

# The Right to Information Act, 2005

## A Guide for Media



Capacity Building for  
Access to Information

**NiA**

A GoI-UNDP Initiative

July 2006

While all efforts have been made to make this Guide as accurate and elaborate as possible, the information given in this book is merely for reference and must not be taken as binding in any way. This Guide is intended to provide guidance to the readers, but cannot be a substitute for the Act and the Rules made thereunder.

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## TABLE OF CONTENTS

|  | Page No |
|--|---------|
| <b>Introduction to the Guide</b>                                   |         |
| <b>Chapter 1: Perspectives on Right to Information</b>             |         |
| 1.1 The Dawn of a New Era  | 1       |
| 1.2 Freedom of Information - International Perspective             | 1       |
| 1.3 The Indian Context   | 7       |
| 1.4 Movement for Right to Freedom of Information                   | 9       |
| 1.5 FoI Legislations in States                                     | 11      |
| <b>Chapter 2: The Right to Information Act, 2005 - An Overview</b> |         |
| 2.1 Citizen's Right to Information                                 | 14      |
| 2.2 Institutional Framework  | 15      |
| 2.3 Proactive Disclosure of Information                            | 20      |
| 2.4 Procedure for Request for Information                          | 22      |
| 2.5 Disposal of Request for Information                            | 24      |
| 2.6 Fees and Costs   | 25      |
| 2.7 Form of Access to Information                                  | 27      |
| 2.8 Time Limits for Disposal of Requests                           | 27      |
| 2.9 Inspection of Work/Record/Taking Sample(s)                     | 28      |
| 2.10 Grounds for Rejection of Requests                             | 28      |
| 2.11 Procedure for Rejection of Requests                           | 32      |
| 2.12 Information up to 20 Years                                    | 32      |
| 2.13 Access to Part of Record                                      | 32      |
| 2.14 Third Party Information                                       | 33      |
| 2.15 Channels of Appeal  | 34      |
| 2.16 Disposal of First Appeals                                     | 34      |
| 2.17 Inquiry into Complaints                                       | 36      |
| 2.18 Disposal of Second Appeals                                    | 37      |
| 2.19 Onus of Proof   | 37      |
| 2.20 Decisions in Second Appeals                                   | 38      |
| 2.21 Appeal Procedure  | 38      |

## TABLE OF CONTENTS

|  | Page No |
|--|---------|
| 2.22 Imposition of Penalty   | 40      |
| 2.23 Disciplinary Action   | 40      |
| 2.24 Action in Good Faith  | 41      |
| 2.25 Overriding Effect of Act  | 41      |
| 2.26 Bar of Jurisdiction of Courts   | 41      |
| 2.27 Report of Information Commission  | 41      |
| 2.28 Section 3 Citizen's Right to Information - Paradigm Scheme                                      | 43      |
| <b>Chapter 3: Right to Information, Good Governance and Role of Media</b>                            |         |
| 3.1 Right to Information and Good Governance   | 44      |
| 3.2 Media and Development  | 46      |
| 3.3 Right to Information and Role of Media   | 48      |
| 3.4 Suggested Areas for Action by the Media  | 51      |
| 3.5 Reporting Social Audit   | 51      |
| <b>Chapter 4: Selected Media Reports</b>   |         |
| 4.1 Information Exposure by Media  | 59      |
| 4.2 India: Select Media Reports  | 59      |
| 4.3 United Kingdom: Select Media Reports   | 67      |
| 4.4 United States: Select Media Reports  | 71      |
| 4.5 Other Countries: Media and Fol   | 75      |
| <b>Appendix 1: Some Important Questions</b>  | 78      |
| <b>Appendix 2: UNESCO Declaration on Mass Media</b>  | 94      |
| <b>Appendix 3: Freedom of Information Disclosures:<br/>Media Coverage Reports – International</b>    | 101     |
| <b>Appendix 4: Freedom of Information Disclosures:<br/>Media Coverage Snapshots – United Kingdom</b> | 108     |
| <b>Appendix 5: List of Select Web Resources on Right to Information</b>                              | 116     |

## Introduction to the Guide

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*“In a government of responsibility like ours where the agents of the public must be responsible for their conduct there can be but a few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings.”*

*- Supreme Court in **State of UP vs. Raj Narain** in 1975*

The enactment of the Right to Information Act, 2005 is a historic event in the annals of democracy in India. Information is power and now a citizen has the right to access information “held by or under control of” the public authorities. Concurrently, it is the duty of all public authorities to provide information sought by citizens. A sea change can be achieved towards transparency and accountability in governance by implementing the Act in letter and spirit.

The Act mandates a legal-institutional framework for setting out the practical regime of right to information for every citizen to secure access to information under the control of public authorities. It prescribes mandatory disclosure of certain information to citizens, and designation of Public Information Officers (“PIOs”) and ‘Assistant Public Information Officers (“APIOs”) in all public authorities to attend to requests from citizens for information within stipulated time limits. It provides for appeal to officers senior in rank to Public Information Officers [to be referred to as Appellate Officer (“AO”) in this Guide] against the decisions of PIOs. It also mandates the constitution of a Central Information Commission (“CIC”) and State Information Commissions (“SICs”) to inquire into complaints, hear second appeals, and guide implementation of the Act.

In realising the objectives of the RTI Act, the role of media organisations assumes considerable importance. As an important actor in the governance process and as a bridge between the community and public agencies, the media can not only play an important role in monitoring public service delivery by invoking provisions under the RTI Act but also in generating awareness and building capacity on RTI among the community.

The Centre for Good Governance (CGG), Hyderabad in partnership with Yashwantrao Chavan Academy of Development Administration (YASHADA), Pune, has been designated as the 'National Implementing Agency' (NIA), under the Department of Personnel and Training (DoPT), Ministry of Personnel, Government of India and United Nations Development Programme (UNDP) supported 'Capacity Building for Access to Information' (CBAI) Project.

This Project intends to promote capacity building activities for implementing the Right to Information Act, 2005 in 24 districts in 12 selected States (2 Districts in each State) in the country over the period 2005-08. Under the project, the NIA is carrying out various activities like training of resource persons (who in turn would conduct training programmes at State and District levels for APIOs/PIOs/AOs, other Government officials, NGOs, CSOs, media representatives etc.), launching R2Inet - a comprehensive portal/network on Right to Information, conducting workshops with various stakeholders, undertaking research and documentation activities and other advocacy and dissemination activities.

As a part of the agenda of the CBAI Project, the NIA is publishing guides and manuals for use by various stakeholders including public authorities, civil society, media and citizen groups who play a key role in making the right to information a tool for good governance and effective service delivery. This Guide, prepared by the 'CBAI-NIA team' at CGG is part of the activities planned under the project during 2006-08.

The specific objectives of the Guide are to:

- Provide perspectives on access to information and an overview on the Right to Information Act, 2005 to the media
- Elucidate the Principles underlying the RTI Act and the Legal-institutional Framework mandated therein
- Assist the media with a ready reckoner on various provisions of the Act to enable them understand the provisions of the act

- It also provides case studies that detail the way the media has been instrumental in using freedom of information legislation in other countries with success. Indian case studies are also provided with a mention of media initiatives in the country that give readers valuable learnings.

**Chapter 1** gives national and international perspectives on the concept of Right to Information. **Chapter 2** provides an overview of the Right to Information Act, 2005. **Chapter 3** elaborates on the role of Media, Good Governance and Right to Information and elaborates on how the media can use the RTI in various capacities. **Chapter 4** presents case studies, media initiatives, and media reportage in the context of right to information.

**Appendix 1** presents a set of questions and answers pertaining to the Right of Information Act, 2005. **Appendix 2** contains the UNESCO Declaration on the importance of Mass Media. The UNESCO Declaration can be useful in understanding the role played by media in development and also in analyzing its role in the context of right to information. **Appendix 3** provides cases of important 'Freedom of Information Disclosures' undertaken by the media internationally. **Appendix 4** presents a recent analysis of the range of issues that 'Freedom of Information Disclosures' by the media in the United Kingdom has covered. Examples are provided to indicate how deep the media has penetrated into the implementation of the Freedom of Information Act. The **Appendix 5** lists out a set of selected web resources providing a good resource bank of information on right to information.

The NIA Team hopes that the contents of this guide would be of assistance to the media in promoting awareness about the Act, in monitoring its implementation and in using the Act provisions effectively to foster transparency and accountability in governance.





## Chapter 1: Perspectives on Right to Information

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

*Universal Declaration of Human Rights: Article 19*

### 1.1 The Dawn of a New Era

The Right to information Act, 2005 (“the Act”), which came fully into effect on 12 October, 2005 (on the 120<sup>th</sup> day of its enactment), is one of the most significant legislations enacted by the Parliament of India. The Act enables the establishment of an unprecedented regime of right to information for the citizens of the country. It overrides the ‘Official Secrets Act’ and similar laws/rules. It strikes at the heart of the paradigm long practised by Government officials and public functionaries that ‘*confidentiality is the rule and disclosure is an exception*’. The Act seeks to establish that “*transparency is the norm and secrecy is an exception*” in the working of every public authority. It aims to ensure maximum openness and transparency in the machinery and functioning of Government at all levels: Central, State and Local.

