



# National Advocacy Campaign on the Right to Information

Slides for Half-Day Workshop

Session One

## Introductions, Course Outline, Expectations

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### Centre for Policy Alternatives

The Centre for Policy Alternatives (CPA) was formed in the firm belief that there is an urgent need to strengthen institution- and capacity-building for good governance and conflict transformation in Sri Lanka and that non-partisan civil society groups have an important and constructive contribution to make to this process.

The primary role envisaged for the Centre in the field of public policy is a pro-active and interventionary one, aimed at the dissemination and advocacy of policy alternatives for non-violent conflict resolution and democratic governance. Accordingly, the work of the Centre involves a major research component through which the policy alternatives advocated are identified and developed.

### British Council

The British Council is a landmark on the Sri Lankan scene where it reflects deep and long-standing ties between the two countries.

We have centres in Colombo and Kandy both which offer access to the full range of the British Council's education, culture and development services.

We work closely with our partners in Sri Lanka and our colleagues within the region to offer a unique network of resources in all these domains.

The areas we concentrate on are:

- promoting the English language as a tool for international communication, and a key to educational opportunities
- providing links to the global information society and UK networking opportunities for Sri Lankan professionals
- supporting the exchange of ideas and experience between Britain's education system and Sri Lanka
- demonstrating the energy and creativity of British culture and providing opportunities for exchange and cooperation between British and Sri Lankan artists
- contributing to development in fundamental areas such as governance and human rights

## Session Two

### Introduction to Right to Information

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#### **WHAT IS FREEDOM OF INFORMATION?**

- Access to information
- Obligation of public bodies to publish information
- Obligation to produce information

#### **WHY IS THE FREEDOM OF INFORMATION IMPORTANT?**

- Importance of good implementation of any Right to Information legislation
- Narrow concept of accessing information concerning oneself
- Improving government accountability and transparency
- Exposing wrong doing and corruption
- Facilitating research and advocacy which in turn may contribute to improving government
- Enable public participation in the democratic process and decision making

## **WHY IS THE FREEDOM OF INFORMATION IMPORTANT FOR JOURNALISTS?**

- A free press depends on the free flow of information from the media to the people and from the people to the media.
- The media needs access to information for public interest.
- Engendering accountability not only in government, but also in civil society and media institutions themselves.
- Helps expose corruption and malpractices.

## Session Two

### Experiences related to Right to Information

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**When discussing, address the following points:**

1. Was the Right to Information denied to you?
2. How did you try to access the information?
3. How would have used the information?
4. What was the effect of not having the information?
5. What did you do when you did not get the information?

## Session Two

### Legal Framework of Right to Information

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#### **WHY IS IT NECESSARY TO HAVE A LEGAL FRAMEWORK FOR THE RIGHT TO INFORMATION?**

- Many countries already have constitutional provisions guaranteeing this right.
- However, constitutional provisions on their own are not enough to guarantee the right of access to information. A legal framework is needed to specify a process and clarify exceptions etc. An increasing number of countries have therefore adopted specific laws generally referred to as 'freedom of information' or 'access to information' laws.
- Having adopted specific laws, many countries go on to adopt secondary legislation in order to enact the primary legislation. Internal codes of conduct and guidelines to lend further guidance to public officials can also be adopted.

## Session Three

### **Principles of Right to Information**

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#### **Principle 1 : Maximum Disclosure**

This involves the presumption that all information held by public bodies are subject to disclosure ( with a few exceptions as stated by law).

#### **Principle 2: Obligation to Publish**

Public bodies must actively publish and disseminate key categories of information of significant public interest. These include operational information costs, information on complaints, procedures for public input and the content of decisions affecting the public.

#### **Principle 3: Promotion of Open Government**

It needs to make provision for informing the public about their access rights and promoting a culture of openness within the government. As a minimum, it should make provision for the dissemination of information regarding the right to access information, the scope of information available, and the manner in which the right can be exercised.

#### **Principle 4: Limited Scope of Exceptions**

Requests for information should be met unless the information falls within the a narrow category of exceptions, in line with the three- part test.

- The Information must relate to a *legitimate aim* listed in the law;
- Disclosure must threaten *substantial harm* to that aim; and
- The harm must be greater than the public interest in disclosure.

**Continued on next slide....**

### **Principle 5: Process to Facilitate Access**

All requests for information should be processed quickly and fairly by individuals within the public bodies responsible for handling requests and complying with the law. In the case of denial, a procedure for appeal to an independent administrative body, and from there to the courts, should be established.

### **Principle 6: Costs**

Cost of access to information shouldn't be high as this will deter requests. Public interest requests should be subject to lower or no fees, while higher fees may be charged for commercial requests.

