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Information as power: making best use of India's Right to Information law

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Access to 'public' information

Access to information is a fundamental prerequisite for exercising any right. Many democratic nation states today agree on the need for 'good governance'. The right to information is thought of as a touchstone of a vibrant democracy, and recent years have seen new legislation around the world to guarantee greater freedom of information from public bodies. For its part, India passed the Right to Information (RTI) law in 2002 and recently strengthened it further. The Right to Information legislation is one of the ways available to secure information. There are several other avenues that exist within other laws and policies as well. These may include environment laws, decentralisation policies, affirmative action policies, and constitutional provisions, etc. However, the presence of an enabling legal framework does help in the process.

Better information on the activities of public bodies can be used to improve efficacy of public service delivery systems, with direct benefits to the community at large. In the longer term, this can catalyse the development of efficient monitoring and management systems within government agencies. In India, a number of individuals and groups in civil society have been using the Right to Information law along with other strategies to make progress in a number

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of important areas[1] :
- **Food security** – to ensure efficient working of government food programmes and proper implementation of food security schemes.
- **Agricultural security** – to improve agricultural security in a scenario where seed and fertilizer production has been completely de-linked from the farmer community. Information on the quality of seeds, insecticides and pesticides, genetically modified crops etc. can be obtained from relevant authorities.
- **Fair wages** – to make certain that full wages are paid to

[1] The list is only illustrative and not exhaustive.

A public meeting where residents and Parivartan officials are demanding accountability from the food inspectors.

Photo: courtesy www.parivartan.org

Figure 1: Flow chart for RTIL

labourers who work on government projects such as forestry plantations, watershed development works etc. In fact, the campaign for RTI in India started from the issue of payment of full and fair wages to such workers.
• **Public works** – to allow people affected by large infra-structural and industrial projects such as dams, mines or roads, to ask for relevant and timely information on the status of work. It may also be used for getting justice to victims of industrial accidents and disasters, and to raise accountability in public works.

## Process and tools for accessing information
From the Indian experience, we have collated a generalised process and a set of strategies and tactics that have been – and can be – used by NGOs, activists, civil society groups, or poor communities on their own to access and use information to improve public service delivery and hence justice for poor people. We expect that many of these can be used in other countries where deficit of information is a major reason for poor governance and marginalisation of certain communities.

The access to information process typically involves a three-stage approach of building awareness and interest among target communities, identifying and getting the necessary information, and using the information to bring about desired changes.

Building awareness
In countries like India, where the Right to Information law is very recent and inadequately publicised, awareness generation emerges as a necessary first step. A myriad of strategies have been used by civil society organisations in India to generate legal awareness among people. A variety of aids can be used to generate awareness such as information centres,
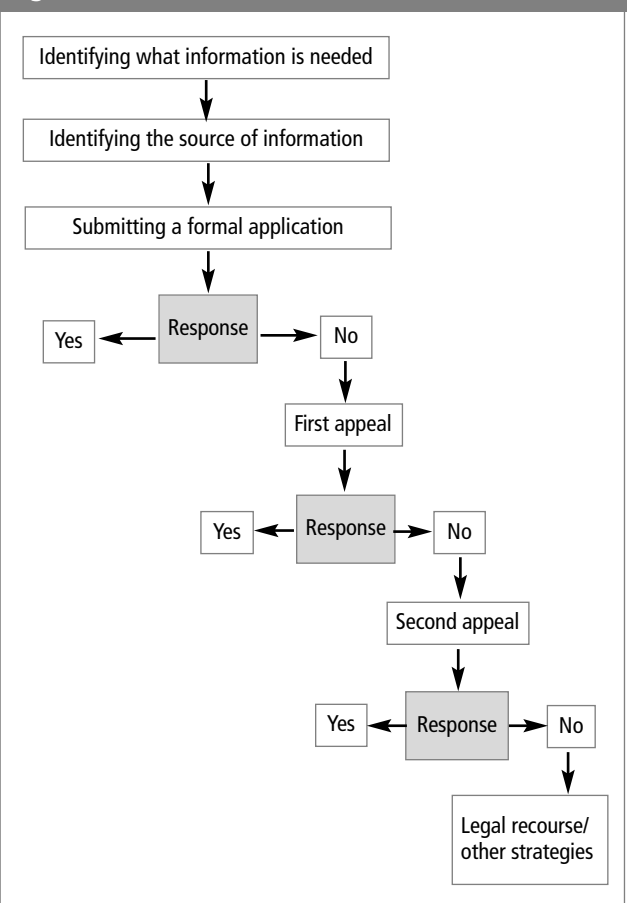
pamphlets, posters, street corner meetings, charts, street plays, songs and puppet shows. While pamphlets and posters are effective in areas with literate populations, in areas where a large number of people are illiterate, *dhols* (drums), songs, street plays and puppet shows are more effective.