The right to information is expected to lead to an informed citizenry and transparency of information which are vital to the functioning of a democracy. It will contain corruption and enable holding Governments and their instrumentalities accountable to the governed.

The ‘People’s Right to Know’ has a long history of prolonged debates, deliberations, discussions, struggles and movements at both national and international levels.

### 1.2 Freedom of Information - International Perspective

The importance accorded to Freedom of Information internationally can be gauged from the fact that the United Nations General Assembly, in its very first session in 1946, adopted Resolution 59 (I), which states:

“Freedom of information is a fundamental human right and . . . the touchstone of all the freedoms to which the UN is consecrated”.

Article 19 of the 'Universal Declaration of Human Rights', a United Nations General Assembly Resolution 217(III) A of 1948, has laid out equal rights for all people and three fundamental principles governing human rights: these rights are "universal", meaning that rights apply to everyone whoever or wherever that person is; "inalienable", in that they precede state authority and are based on the "humanity" of the people; and "indivisible" in that all rights are of equal importance. The Declaration recognises Freedom of Expression (FoE) - including Freedom of Information (FoI) and Free Press - a fundamental human right. Freedom of Expression includes the right to seek, receive and impart information and right to access information held by public authorities.

Article 19 (2) of the 'International Covenant on Civil and Political Rights' (ICCPR), a United Nations General Assembly Resolution 2200A(XXI) of 1966 states:

"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."

Article I of the UNESCO Declaration on 'Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War' [1978] states:

"The strengthening of peace and international understanding, the promotion of human rights and the countering of racism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information."

Article II of the Declaration states:

"...the exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding..."

Article 13 of the 'UN Convention against Corruption', adopted by the United Nations General Assembly on 31 October 2003 identifies: '(i) effective access to information for public; (ii) undertaking public information activities contributing to non-tolerance of corruption (including conducting public education programmes) and (iii) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption...' as important measures to be taken by Governments for ensuring the participation of society in governance.

Article 10 of the 'UN Convention against Corruption' states: "... to combat corruption, each (member State) shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes and take measures for:

- (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;
- (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
- (c) Publishing information, (including) periodic reports on the risks of corruption in its public administration."

Freedom of Expression and Information has been adopted as a 'Fundamental Human Right' by Regional Human Right Treaties from time to time e.g. the European Convention of Human Rights, 1950, the African Charter on Human and Peoples' Rights 1981, the Inter-American Declaration of Principles of Freedom of Expression 2000 and Declaration of the Principle of Freedom of Expression in Africa 2002. These conventions have reiterated Article 19 of the Universal Declaration of Human Rights. For example, Principle IV of the Declaration of Principles of Freedom of Expression in Africa states:

“Public bodies hold information not for themselves, but as custodians of the public good and every one has a right to access this information, subject only to clearly defined rules established by law”.

Principle III of the Recommendations on Access to Official Documents adopted by the Committee of Ministers of the Council of Europe in October 2002 provides:

“Member states should guarantee the right of everyone to have access, on request, to official documents held by public authorities. This principle should apply without discrimination on any ground, including that of national origin”.

The World Conference on Human Rights, held in Vienna in 1993 has declared that the Right to Development adopted by United Nations General Assembly in 1986 is a universal and inalienable right and an integral part of fundamental human rights. The declaration recognises that democracy, development and respect for human rights and fundamental freedoms are interdependent, and mutually reinforcing. Right to Freedom of Expression is regarded as closely linked to the Right to Development. The right to seek, receive and impart information is not merely a corollary of freedom of opinion and expression; it is a right in and of itself. As such, it is one of the rights upon which free and democratic societies depend. It is also a right that gives meaning to the Right to Participate which has been acknowledged as fundamental to the realization of the Right to Development.

The fundamental values associated with the concept of freedom of expression and right to information in a democratic society, are widely acclaimed internationally as follows:

- (1) Freedom of expression is essential to the development of an individual's personality. The “Right to Express” and to communicate is central to self-development and realization of one's potentiality as a human being. Any restriction on expression of opinion or access to information can adversely affect individual dignity, integrity and growth.
- (2) If development is to be realized, people need the freedom to participate in public life with full information as “informed” citizens, exercise their “right to say”, put forth their views, and demand, without fear of discrimination, that their Governments uphold their obligations and deliver.

- (3) Knowledge is power and freedom of information is vital to the advancement of knowledge society. Enlightened judgment is possible only if one is provided with opportunity to consider all facts and ideas, from whatever source, and to test one's conclusion against opposing views.
- (4) Sustained human development requires that the people, especially the poor have the "right to know" and are provided with access to relevant information, including that relating to the conservation of the environment so that they can take their own "informed" decisions and realise their right to development.
- (5) Free flow of information promotes accountability and transparency, prevents corruption, and strengthens the capacity of community groups and civil society organizations to participate in decision-making. The right to freedom of information is crucial not only in determining policy but also in checking the Government in its implementation of policy.
- (6) The lack of access to information on Government policies, programmes, schemes, benefits and deliveries makes corrupt practices thrive. When corruption siphons off amounts from employment guarantee, unemployment or disability benefit, misdirects public funds for service delivery or delays pension and social security payments, it is usually the poor who suffer the most. Freedom of information can be a potent tool to prevent and fight corruption, i.e. the abuse of public power for private gains.
- (7) Freedom of information is a necessary part of our democratic polity. All power in a democracy belongs to the people who are the masters and the Government is their servant. If the people are to perform their sovereign role and instruct their Government, they must have access to all information, ideas, and points of view. Thus, democracy must extend beyond the ballot box and be deepened through "social citizenship" and "citizen governance".
- (8) Freedom of information is vital to the process of peaceful social change. It allows ideas to be tested in advance before action is taken, it legitimises the decision reached, and it permits adaptation to new conditions without the use of force or violence.

Realising the importance of the freedom of speech and expression including the freedom to receive and impart information, many countries – Sweden, the United States of America, Finland, the Netherlands, Australia, Canada, the United Kingdom, Japan, South Korea, Jamaica, Israel, South Africa, Thailand, India etc. – have enacted Freedom of/Right to Information Acts. The objective behind these enactments is to ensure that governmental activity is transparent, fair and open. Most enactments are based on the paradigm that except in matters of defence, atomic energy and matters concerning the security of a country, there is no room for secrecy in the affairs of the Government. Whether it is a matter of taking a decision affecting the people or whether it is a transaction involving purchase or sale of government property or whether the matter relates to entering into contracts - in all these matters, the Government should act in a transparent manner. This means that every citizen who wishes to obtain any information with respect to any of those matters should be entitled to receive it.

The impact of the Freedom of Information laws has varied across different countries but the trend towards an access regime is fostering greater Government accountability, and more dramatic headlines. For example:

- Requests under Japan's 2001 access law revealed that the Government tried to limit the geographic definition of areas affected by "Minamata disease" (mercury poisoning) in order to reduce compensation payments.
- Requests under Mexico's 2002 law are pressuring the Government's Human Rights Commission to address more than 3400 complaints lodged by citizens, of which only a fraction were resolved last year, mostly in secret.
- A request under the 2001 Delhi state-level Right to Information Act for documents on a promised sewer (supposedly under construction since 1983) in the Sunder Nagari neighborhood embarrassed the Government into finally completing the project.
- British journalists waiting for the 2005 implementation of the U.K.'s new access law used Sweden's (the oldest in the world, dating from 1766) to obtain letters from

Prime Minister Tony Blair to the Swedish Prime Minister, after Blair's Government refused to release the documents, citing possible damage to foreign relations.

- South African opposition parties used the new South Africa access law to open internal Government documents on a controversial oil contract with Nigeria, all of the benefits from which went to an offshore company rather than to the South African people. Meanwhile, the Nigerian Parliament is on the verge of passing its own access law.
- Irish reporters used their 1997 freedom of information law to show collusion among four private license-holding companies and the Government that has stymied the development of wireless and broadband Internet access in Ireland.
- Israel's freedom of information law compelled the Yad Vashem Memorial Council to open its files showing how it chooses which "righteous gentiles" to honor on its "Avenue of the Righteous" (non-Jews who helped Jews during the Holocaust).
- The Bulgarian NGO, Access to Information Programme, used Bulgaria's FoI law to reveal that the Government's Minister of Science and Education had illegally (and under the table) rented out his agency's lobby to a private company.

### 1.3 The Indian Context

Article 19 (Part III) of the Constitution of India, guarantees to all citizens, among other things, "the Fundamental Right to Freedom of Speech and Expression, subject to certain "reasonable restrictions", imposed by law, on the exercise of such a right... in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence".