### **Principle 7: Open Meetings**

Legislation should establish the presumption that all meetings of governing bodies are open to the public so that the public is aware of what the authorities are doing, and is able to participate in decision making processes. Meetings may be closed, but only where this can be justified and adequate reasons are provided. To facilitate attendance, adequate notice of meetings should be provided.

### **Principle 8: Disclosure Takes Precedence**

Other legislation should be interpreted in a manner that renders it consistent with the disclosure requirements of FoI legislation. In the case of conflict between the secrecy law and the FoI law, the FoI law should prevail.

### **Principle 9: Protection For Whistleblowers**

FoI legislation must include provisions for the protection of individuals from legal, administrative or employment – related sanctions for releasing information on wrongdoing.



## Session Three

### **International Standards**

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1. Universal Declaration of Human Rights, 1948
2. The International Covenant of Civil and Political Rights, 1966
3. The International Covenant on Economic Social and Cultural Rights, 1966
4. The European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950
5. The American Convention on Human Rights, 1978
6. African Charter on Human and People's Rights, 1981
7. Commonwealth Principles, 1971
8. The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, 1995

## Session Three

### Select International Standards

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#### Universal Declaration of Human Rights, 1948

**Article 19:** Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

#### The International Covenant of Civil and Political Rights, 1966

**Article 9 (2):** Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

**Article 19 (2):** Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

## Session Three

### Constitutional Provisions on Access to Information in Sri Lanka

#### **Article 10**

Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.

#### **Article 14(1)(a)**

Every citizen is entitled to the freedom of speech and expression including publication.

See handout for information on judgements where the Supreme Court in Sri Lanka has interpreted the Freedom of Information and the Freedom of Expression.

## Session Three

### Constitutional Restrictions on Access to Information in Sri Lanka

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#### Article 15(2)

The exercise and operation of the fundamental right to freedom of expression shall be subject to such restrictions as may be

- Prescribed by law and in the interests of
  - Racial and religious harmony
  - Parliamentary privilege
  - Contempt of court
  - Defamation
  - Incitement to an offence.

#### Article 15(7)

The exercise and operation of Article 14 is subject to such restrictions as may be

- Prescribed by law in the interests of
  - National security
  - Public order
  - Protection of public health
  - Protection of morality
  - Securing due recognition and respect for the rights and freedoms of others
  - Meeting just requirements of the general welfare of a democratic society

'law' includes regulations made under the PSO.

#### Article 15(8)

The exercise and operation of fundamental rights declared and recognised by Articles 12(1), 13 and 14 shall, in their application to the members of the Armed Forces, Police force and other forces...be subject to such restrictions as may be prescribed by law.

## Session Three

### Other Legal Restrictions on Access to Information in Sri Lanka

- **Official Secrets Act No. 32 of 1955**

This Act makes it an offence for any person entrusted with any official secret or secret document to communicate it to any person unless he or she is authorised to communicate it to that person or it is in the interest of the state for him or her to communicate it. Any other person not entrusted with but has possession or control of any official secret or secret document. Also commits an offence if he or she communicates it in an unauthorised fashion. Breach of this can lead to a fine and / or imprisonment for up to two years.

- **Official Publications Ordinance No. 47 of 1946**

This Ordinance provides immunity from civil and criminal proceedings in respect of the publication or reproduction of any report or other official document which is ordered by the government to be published.

## Session Three

### Other Legal Restrictions on Access to Information in Sri Lanka Continued...

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- **Public Security Ordinance No. 25 of 1947**

This law allows the president to make enact emergency regulations or to adopt other measures in the interests of public security and the preservation of public order and for the maintenance and supplies and services essential to the life of the community. The President has the power to make a proclamation of a state of emergency if he or she is of the opinion that it is expedient to do so for reasons stated above. The enactment of emergency regulations have the effect of overriding, amending or suspending the operation of the provision of any law except of the Constitution.

- **Prevention of terrorism Act No. 48 of 1979**

The purpose of this Act is to prevent acts of terrorism in Sri Lanka and any unlawful activities of persons, individuals or groups within and outside Sri Lanka. . It also makes it illegal to print or publish in any newspaper any matter relating to (i) the commission of any act which constitutes an offence under this Act or the investigation of any such offence; (ii) incitement to violence, or anything likely to cause religious, racial and communal disharmony or feelings of ill-will or hostility between different religious communities or racial or religious groups, this also includes the distribution of newspapers containing any matter falling into this category. Under this Act, the court may order that no person shall print, publish or distribute the newspaper concerned for a specified period and close the printing press in which such paper was printed for any purpose whatsoever or for such purpose as is specified for a specified period of time. Conviction of an offence under Part V can lead to imprisonment.