Identifying and obtaining necessary information
This multi-step process is illustrated in Figure 1. Engaging in the information access process involves identifying **what** exact information is needed, as well the potential **sources** of that information. It is important to know which information will exactly bring about the desired results and to follow the procedures for application and appeal diligently, wherever these are prescribed.

Where there is no prescribed procedure, written applications may be submitted to the identified authority. If the supply of information is delayed, civil society can use tactics

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Citizens demanding information from the food inspectors during a social audit

Photo Courtesy: SNS Foundation, New Delhi

such as exerting pressure on higher officials, highlighting the issue in local media, or getting a public representative to ask a question in the legislature.

Another tactic that has been successfully used is that of mass applications. In order to source information, people need to first identify the problem and the concerned department. The next step is to identify the exact nature of information required so that the application can be correctly drafted. Typically, the questions to be asked relate to the norms, procedures and laws governing the discharge of responsibilities by the public authority in question. The next question to be asked should be with regard to each specific problem faced by the subject, in such a manner that it strengthens their position with regard to the state.

For example, if the concern is regarding bad condition of roads in the locality, they should ask questions relating to:
• when the road was repaired last;
• to whom the contract was given; and
• the status of the current contract.

Then it would allow the citizens to challenge the concerned public authority and ask for quick repair of roads.

The next step in this would be to identify within the system **where** and **in what form** are the categories of information stored. This is especially important because most often citizens have little knowledge about the nature of documents generated in the course of functioning of a public authority. It is here that NGOs or committed citizens have a big role to play.

If public bodies are reluctant to supply information, persistent strategies are needed. Non-violent *Gheraos* (blockades) of government officials and elected representatives, *Dharnas* (continuous sit-ins by protesters until their demands are fulfilled) and *Morchas* (protest rallies) are relevant tactics. Innovative and forceful slogans like *'jawab do, hisab do'* ('give us answers, give us an account'), or '*poora kaam, poora daam*' ('full pay for full work') when used during the rallies and blockades are also useful. These strategies are mostly non violent in nature and the role of the police is mostly restricted to maintaining law and order in such situations.

To realise the full impact of these efforts, media coverage is essential. Finally, if no response is forthcoming from the

concerned authorities, recourse to court may be required. However, since this alternative is resource and time intensive, it should be used only as a last resort.

Using information to bring about desired change

The first step is verifying the information supplied through means such as:

- Social audits: this a process whereby public officials are made accountable to the citizens and have to supply information about the action taken in case of charges against them. Citizens at large audit the public officials. Their responsibilities are fixed, performance graded and variations noted;
- Parallel attendance registers: this a mechanism whereby citizens can maintain muster rolls to compare the attendance record given by public bodies such as the municipal corporations;
- Public hearings;
- Testimonies;
- On-site inspections.