Right to receive and right to impart information have been held to be a part of freedom of speech and expression guaranteed by sub-clause (a) of clause (1) of Article 19 of the Constitution subject of course to the reasonable restrictions, if any, that may be placed on such right in terms of and to the extent permitted by clause (2) of the said Article. It has been held by the Supreme Court in *Secretary, Ministry of I & B, Government of India v Cricket Association of Bengal* ((1995) 2 SCC 161) that:

“The freedom of speech and expression includes right to acquire information and to disseminate it. Freedom of speech and expression is necessary, for self-expression which is an important means of free conscience and self-fulfillment. It enables people to contribute to debates on social and moral issues. It is the best way to find a truest model of anything, since it is only through it that the widest possible range of ideas can circulate. It is the only vehicle of political discourse so essential to democracy. Equally important is the role it plays in facilitating artistic and scholarly endeavours of all sorts. The right to communicate, therefore, includes right to communicate through any media that is available whether print or electronic or audio-visual such as advertisement, movie, article, speech, etc. That is why freedom of speech and expression includes freedom of the press. The freedom of the press in turn includes right to circulate and also to determine the volume of such circulation. This freedom includes the freedom to communicate or circulate one’s opinion without interference to as large a population in the country, as well as abroad, as is possible to reach.”

In ‘The Cricket Association of Bengal’ case, it was held that the right to impart and receive information from electronic media is a part of the right to freedom of speech and expression.

That the right to information is a fundamental right flowing from Article 19(1) (a) of the Constitution, is now well-settled. Over the years, the Supreme Court has consistently ruled in favour of the citizen’s right to know. The nature of this right and the relevant restrictions thereto, has been discussed by the Supreme Court in a number of other cases as follows:

- In Bennett Coleman,<sup>1</sup> the right to information was held to be included within the right to freedom of speech and expression guaranteed by Article 19 (1) (a).
- In Raj Narain<sup>2</sup>, the Court explicitly stated: ‘The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings.’

*Further, it is not in the interest of the public to ‘cover with a veil of secrecy the common routine business... the responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.’*



- In *S.P. Gupta*,<sup>3</sup> the right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries was described.
- In *P.U.C.L.*,<sup>4</sup> the right to information was further elevated to the status of a human right, necessary for making governance transparent and accountable. It was also emphasized that governance must be participatory.

#### 1.4 Movement for Right to Freedom of Information

Notwithstanding the Constitutional provisions and Supreme Court judgments, the real movement for right to information in India originated from the grass roots level. A mass-based organisation called the Mazdoor Kisan Shakti Sangathan (MKSS) took an initiative to lead the people in a very backward region of Rajasthan - Bhim Tehsil - to assert their right to information by asking for copies of bills and vouchers and names of persons who have been shown in the muster rolls on the construction of schools, dispensaries, small dams and community centres as having been paid wages. On paper such development projects were all completed, but it was common knowledge of the villagers that there was gross misappropriation of funds with roofless school buildings, dispensaries without walls, dams left incomplete, community centres having no doors and windows, and poor quality of cement being used for construction.

After years of knocking at officials' doors and despite the usual apathy of the State Government, MKSS succeeded in getting photocopies of certain relevant documents. Misappropriation of funds was clearly obvious. In some cases, the muster rolls contained names of persons who either did not exist at all or had died years before.

MKSS organised a *Jan Sunwai* (People's hearing), the first ever in the history of Rajasthan. Politicians, administrators, landless labourers, private contractors were all invited to listen, respond and, if willing, to defend themselves. Popular response was phenomenal, whereas, understandably, most Government officials and politicians stayed away and remained silent.

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<sup>1</sup> *Bennett Coleman v. Union of India*, AIR 1973 SC 60.

<sup>2</sup> *State of UP v. Raj Narain*, (1975) 4 SCC 428.

<sup>3</sup> *S.P. Gupta v. UOI*, AIR 1982 SC 149.

<sup>4</sup> *People's Union for Civil Liberties v. UOI*, 2004 (2) SCC 476.

Between December 1994 and April 1995, several other public hearings were organised. People's anger made one engineer of the State Electricity Board to return, in public, an amount of Rs.15,000 he had extracted from a poor farmer. This grassroots movement spread fast to other areas of Rajasthan and to other States establishing firmly that information is power and people should have the right to official information – how public money is spent and how the same is accounted for. 'Loksatta', an NGO in Andhra Pradesh has undertaken mass awareness campaigns across the State and through a 'post card campaign' made representations to the Prime Minister of India demanding the enactment of a right to information law.

The Rajasthan experience on demanding right to information was echoed in other States. The growing demand for a right to public information from various sections of the society, led by civil society organisations in these States could no longer be ignored. The need to enact a law on right to information was recognised unanimously by the Chief Ministers Conference on "Effective and Responsive Government", held on 24th May, 1997 at New Delhi. The Government of India, Department of Personnel, decided to set-up a 'Working Group' (on the 'Right to Information and Promotion of Open and Transparent Government') in January 1997 under the chairmanship of Mr. H. D. Shouri, which submitted its comprehensive and detailed report and the draft Bill on Freedom of Information in May 1997.

The Press Council of India, the Press Institute of India, the 'National Campaign for People's Right to Information' and the Forum for Right to Information unanimously submitted a resolution to the Government of India to amend the proposed Bill in February, 2000.

The Government of India introduced the Freedom of Information Bill, 2000 (Bill No.98 of 2000) in the Lok Sabha on 25th July, 2000. The Bill, which cast an obligation upon public authorities to furnish such information wherever asked for, was passed by the Parliament as the Freedom of Information (Fol) Act, 2002. However, the Act could not be brought into force because the date from which the Act could come into force, was not notified in the Official Gazette.

The United Progressive Alliance (UPA) Government at the Centre, which came into power in 2004, set up a National Advisory Council (NAC). The Council suggested important changes to be incorporated in the FoI Act. These suggestions were examined by the UPA Government, which decided to make the FoI Act more progressive, participatory and meaningful. Later, however, the UPA Government decided to repeal the FoI Act, and enacted a new legislation, the Right to Information Act, 2005, to provide an effective framework for effectuating the right of information recognised under Article 19 of the Constitution of India.

## 1.5 FoI Legislations in States

Even before the FoI Act was passed by the Parliament, several States in India had enacted their own legislations on Freedom of / Right to Information. The fact that some States in the country took a lead in enacting right to information legislations (or codes of disclosure of certain categories of information), and the lessons that were learnt from the implementation of these various legislations were indeed helpful, in framing the provisions of the Right to Information Act, 2005 in detail. A brief overview of the State Acts in operation prior to the enactment of the RTI Act is provided below:

Tamil Nadu was the first State to introduce the Right to Information Act in April 1996. The legislation aimed at ensuring access to information about Government administration. The Bill was modeled on the draft legislation recommended by the Press Council of India. However, the enacted legislation was full of exemptions and inadequacies. So it failed to evoke much response from the public and NGOs and other concerned activists.

Goa was the second State to enact the Right to Information legislation in 1997. The Goa Act contained several provisions, which allowed the State to withhold information without substantiating reasons for it.

The grassroots movement led by MKSS compelled the Rajasthan Government to act in the direction to prepare the Right to Information Bill. Several other sister organisations also joined hands with MKSS to start an agitation on a large scale and declared an indefinite strike. It was called off when a high level committee was appointed to work out the modalities of how photocopies could be provided in relation to the order issued in

April 1996. The Rajasthan Right to Information Act, 2000, had 13 sections in all, 10 of which established categories of exemptions. It contained a provision for one internal appeal and also for an appeal to an independent body.

The Karnataka Government took steps to make information available to the public as far back as 1997, starting with many government departments issuing executive orders to provide access to information on development projects undertaken by them and to keep relevant records open for inspection or available for copying for a nominal fee.

In August 2000, the executive orders were supplemented by the Right to Information ordinance recognising the necessity to enact a comprehensive legislation. The State Legislative Assembly was not in session. Hence an ordinance was passed on the matter as a first step.

The Karnataka Right to Information Act 2000 was enacted soon after by the State Assembly in December 2000. Unfortunately, however the Act could not be operationalised properly until July 2002, when the Government of Karnataka notified the Karnataka Right to Information Rules.

The Maharashtra Right to Information Act, 2000 had nine sections in all and 22 categories of exemptions. However, it did not provide for the establishment of an appellate authority which would review refusals. It did not have provisions for providing information proactively, or penalties for withholding or destroying information either.

The Delhi Legislature passed the Delhi Right to Information Act in 2001. This law had been along the lines of the Goa Act, containing the standard exemptions and provided for an appeal to an independent body, as well as establishing an advisory body, the State Council for Right to Information.

Assam passed the 'Assam Right to Information Act' in 2001. Section 4(2) provides 11 exemptions from disclosure of information.

Even, before a bill was introduced in the Madhya Pradesh Assembly, in certain places like Bilaspur and Korba, the local authorities provided access to information. The Divisional Commissioner, Bilaspur initiated it in the matter of the Public Distribution System (PDS)

and allowed the citizens to access details of food-grains and commodities allotted to their areas and their distribution. The scheme was soon extended to development programmes and pollution awareness. It was observed that the right to information considerably reduced black-marketing and corruption in the PDS. Moreover, in polluted areas like Korba, the sharing of information on pollution level raised public consciousness. As a result, officials became careful about monitoring and controlling pollution levels. Surprisingly, bowing to popular demand, the Government passed a bouquet of executive orders dealing with right of access to Government records. The Madhya Pradesh Assembly passed the Right to Information Act in 2002.