## Session Three

### The Right to Information and Public Authorities

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#### **WHAT DOES A PUBLIC BODY NEED TO DO IN ORDER TO MEET ITS OBLIGATIONS UNDER THE RIGHT TO INFORMATION LAW?**

- Allocate responsibility to an information officer
- Train the information officer and personnel on the Right to Information and the obligations of the law
- Setup / Improve existing record management systems / databases
- Setup a database for entering requests and recording decisions etc
- Proactive publication of information (according to the terms of the law and also a matter of good practice to publish information regularly requested)
- Publicise the existence of Right to Information by putting up posters, printing leaflets, explaining the contents of the law in everyday language.

## Session Three

### Main Points of Aruna Roy's Article on the Right to Information and its importance for journalists

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- At the time of the framing of the constitution we had the right to freedom of expression, but no right to information.
- It is only in seeing ourselves as citizens and exercising our rights as citizens that we strengthen our specific categories, whether as activists working with the poor, or as journalists.
- Traditional systems of information access in India have made journalists dependent on sources, who are people in power they must cultivate. Whether bureaucrats or politicians, much depends on the privilege and patronage of the individual source.
- What does a relationship of patronage do? Not only does it make journalists depend on very feudal relationships, it also makes them use the information they are fed regardless of the veracity of that information. Much of government information is so badly collected that the data is unreliable and useless. Much of it is falsified data.
- What are the facts behind terrorism? Do we really know them?
- If we want peace, then we also need ethics in public life.
- Accountability is required not only of the government or of NGOs and movements but also of the press.
- To stop corruption and achieve greater equity and social justice in our society, we have to have transparent governments, since they will be accountable. Without an accountable government there is no future. For transparency and accountability we need to exercise the right to information law, and governments have to organize themselves to deliver information speedily.



## Session Three

### Principles of the right to information in Sri Lanka

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1. Maximum Disclosure
2. Obligation to Publish
3. Promotion of Open Government
4. Limited scope of exceptions
5. Process to facilitate access
6. Costs
7. Open Meetings
8. Disclosure takes precedence
9. Protection for whistleblowers (people who disclose information without official sanction in public interest)

End of Session Three

Tea Break / Information discussions

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**15 minutes  
interval**

## Session Four

### Re-visit case studies / experiences of participants

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1. Maximum Disclosure
2. Obligation to Publish
3. Promotion of Open Government
4. Limited scope of exceptions
5. Process to facilitate access
6. Costs
7. Open Meetings
8. Disclosure takes precedence
9. Protection for whistleblowers

## Session Four

### ***Public's Right to Know* – Article 19 publication on the Right to Information**

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#### **ARTICLE 19**

Named after Article 19 of the Universal Declaration of Human Rights, we work worldwide to combat censorship by promoting freedom of expression and access to official information.

With partners in over 30 countries, we work to strengthen local capacity to monitor and protest institutional and informal censorship.

We monitor, research, publish, lobby, campaign and litigate on behalf of freedom of expression wherever it is threatened. We develop standards to advance media freedom, assist individuals to speak out and campaign for the free flow of information.

ARTICLE 19 is registered as a charity in the UK (No.327421).

[www.article19.org](http://www.article19.org)

## Session Four

### Most important principles for journalism?

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Questions that should be answered are:

1. Which of these principles are most important for journalism?
2. List them in order of priority and explain why
3. What other practical supports do journalists need?

### PRINCIPLES TO SELECT FROM

1. Maximum Disclosure
2. Obligation to Publish
3. Promotion of Open Government
4. Limited scope of exceptions
5. Process to facilitate access
6. Costs
7. Open Meetings
8. Disclosure takes precedence
9. Protection for whistleblowers

## Session Four

**How can journalists apply the Right to Information? Case studies where the right to information could have been used.**

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### Case studies

- **The Eppawela Phosphate Mining Case**
- **The case of the Internally displaced persons (IDPs)**
- **Disappearances**
- **Reporting**
- **Taxation by the LTTE**

**Pick out one story from these case studies and discuss the following:**

1. How can journalists as the watchdogs of democracy, promote understanding of these principles among the community?
2. Develop an idea for a story that will highlight or test the principles of the Right to Information
3. How will you approach this story?
4. Where will you get the information?
5. What arguments will you use to support your claims for access to information?

**5 minutes**

**You can take this time to fill out  
the feedback forms**

## Session Five

### Re-cap of Right to Information

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How can journalists use FoI and also what role they can play in a national campaign?

Discuss where journalist's rights are based (in communities right to information) and how we need their trust and support in any campaign.

How could this be achieved?



## Session Five

### Feedback

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Please hand over your completed feedback forms

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