to information would empower them to demand their rights.

MKSS initiated a campaign for right to information on development expenditure. The strategy developed by MKSS was on which was focused on voicing the local people's views , they held a series of public hearings (Jan Sunwayi) in various villages in the District. This provided a platform for the people to conduct a social audit of the development expenditure in their local area. Prior to a public hearing MKSS obtained details of sanctions and expenditure on development in that local area, they demanded bills, vouchers, muster rolls for development works from the local administration. These details were read out at the public hearings and explained to the people. In one such public hearing names of people employed at a public development site were read out from the official document, many people present at the hearing came forward to say that they had never gone to work at the development site and that their signatures were forged on to the official records and that some of the persons mentioned on the list were long dead . The public got to hear of various instances of duplicity and fraud practiced by public officials.

In some cases MKSS was refused information to documents such as bills and vouchers by the local administration because of fear of exposure, In Jawaja a village in Ajmer District , a public hearing was held even without access to official documents as the village officials refused to provide information. At this public hearing a few people testified that the local village officials has extracted some money as commission from a housing grant which was provided to them by the government. This revelation caused panic among the village officials, they returned the money to the families within 48 hours of the public hearing.

The public hearings provided people with a platform where they could speak freely without fear against oppression and expose corruption of public officials. It made them aware of their rights and more importantly tilted the balance of power in favour of the people vis - a vis the government. The response of the public officials to these hearings has been that of resistance, there have been numerous instances where information has been refused. The local movement for greater transparency in development administration had a cascading effect, which resulted in a state wide campaign for right to information. The movement has grown as MKSS continued their work at the grassroots and also campaigned with the Rajasthan government for a legislation on right to information for the state. The State of Rajasthan today has a legislation on right to information - The Right to Information Act, 2000.

Conclusion

In India the pressure to enact legislation is building from various quarters, however the laws fall short of international standards and are enacted without any public participation and debate, thereby in a sense defeating the entire purpose of the Right to Information legislation.