Jammu & Kashmir passed the Jammu & Kashmir Right to Information Act in 2004. Section 6 of this Act provides 7 restrictions on right to information.

It needs to be noted that not only is the Right to Information Act, 2005 a landmark legislation in the Indian context, it also places India among a group of some of the more evolved democracies of the world, to have enacted such a law in an effort towards deepening democracy.

It also needs to be noted that the RTI Act is in keeping with the provisions of some of the path-breaking international covenants. However, progress on the part of public authorities towards effective implementation of the Act in right earnest, and the Act's large scale acceptance and use by the people, as an instrument for pressing transparency and accountability of public bodies / officials – will be the true indicator of the success of the Act. In order for the Act to achieve its objectives, all the stakeholders concerned with implementation of the Act – both from supply and demand sides – will have to work in partnership and in a mission mode.

## Chapter 2 – The Right to Information Act, 2005: An Overview

*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.*

*- Mahatma Gandhi*

### 2.1 Citizen's Right to Information

Section 3 of the Right to Information Act, 2005 states: "Subject to the provisions of this Act, all citizens shall have the right to information". The Act defines "Information", "Record" and "Right to Information" as follows:

#### Definition of "Information" [Section 2 (f)]

"any material in any form, including:

- records,
- documents,
- memos,
- e-mails,
- opinions,
- advices,
- press releases,
- circulars,
- orders,
- logbooks,
- contracts,
- reports,
- papers,
- samples,
- models,
- data material held in any electronic form and

information relating to any private body which can be accessed by a public authority under any other law for the time being in force".

**“Record” [Section 2 (i)] includes**

- any document, manuscript and file;
- any microfilm, microfiche and facsimile copy of a document;
- any reproduction of image or images embodied in such microfilm (whether enlarged or not); and any other material produced by a computer or any other device.

**Definition of “Right to Information”  
[Section 2 (j)]**

- right to information accessible under the RTI Act which is held by or under the control of any public authority and includes the right to—
  - (i) inspection of work, documents, records;
  - (ii) taking notes, extracts or certified copies of documents or records;
  - (iii) taking certified samples of material;

obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

**2.2 Institutional Framework**

The Right to Information Act, 2005 envisages a legal-institutional framework to establish and promote the practical regime of Right to Information for every citizen of the country.

This framework comprises some critical authorities as follows:

- Public Authorities
- Public Information Officer (PIO)
- Assistant Public Information Officer (APIO)
- Other Officers
- Designated Appellate Officers
- Information Commission
- Ministries & Departments

- Appropriate Government
- Competent Authority

The roles and responsibilities of various authorities and functionaries under the Act are described below:

### 2.2.1 Public Authorities

Public Authority is defined under Section 2 (h) of the Act as an authority or body or institutions of self-government established or constituted —

(a) by or under the Constitution; (b) by any other law made by Parliament; (c) by any other law made by State Legislature; (d) by notification issued or order made by the appropriate Government; and includes any – (i) body owned, controlled or substantially financed and (ii) non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government. The Act stipulates that every Public Authority:

- shall maintain all its records duly catalogued, indexed, computerized and connected through network [Section 4(1) (a)]
- shall proactively disclose stipulated information [Section 4(1) (b), (c) & (d)]
- shall provide information *suo motu* at regular intervals and disseminate the same widely [Section 4 (2), (3) & (4)]
- shall designate Public Information Officers (PIOs) and Assistant Public Information Officers (APIOs) [Section 5 (1) & (2)] in all administrative units and offices
- shall make information accessible with PIOs [Section 4 (4)]
- shall transfer misdirected requests for information to appropriate Public Authorities [Section 6 (3)]
- shall implement the decisions of the Information Commission, which are binding under Section 19 (7) of the Act - complying with the provisions of the Act, including providing information; designating a PIO; publishing certain information; making changes to record management practices; arranging training for officials; providing



the Information Commission with annual report [*suo motu* disclosure under Section 4 (1) (b)]; compensating the complainant for any loss or other detriment suffered; ensuring that the concerned PIOs pay the penalties imposed by the Commission on them; and taking disciplinary action against the concerned PIOs based on recommendations of the Information Commission.

## 2.2.2 Public Information Officer

Central Public Information Officer or State Public Information Officer designated under the Act:

- to deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information, taking the assistance of any other officer, if considered necessary by him or her for the proper discharge of duties [Section 5(3) & 5(4)];
- to render 'all reasonable assistance', where request for information cannot be made in writing, to the person making the request orally to reduce the same into writing [Section 6(1)];
- to dispose request for information under the Act, either providing the information requested on payment of prescribed fee or rejecting the request for reasons to be specified within the time period stipulated under the Act [Section 7(1)].

## 2.2.3 Assistant Public Information Officer

Central Assistant Public Information Officer or State Assistant Public Information Officer designated under the Act:

- to receive applications for information or appeals under the Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or Appellate Officer or the Central Information Commission or the State Information Commission, as the case may be [Section 5 (2)].

## **2.2.4 Officer whose Assistance is Sought**

Other Officers whose assistance is sought by a Public Information Officer:

- to render all assistance to the Public Information Officer who sought his or her assistance;
- to be treated as a Public Information Officer for the purposes of any contravention of the provisions of the Act.

[Section 5 (5)]

## **2.2.5 Designated Appellate Officer**

Designated Appellate Officer (officer senior in rank to Public Information Officer) shall deal with and dispose

- appeals from any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the Public Information Officer [Section 19 (1)]
- appeal by a third party against an order made by a PIO [Section 19 (2)].

## **2.2.6 Information Commission**

Central Information Commission constituted under Section 12 or State Information Commission constituted under Section 15 of the Act:

- shall receive and inquire into 'complaints' from any person relating to access to information held by or under the control of public authorities (may require public authorities to compensate the complainants, impose penalties on erring Public Information Officers and recommend disciplinary action against them [Section 18 (1) to 18(4) & Section 20];
- shall deal with and dispose appeals against the decisions of the designated appellate officers (may impose penalties on and recommend disciplinary action against erring Public Information Officers [Section 19 (3) to 19 (5), 19 (7) to 19 (10) & Section 20];

- may make recommendation to public authorities not conforming with the provisions or the spirit of the Act, specifying the steps to be taken for promoting such conformity [Section 25 (5)].

### 2.2.7 Ministries & Departments

Ministries and Departments in Government:

- shall collect and provide such information in relation to the public authorities within their jurisdiction, to the concerned Information Commission, as is required by it to prepare its annual report and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes [Section 25 (2)]

### 2.2.8 Appropriate Government

The Central Government or the State Government, as the case may be, in relation to a public authority, may:

- cause a copy of the report of the Information Commission laid before each house of the Parliament or State Legislature, as the case may be [Section 25 (4)];
- may, to the extent of availability of financial and other resources —
  - (a) develop and organise educational programmes to advance the understanding of RTI, in particular among disadvantaged communities;
  - (b) encourage public authorities to participate in and themselves undertake educational programmes on RTI;
  - (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
  - (d) train Public Information Officers and produce relevant training materials for use by the public authorities themselves (Section 26).
- shall, within 18 months from the commencement of the Act, compile in its official language a guide containing such guidelines or information, in an easily comprehensible form and manner, as may reasonably be required by a person

who wishes to exercise any right specified in the Act and, if necessary, update and publish such guidelines at regular intervals (Section 26).

- may, by notification in the Official Gazette, make rules to carry out the provisions of the Act [Sections 27].

### **2.2.9 Competent Authority**

The Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union Territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State; the Chief Justice of India in the case of the Supreme Court; the Chief Justice of the High Court in the case of a High Court; the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution; the Administrator appointed under Article 239 of the Constitution (Section 2 (e)).

- may, by notification in the Official Gazette, make rules to carry out the provisions of the Act [Sections 28].

## **2.3 Proactive Disclosure of Information**

Section 4 (1) (b) of the Act provides that every public authority shall:

- publish within 120 days from the enactment of the Right to Information Act
  - i. the particulars of its organisation, functions and duties;
  - ii. the powers and duties of its officers and employees;
  - iii. the procedure followed in the decision making process, including channels of supervision and accountability;
  - iv. the norms set by it for the discharge of its functions;
  - v. the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
  - vi. a statement of the categories of documents that are held by it or under its control;

- vii. the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
  - viii. a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
  - ix. a directory of its officers and employees;
  - x. the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
  - xi. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
  - xii. the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
  - xiii. particulars of recipients of concessions, permits or authorisations granted by it;
  - xiv. details in respect of the information, available to or held by it, reduced in an electronic form;
  - xv. the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
  - xvi. the names, designations and other particulars of the Public Information Officers;
  - xvii. such other information as may be prescribed;
- update the publications under Section 4(1)(b) (i) to (xvii) every year;

Section 4 (1) (c) of the Act requires that every public authority shall publish all relevant facts while formulating important policies or announcing the decisions which affect the public. Section 4 (1) (d) requires that it shall provide reasons for administrative or quasi-judicial decisions to affected persons.

