

REPORT ON THE WORKSHOP ON RIGHT TO INFORMATION HELD ON 11TH AND 12TH OF APRIL 1998

CHRI and National Law School of India University held a workshop on the Right to Information in Bangalore on the 11th and 12th of April, 1998. The venue of the conference was the National Law School campus at Nagarbhavi, Bangalore.

The Background

The Right to Information is an issue which has gained considerable importance in the recent years. More and more people are beginning to feel the need for more access to information which has till now been in the exclusive possession of the government even though it relates to the well being of the individual or the public at large. Moreover, entrenchment and popularisation of democratic values over the years, especially in the post-emergency period has led to the realisation that the government needs to be made more transparent and accountable in order to make democracy meaningful. It has also been felt, more and more, that to break away from the feudal system in which even now the government is viewed as the lord and master of the common man, peoples' participation in good governance is most important. However, given the low levels of literacy and awareness amongst the people, the call for the right has been limited to a few people. Although many deliberations and discussions have taken place as a result of which government has made some moves to draft a legislation to give effect to this right, a majority of the people do not know even of the existence of this or other rights.

Various groups have been working on this issue for the last decade or so. While some groups see this right as an integral part of the democratic system, there are others who view this as an extension of consumer rights. In Rajasthan, the demand for the right started from the grassroots as a reaction against corruption and siphoning of funds which were given to panchayats for development projects¹. In this respect the right to information in the Indian context is different from the right to information in other countries, especially in the west, as here it is an effort to access things which are needed for sheer survival.

At present, there are several drafts for a law on the right to information proposed by various social organisations. The government also constituted a Working Group² to look into the nuances of the issue. The Working Group gave its report which primarily suggested another draft bill on the Right to Information. This draft has since been discussed in various fora and has come up for some criticism.

It was in this background that CHRI³ took up a project on Right to Information in July 1997. We felt that although the issue had reached the stage of a central legislation being in the offing, such an important issue should have been widely discussed at the grassroot level. The information needs of people must be gauged before a legislation puts the right into effect. The presently prevailing system needs to be thoroughly understood

¹ Struggle of the MKSS

² Working Group on

³ Commonwealth Human Rights Initiative

and specific bottlenecks in getting information need to be identified. Moreover, the information needs must be in order of preference, so that the right can first be made effective in those areas which concern the public most. We found that the level of awareness of the right is so low that even orders and legislation on the subject would be of no use unless supported by effective communication of the right to the persons concerned. It was thus that we decided to give our project the colour of a grassroots initiative for creating awareness of this right and for raising a demand for an early and effective legislation which would give people an access to information which affects their every day life, rather than legislative and executive measures of a populist nature as had been done in Tamil Nadu and Madhya Pradesh.

CHRI started its first initiative with a workshop with grassroots groups from Madhya Pradesh. Since then, the groups have been networking and have come together to form a people's campaign for the Right to Information, which is working for creating awareness of the right through public hearings and workshops.

The second regional workshop was held with grassroots groups from the four southern States_ Karnataka, Tamil Nadu, Andhra Pradesh and Kerala. The workshop was well attended by about 40 persons, most of whom were representatives of voluntary organisations.⁴ Some of the lecturers and students of the National law School also attended the workshop and made presentations. A list of the participants is attached herewith. Mr. Kannabiran, senior advocate and Chairperson of the People's Union for Civil Liberties who is a member of the National Campaign Committee for Right to Information was a resource Person at the workshop and gave several valuable inputs.

The agenda of the workshop was essentially to initiate debate on the right to information and to discuss measures for making the right meaningful where it was available, and advocating for a better right through a legislation at the Centre.⁵ The workshop was divided into six sessions on the first day and two sessions on the second day.⁶

The first session was an introductory session where the participants spoke about their organisations and their work. Most of the groups were working at the grassroots level, particularly in consumer education and citizens' entitlements. In the second session the right to information was introduced and discussed. Mr. Kannabiran conducted this session. The basis of the right to information was discussed and the rise of the movement for right to information was discussed. Mr. Kannabiran related the rise of the demand for the right to the struggle of the Mazdoor Kisan Shakti Sangathan of Rajasthan who had raised their voices for this right to counter the huge embezzlement of developed funds routed through the panchayats. **From time to time, the right to know has been upheld by the Courts as a part of the Right to Freedom of Speech and Expression. In the third session participants recounted their experiences with accessing information.**

⁴ See list of participants

⁵ See agenda

⁶ See schedule

Availability of Information

Most of the participants said that information was hard to come by, even in cases where it was to be given as a rule. Even where the rule is that copies of land records can be had on payment of Re.1/-, it is difficult to get the records. There is a major problem in getting all kinds of information which is said to be “classified” No-body knows which is the information which is really classified and why. The routine response is that it cannot be given. As of today, even for a simple query, a person will have to resort to a writ of Mandamus.⁷ **This means, that in effect, the common person has virtually no access to information. The giving of information is governed by a power relationship, which becomes even more marked in government. Even in everyday situations, the tendency is towards non-disclosure.** For instance, lawyers do not tell the clients what the petitions contain or what is happening in the court proceedings. Doctors do not tell their patients what they are prescribing and whether there will be any harmful effects of the medication.