Once adequate information has been collected, the next step is analysing information to see how it can be used to bring about change. Sometimes publicity of bad practice is enough to make public bodies improve service delivery. In other cases, civil society must persevere with strategic lobbying and the use of the media to secure the changes they seek. If no action is forthcoming, even after various tools are used, then legal action through the courts is an option. In India, several organisations have successfully used Public Interest Litigation to bring about accountability and initiate action against defaulting officials.

In addition to following the channels above to demand and use information, other factors also help. Networking is good for sharing developments, experiences and lessons learnt on a regular basis. *Hum jaanenge* is an Indian e-group comprising many activists, users and NGOs working on Right to Information issues. The media can also play a major role – for example a major daily newspaper carries a regular column on the use of Right to Information law in India.

The tools in action

In this section we describe some recent experiences with various tactics and tools to access information on public bodies to improve service delivery to poor people.

Getting the rural poor their dues: The MKSS experience

The movement for Right to Information in India emerged from a grassroots struggle to secure livelihood and justice for

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the rural poor in southern Rajasthan. The movement there was led by the Mazdoor Kisan Shakti Sangathan (MKSS), a group of three social activists who had come together to work for the poor. In its Right to Information movement, the MKSS conducted a series of public hearings from December 1994 to April 1995, where they were able to collect evidence of corruption in works and delay in payments.

In Parliament in April 1995, the Chief Minister of Rajasthan declared that any citizen has the right to information. On payment, anyone could demand and receive details of expenditure on work done over the last five years in their village, and all the documents could be photocopied, as evidence should they want to use it in the future. However, no government orders were issued to give effect to this declaration. In April 1996, the MKSS declared that it would go on an indefinite *Dharna*, or sit-in, at Beawar until the orders for giving effect to the Chief Minister's assurance were issued. The *Dharna* by MKSS received phenomenal support not only from the local populace but also from political parties, journalists and social activists from across the country. Finally, the Government had to succumb to the demands and issue orders to assure rights to information.

Protecting homes of the poor: challenging eviction of villages in forest areas of Koraput, Orissa

In Koraput district in Orissa, the Right to Information law has been used to challenge the attempts of the State Forest Department to evict 11 villages from forest areas in 2004 on account of their being 'encroachers'. These attempts to evict villagers were met with widespread protests from the people who claimed that they had been living in the area for centuries, and had traditional rights to the land. Further, the residents of these villages had been issued Below Poverty Line cards[2] and Voters Identity cards[3] that established them as resi-

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[2] The Government issues Below Poverty Line (BPL) cards to urban and rural poor, which entitle them to get food grains at a highly subsidised price.
[3] According to the Election Commission of India, each voter must be provided with a Voter Identity card, which includes a photograph and other details. This identity card is very important in preventing malpractices like impersonation and rigging. These cards can be used for many other purposes as multi-purpose identity cards.

A workshop organised by CHRI to promote awareness about RTI issues in India

dents of the areas. Bank loans, sanctioned on the basis of landholdings (even though *pattas* or land deeds were unavailable) were also used as evidence.

At the time of our fieldwork, the information demanded by the people was yet to be received but on the basis of the anticipated 'evidence' that the information would provide, the activists planned to file a petition in the Court to ensure that evictions were not conducted and that people's rights were protected.

Ensuring food security for the poor: plugging leakages in the public distribution system (PDS)[4]

Poor people often depend on government ration shops (called Fair Price Shops) for purchasing food at subsidised prices. However, due to rampant corruption, food meant for the poor is often sold at higher rates in the open market by making false entries in the record books. Parivartan – a citizens' rights group in Delhi – has fought to ensure better food supply through the public distribution system to poor people. Parivartan obtained the sales registers and stock registers of some ration dealers in the Welcome area in east Delhi for the month of June 2003, using the Right to Information law. Subsequently, the food supply in the area improved significantly.