Sections 4 (2), (3) & (4) call for a regime of maximum disclosure on the part of the public authorities *suo motu* so that the public sparingly resort to the use of the Right to Information Act to obtain information. The law stipulates that every public authority shall:

- constantly endeavour to take steps in accordance with publication under Section 4 (1) (b) to provide as much information as possible *suo motu* to the public at regular intervals through various means of communications, including internet;
- proactively disseminate information widely and in such form and manner which is easily accessible to the public, subject to taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area.

## **2.4 Procedure for Request for Information**

Section 6 of the Act stipulates that the request for information may be made to the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority or given to the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be.

The request for information can be made as follows:

- in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made;
- oral request to be reduced to writing with assistance sought from Public Information Officer, where such request cannot be made in writing;
- to specify the particulars of the information being sought by the applicant;
- to be accompanied by fee as prescribed under the rules made under the Act;

- applicant not to be required to give reason for requesting the information or any other personal details except those that may be necessary for the purpose of contacting him or her.

Suggested specimen format for ‘application’ is provided below. It is important, however, to note that the law does not specify any format(s). The sample provided below is only for guidance to authorities.

### A Model Letter of Application / Request

|   |            |
|---|------------|
|   | Date:..... |
| <p>To,<br/>                 The Public Information Officer<br/>                 (Name of the Public Authority)<br/>                 (Address of the Public Authority)</p> <p>Sir / Madam:</p> <p>Sub: Request for Information under the Right to Information Act, 2005</p> <p>[if applicable] Kindly, provide me the following information:..... (Mention the information you want as specifically and clearly as possible and the period of time to which the information pertains)</p> <ul style="list-style-type: none"> <li>• .....</li> <li>• .....</li> </ul> <p>[if applicable] I request for receipt of the information in the following format(s) – true copy / print out / diskette / floppy / tape / video cassettes / certified copies of documents or records – in person / by post / by e-Mail.</p> <p>[if applicable] I would like to inspect the following works / documents / records / take notes / extracts..... (Mention clearly and specifically what is wanted for inspection). Kindly inform me the date and time for my visit.</p> <p>[if applicable] Kindly, provide me certified samples of material (Mention specifically and clearly the material). I request for receipt of the certified samples (Describe) .....</p> <p>The details of fees paid be me are as follows (Specify)..... /I belong to the ‘Below Poverty Line Category’ [if applicable, attach a photocopy of the proof] and I am not required to pay any fees.</p> <p>Sincerely,<br/>                 (Applicant’s signature/Thumb Impression)</p> <p>Applicant’s Name:<br/>                 Applicant’s Address:<br/>                 Applicant’s Phone Number/e-Mail Address (optional):<br/>                 Place:<br/>                 Date:</p> |            |

**Note:** This is a suggested format, and need not necessarily be adhered to. The RTI Act, 2005 does not specify any ‘Model Letter of Application’ for requesting information.

## 2.5 Disposal of Request for Information

Section 7 of the Act makes provisions regarding the disposal of request for information as follows:

- request for information shall be disposed by the Public Information Officer within
- 30 days of receipt of the request in general cases and 48 hours of receipt of the request in cases where the information sought for concerns the life or liberty of a person [section 7 (1)];
- a period of 5 days shall be added in computing the response time where an application for information is given to an Assistant Public Information Officer [Section 5(2)];
- request to be deemed to have been refused by the Public Information Officer, if decision on the request for information is not given within the period specified as above [Section 7(2)];
- where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving (a) the details of further fees representing the cost of providing the information as determined by him or her, together with the calculations made to arrive at the amount in accordance with fee prescribed, requesting him/her to deposit that fees. The period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of 30 days and (b) information concerning the right of the person making request with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms [Section 7(3)];
- where access to the record or a part thereof is required to be provided under the Act and the person to whom access is to be provided is sensorily disabled, the Public Information Officer shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection [Section 7(4)];
- where access to information is to be provided in the printed or in any electronic



format, the applicant shall pay the fee prescribed [Section 7(5)];

- before taking any decision to provide information, the Public Information Officer shall take into consideration the representation made by a third party [Section 11(1)];
- where a request has been rejected, the Public Information Officer shall communicate to the person making the request —
  - (i) the reasons for such rejection;
  - (ii) the period within which an appeal against such rejection may be preferred; and
  - (iii) the particulars of the appellate authority [Section 7(8)].

## 2.6 Fees and Costs

The Act prescribes the following fees and costs to be charged from persons making request for information:

- (1) Cost: Section 4 (4) – Cost of medium: electronic or print or print cost price
- (2) Fee: Section 6 (1) – Fee accompanying application of request for information
- (3) Fee: Section 7 (1) – Fee as prescribed under rules for furnishing information
- (4) Fee: Section 7(3) – Further fee representing the cost of providing the information requested as determined by PIO
- (5) Fee: Section 7 (5) – Fee prescribed under rules for supply of information in printed or electronic format.

[Fees under Section 7 (3) and Section 7 (5) can be combined together.]

Other charges and costs, if any, need to be specified while disposing requests for information.

No fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government [Section 7(5)];

Further, the person making request for information shall be provided the information free

of charge where a public authority fails to comply with the stipulated time limits for disposal of request applications [Section 7(6)];

The Department of Personnel & Training, Government of India has, under the Right to Information (Regulation of Fees and Cost) Rules, 2005, prescribed an application fee of rupees ten for a request for obtaining information under Section 6(1). This could be in cash against proper receipt or by demand draft or by banker's cheque or by Indian postal order payable to the Accounts Officer of the public authority.

The Government of India Right to Information (Regulation of Fees and Cost) Rules, 2005 provide that the public authority may also charge the following as fees for providing information under Section 7(1):

- a) Rs 2/- for each page (in A4 or A3 size paper) created or copied.
- b) actual charges or cost of a copy in larger size paper.
- c) actual cost or price for samples or models.
- d) for inspection of records, no fees for the first hour; and a fee of Rs 5 for each hour (or fraction thereof) thereafter.

The fee amounts could be paid in cash against proper receipt or by demand draft or by banker's cheque or Indian Postal Order payable to the Accounts Officer of the concerned public authority.

Further, for providing information under Section 7(5), the prescribed fee pattern is:

- a) for information provided in diskette or floppy - Rs 50/- per diskette or floppy.
- b) for information provided in printed form at the price fixed for such publication or Rs. 2/- per page of photocopy for extracts from the publication.

The above fee pattern could be a model for State Governments to determine the structure of fees to be applicable in the respective States.

## 2.7 Form of Access to Information

Section 7 (9) provides that information shall ordinarily be provided in the form in which it is sought unless it would “disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question”.

## 2.8 Time Limits for Disposal of Requests

Section 7 (1) requires that the information requested by an applicant to a PIO shall be furnished “as expeditiously as possible”. The time limits prescribed under the Act for disposal of requests for information are as follows:

- 30 days: On receipt of a request for information, the PIO has either to provide information on payment of such fees as prescribed or reject the request with reasons for the same.
- 48 hours: If the information sought concerns the life or liberty of a person, the same has to be provided immediately, in any case, within 48 hours.
- 35 days: 5 more days to be added to the above time limits if the application is submitted to the Assistant Public Information Officer.
- 40 days: Where third party is involved (If the PIO intends to disclose any information which relates to or has been supplied by a third party and has been treated as confidential by it, the PIO has to give a written notice to such third party within 5 days from the receipt of request inviting such third party to make a submission).
- 45 days: Information pertaining to allegations of human right violations from scheduled security and intelligence agencies.

Under Section 6 (3) of the Act, if a request application is made to a public authority on a subject that pertains to another public authority, the same shall be transferred to that other authority within 5 days from the date of receipt of the application. The other public authority will be subject to time limit for disposal from the date of receipt of the application.

As per Section 7 (3) of the Act, the period intervening between the despatch of intimation to the applicant and the deposit of further fees representing the cost of providing the information shall be excluded from the time limit of 30 days stipulated.

## 2.9 Inspection of Work/Record/Taking Sample(s)

Right to Information includes, *inter alia*, inspection of work, documents, records, taking notes, extracts and certified samples of material. In consultation with the concerned sections/divisions/offices in Government Departments, PIOs may fix a day or two of the week for applicants to take samples and for inspection of material. Such an arrangement may not disturb the work in the section/division/office and the citizen would also be aware of the days of visit to the PIO/Public Authority.

The General Clauses Act, 1897 defines:

‘document’: shall include any matter written, expressed or described upon any substance by means of letters figures or marks, or by more than one of those means which is intended to be used or which may be used, for the purpose of recording that matter.