There are many cases of important information concerning people’s life and safety not being given. A certain injectable contraceptive was banned by the WHO because it was found to have a harmful effect on foetuses. The Indian Council For Medical Research (ICMR) allowed the sale and use of the drug with the rider that the vial should carry the warning of “possibility of foetal deformity”. The warning was in small type and in English, making it almost ineffective.

The government of Andhra Pradesh had raised the price of dairy milk . A consumer organisation sought to find out the details of the costing. 4-5 years have gone by but no reply has been received by them.⁸

People’s Watch Tamil Nadu had started a process to find out the number of custodial deaths in the state. The RDO’s report was not given in any case except one. After the coming of the Tamil Nadu Act on Right to Information, the Consumer Action Group tried to access information under it and filed 33 applications. They got a reply only in 3 cases, and have filed appeals.⁹

Systems of retrieval

The next session centred around systems of information retrieval. As of now, even where excellent records exist, such as land records coupled with a right to access records, information is difficult to get. Even now, there are certain categories of information which have to be mandatorily given, such as information regarding hazardous substances, under the Factories Act. However, this kind of information is rarely given. Workers are denied their right to livelihood because the minimum wage list is never available to them. There should be specific systems for information retrieval.

⁷ Ranjan Rao Yerdoor of Nagarika Sewa Trust, Dakshin Kannada district

⁸ Ms. Rajam Ganeshan of Consumer Information Centre, Hyderabad

⁹ L.D. Sagayam of CAG

It is important to have a depository of information.¹⁰ Opinion was divided on this. **Some participants said that centralising information would create more of a problem for people, as they would have to go to the depository to get the simplest information which is otherwise available locally. However, some kinds of information could be kept in the depository.** In Kerala, for example, copies of the budget and other information are sent to the gram panchayats and are also available in libraries. Certain information is kept with co-operatives. This information, under the law, has to be kept for at least 10 years. Directorates of Municipal Panchayats pay for much of the information disseminated and copies are available at subsidised rates. These are in simple language and are available in English as well as in Malayalam.¹¹

All persons are not interested in all information. Therefore information can be categorised according to the users, or the organisations, or the subject. Some people have tried experiments with micro-management of information. In Ahmednagar district of Maharashtra, the Divisional Commissioner¹² used an old classification system used by a British predecessor. He divided records into 6 categories, among which were-information of historical importance, information most frequently requested, etc. The person asking for information was given a date and time for coming for the information. A reasoned order was given for refusal of information.

In the modern day, there is an information explosion so categorisation according to need is important. **The problem however, is in the dissemination of information. It was suggested that the rule should be that the person with whom information is kept is responsible for disseminating it. That brings up the issue of the rule being very clear with regard to giving information. Most information must, as a rule, be given.**

The outlets for information can range from the school / panchayat notice boards, as has been done in Karnataka and Kerala to computer centres in Andhra Pradesh, where computers are being installed in every taluka office.

The content of information should also be meaningful. It would be no use if the kind of information being given to people is not relevant to them or does not meet their requirements. For instance, would it be possible for an ordinary person to know from the government as to how many people died in the riots? Therefore there has to be some protection so that the government is not the sole arbiter in deciding what information is supplied.¹³

In Tamil Nadu all Taluks have been asked to set up boards. Leaflets and pamphlets have been prepared but there is no co-ordination between government departments to give information. In the resulting confusion information is generally withheld. Information is often withheld because it is not mandatory to give it.

¹⁰ Prof. Mitra of the National Law School

¹¹ PMSR

¹² Arun Kumar Lakhani

¹³ Mr.Kannabiran

The problem, however, seems to be the lack of a common stream in information access. Experiments like the one in Ahmednagar are isolated instances. In some places governments have devised ways of effective information dissemination, and in other places, NGOs are trying to disseminate information. However, NGOs cannot be a substitute for giving information as these are all temporary changes which do not change the culture of governance from one of secrecy and apathy to one of transparency and responsiveness. **That is the reason a law is needed, so that getting information is not dependent on the goodwill of the person under whose control the information is. The legislation should state clearly that the citizen has a right to information, and must place accountability on the officials.**

The depository of information again, should be a user-friendly place, such as post offices. The general rule should be that each official should be under a duty to part with information rather than a 'duty' to suppress it.