Improving governance: curbing political interference in transfers of police officials

Mr. Shailesh Gandhi has used an extended letter-writing campaign to expose the extent of political interference in the transfer of police officials in the city of Mumbai. On 12 September 2003, he filed an application asking for informa-

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[4] The PDS is a scheme initiated by the Indian Government to obtain food security for the poor. In this scheme necessary food items are provided to the poor (urban as well as rural) at subsidised prices from government designated fair price shops.

Box 1: Rule 413 of the Police Manual

Government servants are forbidden to approach officials of other departments or non-official gentlemen for support in pressing individual claims or obtaining redress of grievances, or to approach members of the Legislature with a view of having their individual grievances made the subjects of the interpellations of the Legislature. They will be liable for disciplinary action if members of the Legislature or non-official persons approach the government on their behalf unless they can prove that such approach was made without their knowledge.

tion on the number of transfers of police personnel carried out at the request of politicians. He did not immediately get a response but he got a letter stating that while there had been recommendations from politicians, these had not been considered.

He subsequently requested information on the date of each recommendation, the name of the officer recommended for transfer, the name of the politician requesting the transfer, and the actual date of transfer of the officer. When his application was rejected, he appealed against it and further cited a rule from the Police Manual (Box 1). He demanded information on action taken against officials for whom recommendations have been received. After several rejections and appeals, he was finally able to force the Police Commissioner's office to start disciplinary action against erring officials. Two circulars were also issued stating that violation of rule 413 will be strictly dealt with.

Combating corruption through social audits

In some areas, such as Sundernagari colony in Delhi, local residents have formed *Mohalla Samitis* (Local Area Committees) to monitor the quality of government works through social audits. They do not allow any work to take place until

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the contents of the contract is made public and then they closely monitor these works to ensure that all contract conditions are being fulfilled.

Ensuring accountability: the *Jan Sunwai* way

In August 2002, the civil rights group Parivartan obtained information regarding civil works carried out in Sundernagari and New Seemapuri areas in the previous two financial years, using the Right to Information law. Parivartan then audited these works through discussions with the local people. Calculation for misappropriation was done for 64 works worth Rs. 13 million. It turned out that from the Rs. 13 million, corrupt contractors and officials had embezzled Rs. 7 million.

On 14th December 2002, a *Jan Sunwai* (public hearing) was organised by Parivartan along with the National Campaign for People's Right to Information (NCPRI) and MKSS of Rajasthan to discuss publicly the works audited. The public hearing was attended by almost 1,000 people including local residents of the area, journalists and eminent personalities. Officials of the Municipal Corporation and the state government were also present. The *Jan Sunwai* made people aware of the extent of corruption and also about their rights. There has been a drastic change in the attitude of officials towards the local people after this *Jan Sunwai.*

Conclusion

While the use of the Right to Information law can lead to several positive changes, some precautions also need to be exercised while using it. Often the information sought is used to expose vested and powerful interests.

This can lead to violent reactions, making it necessary to have a strong safeguard system for the affected people. To protect against any backlash, influential public-spirited citizens have come together and formed devoted networks such as MITRA in Mumbai and initiatives by the NGO Parivartan in Delhi. Bringing the victimisation cases into the public domain, molding public opinion, maintaining close contacts with the state, and collective action by the citizens can mitigate the vulnerability of backlash and act as a deterrent. Representatives from judiciary, bureaucracy, and the media are sensitised on a regular basis on RTI and the plight of the affected people is brought before them.

Further, many of the tools such as the social audit, *Jan Sunwai* and signature campaigns, are time and resource intensive and this has to be kept in mind during planning.

In 2005, India amended and strengthened its national Right to Information legislation. Using its provisions, people can seek information from public agencies on many aspects directly affecting their lives. The available experience indicates that the Right to Information law can help greatly in improving transparency and accountability in the functioning of government agencies. The key challenge is spreading awareness about the rights of the people and mobilising community organisations for collective action. If people start using the provisions of the law, it has the potential to emerge as a potent tool for improving the governance and empowerment of poor people.

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