Further, the *Oxford Dictionary of English* (2<sup>nd</sup> edition revised) defines some of the terms used in the RTI Act as follows:

- ‘inspect’: look at (something) closely, typically, to assess its condition or to discover its shortcomings...;
- ‘material’: the matter from which a thing is or can be made, things needed for an activity, the basic material from which a product is made;
- ‘sample’: a small part or quantity intended to show what the whole is like;
- ‘work’: activity involving mental or physical effort done in order to achieve a result, denoting things or parts made of a specified material or with specified tools... denoting a mechanism or structure of a specified kind...

## 2.10 Grounds for Rejection of Requests

The grounds of rejection of information as specified by the Act pertain to the following:

**(a) Section 8 (1)(a) to 8 (1)(j):** Exemptions from disclosure of information unless there are overriding considerations of public interest.

**(b) Section 9:** Infringement of the copyright subsisting in a person other than the State. This is the only absolute exemption. Here the PIO need not consider the public interest in disclosure.

**(c) Section 11:** Third party information treated as confidential by the concerned and involving the case of trade or commercial secrets protected by law and other third party information where the public interest in disclosure does not outweigh the importance of any possible harm or injury to the interests of such third party.

**(d) Section 24:** Information of exempted intelligence and security organisations except information pertaining to allegations of corruption and human rights violations.

### 2.10.1 Information Exempted from Disclosure

Section 8 of the Act provides a list of 10 categories of information 8 (1)(a) to 8 (1)(j) as follows:

#### Information Exempted from Disclosure

[Section 8(1)]

- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (f) information received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters coming under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

### **2.10.2 Primacy of Public Interest**

Section 8(2) of the Act provides that notwithstanding anything in the Official Secrets Act, 1923, nor any of the exemptions permissible under Section 8(1) of the Right to Information Act, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

### **2.10.3 Protection of Copyright**

Section 9 of the Act provides that without prejudice to the provisions of Section 8, a Central Public Information Officer or a State Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

### 2.10.4 Non-applicability to Certain Organisations

Section 24 (1) provides that the Act shall not apply to the following intelligence and security organisations established by the Central Government:

#### **Intelligence and Security Organisations established by the Central Government exempted from Right to Information Act, 2005**

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

However, the information pertaining to allegations of corruption and human rights violations shall not be excluded. In the case of information sought in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and such information shall be provided within 45 days from the date of the receipt of request for information.

Section 24 (4) of the Act stipulates that the Act shall not apply to such intelligence and security organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify. However, the information pertaining to the allegations of corruption and human rights violations shall not be excluded and further that in the case of information sought for in respect of allegations of violation of

human rights, the information shall only be provided after the approval of the State Information Commission and such information shall be provided within 45 days from the date of the receipt of request for information.

### **2.11 Procedure for Rejection of Requests**

A PIO is required under the Act to either provide the information, on payment of the requisite fee or reject the request within the time limit prescribed. The Act stipulates that where a request for information is rejected by the PIO, the PIO will communicate the decision to the person making the request along with:

- i) the reasons for rejection.
- ii) the period within which an appeal against such rejection may be preferred (within 30 days of the date of the rejection)
- iii) the particulars of the Appellate Authority.

### **2.12 Information up to 20 Years**

Section 8(3) of the Act stipulates that subject to exemptions relating to information linked to sovereignty, integrity and security matters, breach of privilege of Parliament or the State Legislature and cabinet papers, any information relating to any occurrence, event or matter which has taken place, occurred or happened 20 years before the date on which any request is made, shall be provided to any person making a request under the Act. However, where any question arises as to the date from which the period of 20 years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in the Act.

### **2.13 Access to Part of Record**

Section 10 provides that where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, access may be provided to that part of the record “which does not contain any information which is exempt from disclosure under the Act” and “which can reasonably be severed from any part that contains exempt information”. Where access is granted to a part of the record the Public



Information Officer shall give a notice to the applicant under Section 10 (2), informing—

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the Appellate Officer or the Information Commission, time limit, process and any other form of access.

#### **2.14 Third Party Information**

“Third Party” is defined under the Act to mean a person other than the citizen making a request for information and includes a public authority [Section 2 (n)].

Section 11 of the Act requires that if the information sought by the citizen pertains to a record or part thereof relates to, or has been supplied by a third party and if it is not treated as confidential by that third party, the PIO is at liberty to provide the same to the applicant.

If, however such above information is treated as ‘confidential’ by that third party, the following steps will have to be taken:

- The PIO gives a written notice to the third party, within 5 days of receipt of the application, and conveys his intention to disclose the information or record while requiring the third party to make a submission, within 10 days from the date of receipt of such notice, regarding whether the information should be disclosed or not.

- The third party should, within 10 days from the date of receipt of notice from the PIO, make a representation in writing or orally against the proposed disclosure.
- The PIO can, within 40 days after the receipt of application for information if the third party has been given an opportunity to make representation, make a decision on disclosure and give a written notice to the third party.
- The third party is entitled to prefer an appeal against the decision of the PIO.

Except in the case of “trade or commercial secrets protected by law”, disclosures involving third party information may be allowed, if the public interest in disclosure outweighs the importance of any possible harm or injury to the interests of such third party. If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as privacy of an individual is important and protected under Section 8 (1) (j).

### **2.15 Channels of Appeal**

The Act provides two channels of appeals against the decision of a PIO on the request for information by a citizen – an internal or ‘first’ appeal to a designated “officer senior in rank” to the PIO – the first appellate authority (called “Appellate Officer” in this Manual) as notified by the Public Authority and a ‘second’ appeal to the Information Commission. The Act also provides for preferring complaints to the Information Commission regarding non-implementation of the legal provisions.

If an applicant is aggrieved by the decision of a PIO, he or she can make an appeal to the Appellate Officer who, as required by law, would be an “officer senior in rank” to the PIO.

A second appeal, against the decision of the Appellate Officer, lies to the Information Commission.

### **2.16 Disposal of First Appeals**

Section 19 (1) and (2) of the Act stipulate that any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the Public Information Officer including communication of fees to be paid may within 30 days from the expiry of such period or from the receipt of such a decision prefer an appeal to the

designated Appellate Officer, senior in rank to the Public Information Officer. The Appellate Officer may admit the appeal after the expiry of the period of 30 days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Where an appeal is preferred against an order made by a Public Information Officer to disclose third party information, the appeal by the concerned third party shall be made within 30 days from the date of the order.

A Model of Appeal, which can be used for the First Appeal is placed below:

### A Model of Appeal

|   |            |
|---|------------|
|   | Date:..... |
| <p>To,<br/>                 The Appellate Officer<br/>                 (Name of the Public Authority)<br/>                 (Address of the Public Authority)</p>  |            |
| <p>An appeal under Section 19 of the Right to Information Act, 2005<br/>                 Ref: [PIO/Appellate Officers' Decision Reference No. &amp; Date, received on<br/>                 ..... (Date)<br/>                 /Date of Deemed Refusal]</p> |            |
| <p>Dear Sir / Madam:</p>  |            |
| <p>[Please Describe the details about Appeal and Grounds why Appeal is preferred:</p>   |            |
| <p>Date &amp; Description of the Application:<br/>                 Name and Address of the PIO:<br/>                 Details of Decision of the PIO:<br/>                 Grounds of Appeal:<br/>                 Decision Requested:</p>                 |            |
| <p>Sincerely,</p>   |            |
| <p>(Appellant's signature)</p>  |            |
| <p>Appellant's Name:<br/>                 Appellant's Address:<br/>                 Appellant's Phone Number / e-Mail Address (optional):<br/>                 Place:<br/>                 Date:</p>  |            |

**Note:** This is a suggested format, and need not be necessarily adhered to. The RTI Act, 2005 does not specify any 'Model of Appeal' for preferring appeal.

The Act prescribes that the appeal shall be disposed of within 30 days of the receipt of the appeal or within such extended period not exceeding a total of 45 days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

## **2.17 Inquiry into Complaints**

Section 18 (1) of the Act stipulates that the Information Commission shall receive and inquire into a complaint from any person —

- (a) who has been unable to submit a request to a Public Information Officer either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for information or appeal under the Act for forwarding the same to the Public Information Officer or Appellate Officer or the Information Commission as the case may be;
- (b) who has been refused access to any information requested under the Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under the Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under the Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under the Act.

The Commission may initiate an inquiry in respect of complaint, if satisfied that there are reasonable grounds to inquire into the matter.

Section 18 further stipulates that while inquiring into a complaint, the Commission shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

Further, the Commission, during the inquiry of any complaint under the Act, may examine any record to which the Act applies which is under the control of the public authority. No such record may be withheld from it on any grounds notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be.

### **2.18 Disposal of Second Appeals**

Section 19 (3) of the Act provides that a second appeal against the decision of the Appellate Officer shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Information Commission. The Information Commission may admit the appeal after the expiry of the period of 90 days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time;

If the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Information Commission shall give a reasonable opportunity of being heard to that third party.

### **2.19 Onus of Proof**

Section 19 (5) of the Act provides that in any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Public Information Officer who denied the request.

## 2.20 Decisions in Second Appeals

The Act provides that appeal filed before the Information Commission shall be decided by it in accordance with the prescribed procedure and its decision shall be binding. The Information Commission has the power to—

- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act, including—
  - (i) by providing access to information, if so requested, in a particular form;
  - (ii) by appointing a Public Information Officer;
  - (iii) by publishing certain information or categories of information;
  - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
  - (v) by enhancing the provision of training on the right to information for its officials;
  - (vi) by providing it with an annual report in compliance with clause (b) of subsection (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under the Act;
- (d) reject the application [Section 19 (8)].

The Information Commission is legally bound to give notice of its decision, including any right of appeal, to the complainant and the public authority.

## 2.21 Appeal Procedure

The Department of Personnel and Training, Government of India, has through a notification on 'Central Information Commission (Appeal Procedure) Rules, 2005' prescribed the procedure for deciding appeal by the Central Information Commission. These Rules require that the Order of the Commission shall be pronounced in open proceeding and be in writing duly authenticated by the Registrar or any other officer authorised by the Commission for this purpose.

## The Central Information Commission (Appeal Procedure) Rules, 2005

### Contents of appeal:

- (i) Name and address of the appellant;
- (ii) Name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;
- (iii) Particulars of the order including number, if any, against which the appeal is preferred;
- (iv) Brief facts leading to the appeal;
- (v) If the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Central Public Information Officer to whom the application was made;
- (vi) Prayer or relief sought;
- (vii) Grounds for the prayer or relief.
- (viii) Verification by the appellant; and
- (ix) Any other information which the Commission may deem necessary for deciding the appeal.

### Documents to accompany appeal:

- (i) Self-attested copies of the Orders or documents against which the appeal is being preferred;
- (ii) Copies of documents relied upon by the appellant and referred to in the appeal; and
- (iii) An index of the documents referred to in the appeal.

### Procedure in deciding appeal

- (i) hear oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorised officer further details or facts;
- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or such Senior Officer who decide the first appeal, or such person against whom the complaint is made, as the case may be;
- (v) hear third party; and

receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.

## **2.22 Imposition of Penalty**

Section 20 (1) of the Act provides that the Commission, while deciding a complaint or appeal, shall impose penalty on erring PIOs in cases where the PIO has, without any reasonable cause:

- refused to receive an application for information or
- has not furnished information within the time specified [u/s 7(1)] or
- malafidely denied the request for information or
- knowingly given incorrect, incomplete or misleading information or
- destroyed information which was the subject of the request or
- obstructed in any manner in furnishing the information.

The scale of the penalty to be imposed is Rs.250 each day till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs.25,000.

The Information Commission is legally bound to give the Public Information Officer a reasonable opportunity of being heard by the Commission before any penalty is imposed on him or her.

The burden of proving that a Public Information Officer acted reasonably and diligently shall be on himself or herself.

## **2.23 Disciplinary Action**

Section 20 (2) of the Act provides that the Commission shall, while deciding a complaint or appeal, recommend for disciplinary action against the Public Information Officer under the service rules applicable to him or her in cases where the PIO has, without any reasonable cause and persistently:

- failed to receive an application for information or
- has not furnished information within the time specified or
- malafidely denied the request for information or



- knowingly given incorrect, incomplete or misleading information or
- destroyed information which was the subject of the request or
- obstructed in any manner in furnishing the information,

## **2.24 Action in Good Faith**

Section 21 of the Act provides that no suit, prosecution or other legal proceeding shall lie against any person for action done in good faith under the Act or rules.

## **2.25 Overriding Effect of Act**

Section 22 of the Act contends that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the Act.

## **2.26 Bar of Jurisdiction of Courts**

Section 23 of the Act provides that no court shall entertain any suit, application or other proceeding in respect of any order made under the Act and no such order shall be called in question otherwise than by way of an appeal under the Act.

## **2.27 Report of Information Commission**

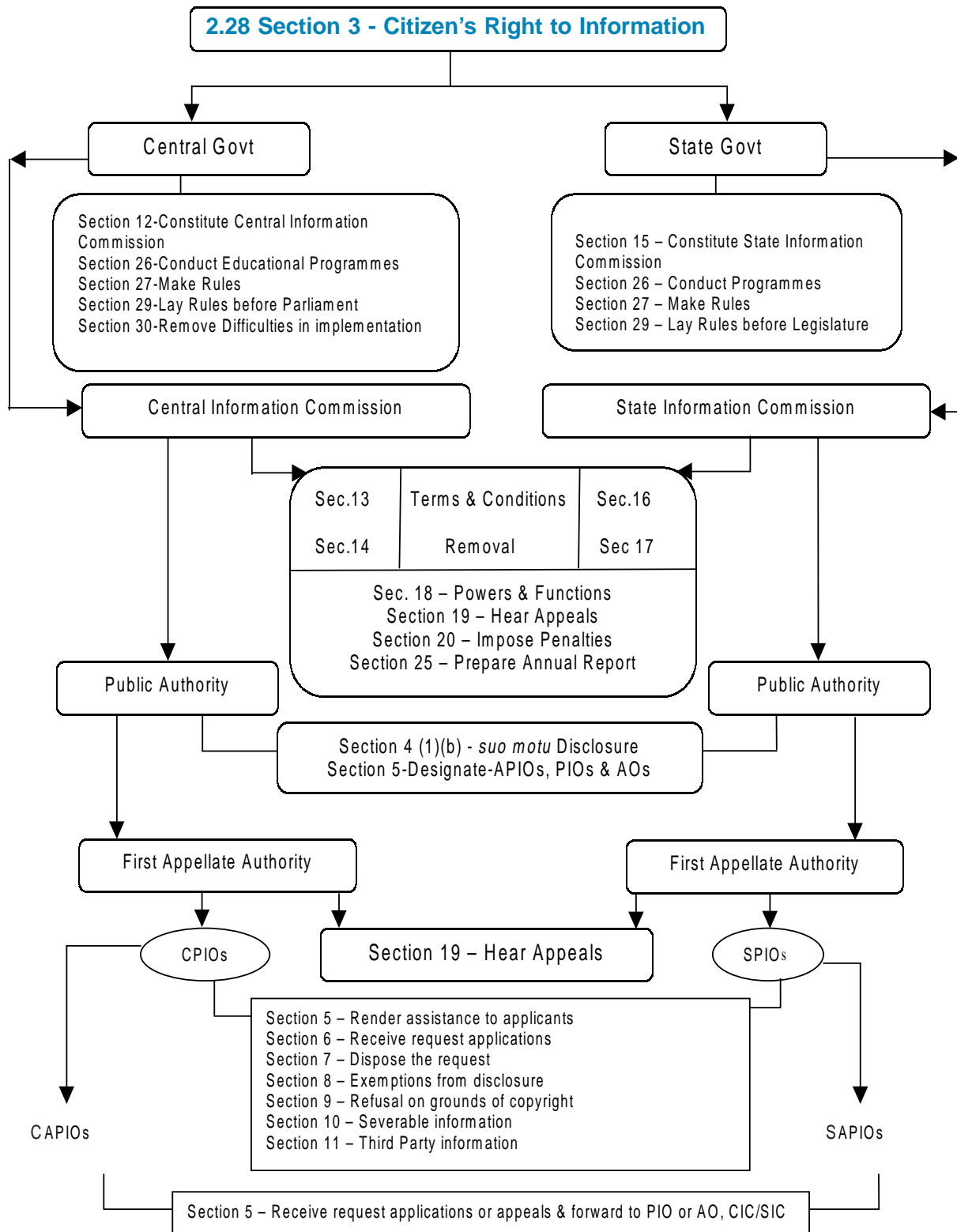
The Right to Information Act 2005 mandates annual reports to be submitted by the Central and State Information Commissions [Section 25 (1), (3) & (4)]. The key provisions in the Act in this regard pertain to the following:

- the Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of the Act during that year and forward a copy thereof to the appropriate Government;
- each report shall state in respect of the year to which the report relates,—
  - (a) the number of requests made to each public authority;

- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
  - (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
  - (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
  - (e) the amount of charges collected by each public authority under this Act;
  - (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act;
  - (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to the Act or other legislation or common law or any other matter relevant for operationalising the right to access information;
- the Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

Section 25 (2) of the Act clearly specifies that each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required by the Commission to prepare its annual report and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes.

The paradigm of Right to Information as stipulated under the Act is depicted below:



**Paradigm-Scheme of RTI Act at a Glance**

## Chapter 3: Right to Information, Good Governance and Role of Media

*One of the objects of a newspaper is to understand the popular feeling and give expression to it; another is to arouse among the people certain desirable sentiments; the third is fearlessly to expose popular defects.*

- Mahatma Gandhi

### 3.1 Right to Information and Good Governance

James Madison said in 1822: *“A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce, or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own Governors must arm themselves with the power which knowledge gives”.*

Information is regarded as the oxygen of democracy. It invigorates where it percolates. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Freedom of expression, free dissemination of ideas and access to information are vital to the functioning of a democratic government. Information is crucial for a vibrant democracy and good governance as it reflects and captures Government activities and processes. Access to information not only facilitates active participation of the people in the democratic governance process, but also promotes openness, transparency and accountability in administration. ‘Right to Information’ (RTI), the right of every citizen to access information held by or under the control of public authorities, can thus be an effective tool for ushering in good governance.

The major characteristics of good governance are participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness, efficiency, accountability, strategic vision and consensus-orientation. Transparency means that decisions are taken openly and enforced as per rules and regulations. It requires that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided to all the stakeholders in easily understandable forms and media to enable their meaningful participation in decision-

making processes. Accountability means that public institutions and functionaries are answerable to the people and to their institutional stakeholders. In general, an organisation or an institution should be accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without a regime of transparency.

### **Box 1: Freedom of Information in the Promotion of Good Governance**

Over 50 countries now have freedom of information laws and another 15-20 are actively considering adopting one. These nations are joined by a growing number of inter-Governmental bodies – including the World Bank, European Union and UNDP – that have established FOI policies.

The right to FOI derives primarily from the guarantee of freedom of expression found in Article 19 of the Universal Declaration of Human Rights. It provides that all citizens enjoy rights of freedom of opinion and expression, including the right to “seek, receive, and impart information and ideas, a guarantee now generally considered to include an obligation of openness on the part of Government.

The democratic rationale for FOI legislation is that public bodies hold information not for themselves but as custodians of the public good, and such information must be accessible to members of the public. In this respect, FOI laws reflect the fundamental premise that Governments ought to serve the people. Added to this are many practical benefits – promoting effective democratic participation, controlling corruption, enhancing accountability and good governance, and promoting efficient information exchange between Government and the public. The result is a powerful argument for adopting FOI legislation.

*Source: World Bank, “Legislation on Freedom of Information: Trends and Standards,” PREM Note No.93, October 2004.*

A direct relationship exists between right to Information, informed citizenry and good governance. The Right to Information provides citizens the opportunity of being informed of what the Government does for them, why and how it does it. Good governance provides a platform that enables government functionaries to operate efficiently, effectively and transparently and be accountable to the public for their actions. It aims to put an end to inconsistent government practices and helps in establishing a responsive State. Public participation in Government, respect for the rule of law, freedom of expression and association, transparency and accountability, legitimacy of Government, and the like, which are the core values of good governance, can be realised only

if the right to information is implemented in the right spirit. Right to information is the hallmark of good governance.

### **3.2 Media and Development**

The media can make a real difference to the lives of poor and disadvantaged people by:

- making people more aware of their rights and entitlements;
- enabling people to have access to government programmes, schemes and benefits;
- making people more aware of political issues and options and helping to stimulate debate;
- educating the public on social, economic and environmental issues;
- drawing attention to institutional failings – corruption, fraud, waste, inefficiency, cronyism, nepotism, abuse of power and the like;
- fostering exchange of best practices, knowledge resources, access to better technology, and to better choices;
- creating pressure for improved government performance, accountability and quality, for example in service delivery; and
- providing a discursive space for citizens to dialogue with other actors in the governance process.

The three main areas through which the media can make a significant impact on development and poverty reduction are:

#### 1) Empowerment

Media has a definite role to play in the empowerment of citizens. It gives voice to the needs and aspirations of the people and provides them access to relevant information. When people lack a voice in the public arena, or access to information on issues that affect their lives, and if their concerns are not reasonably reflected in the public domain, their capacity to participate in democratic processes is undermined.

Media, in all its varied forms, has opened up the potential for new forms of participation. The access to information and accessibility of information has increased with growth of print and electronic media and the Internet. Thus, the vulnerable and marginalized sections of the society such as the poor, women, weaker sections and socially disadvantaged are also using the media to make their voices heard.

## 2) Social Awareness & Action

The potential of mass media to be effectively employed to enhance social awareness is unquestionable. The media can be effective in not only preserving freedom but also extending it. The news media plays a decisive role in establishing a discursive space for public deliberations over social issues. The formative influence of the media on public attitudes, thoughts and perceptions is fundamental to the process of citizen engagement in public dialogue.

Giving a voice to the poor also entails giving the poor people adequate opportunities to take initiatives for overcoming their problems. The media, through its role in shaping public awareness and action, can be a critical factor in facilitating sustainable development and poverty reduction.

## 3) Good Governance

Good governance is recognized as central to poverty eradication, and a free media is a necessary condition for good governance. As an information conduit between corporations, government, and the populace, the media acts as a watchdog against government malfeasance, while at the same time fostering greater transparency and accountability.

The media monitors public service delivery and reports on key issues to the public at large, and in this process exerts pressure on public service providers. By highlighting institutional failings to guard against and institutional successes for replication, the media creates the right framework of incentives for good governance.

A free press is integral to good governance. It lets people voice diverse opinions on governance and reform, expose corruption and malpractices and help build public consensus to bring about change. It monitors basic public service delivery and pro-

motes human development. Last but not the least, it educates the public and builds public awareness on key socio-economic issues.

The World Association of Newspapers (WAN), the global organisation of the world's press has long argued that a free and unfettered press is a positive force for accelerated and equitable socio-economic development. It held that the predominance of free and independent press accompanies economic growth and human development. In countries with free press, human development indicators such as school enrollment, teacher-pupil ratio, pupil performance, infant mortality, maternal mortality, nutritional status of women and children etc. tend to fare better than countries with restrictions on press and freedom of information. The work of the Nobel Laureate, Amartya Sen has even established a link between active media and the avoidance of disasters like famines. The role of media as a watchdog of the government and the corporate sector, a transmitter of new ideas and information, a voice of the poor, a safeguard against the abuse of power and neglect of the socially vulnerable, and a builder of public consensus to bring about change is pervasive.

As experience has shown, the independence of the media can be fragile and easily compromised. It is clear that to support development the media needs the right environment - in terms of freedoms, capacities, and checks and balances. The Right to Information regime does give the media that critical support.

### **3.3 Right to Information and Role of Media**

Article 19 of the Universal Declaration of Human Rights adopted by the United Nations states:

*“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 short section on media in the Plan of Action (C.9) states that *“The media ..... have an essential role in the development of the Information Society and are recognised as an important contributor to freedom of expression and plurality of information.”*



In fact, mass media is the most important vehicle for information, knowledge and communication in a democratic polity:

- a) They are pervasive and play a significant role in shaping societies; they provide the public sphere of information and debate that enables social and cultural discourse, participation and accountability.
- b) They are the most accessible, cost-effective and widespread source of information and platform for expression.

Information is power. The media can play a crucial role in building an inclusive Information Society based on knowledge power and its distribution. For media to fulfil its potential, actions are required in three key areas:

1. To protect and extend media freedom and independence, and rights of access to information;
2. To actively develop the potential of media to provide information, a forum for debate on topics of public interest, cultural expression and opportunity to communicate, especially to the poor and marginalised;
3. To strengthen the capacity of media to promote and help build an Information Society – raising awareness, channelling civil society concerns, debating policies and holding government, private sector and civil society accountable.

Traditional systems of information access in India have made journalists dependent on sources they must cultivate. Whether bureaucrats or politicians, much depends on the privilege and patronage of the individual source. Such relationships of patronage not only make journalists depend on very feudal relationships, it often makes them use the information regardless of its veracity.

An RTI regime can enable credible, evidence-based and factual reporting on key issues of public interest. It can enable the media to expose mal-administration, corruption and inefficiency and to propagate stories and instances relating to accountability, transparency, effective administration and good governance. By using the RTI Act, the

media can play an important role in highlighting issues related to public service delivery and the efficacy and accountability of public officials.

Under the RTI Act, the journalists & reporters, like citizens, can:

- Demand from the Government information pertaining to any of its departments
- Demand photocopies of Government contracts, payment, estimates, measurements of engineering works etc.
- Demand from the Government certified samples of material used in the construction of roads, drains, buildings etc.
- Demand to inspect any public development work that may be still under construction or completed
- Demand to inspect Government documents - construction drawings, records books, registers, quality control reports etc.
- Demand status of requests or complaints, details of time delays, action taken on Information Commission's decisions etc.

The media can play a constructive role in the governance process by:

- **Catalyzing Effective Implementation of the Act:** As the 'fourth pillar of democracy', the media not only has an important stake in what the RTI Act purports to provide and achieve, but also in catalyzing and entrenching the implementation and enforcement of this significant piece of legislation.
- **Providing Information to the Citizens and Building Awareness on the Act:** Despite the provisions that have been made to access information, citizens resort to media like newspapers, radio, television etc. for day to day information about public authorities and their activities. The media provides a link between the citizens and their government. The media's right to information or right to tell is not a special privilege but rather, an aspect of the public's right to know. The media should fulfil this obligation.
- **Giving Voice to the Citizens:** As part of the civil society, the media has an obligation to articulate the needs and aspirations of the people. Using the Act, the media can highlight key issues faced by the citizens, particularly those faced by the poor and voiceless.

- **Acting as a Watchdog on behalf of the Citizens:** The best service that the media can provide to the public, whether in a mature or emerging democracy, is that of a community watchdog. Journalists should see and perform their role keeping in mind public interest. Using RTI, the media can expose corruption and inefficiency. However, in performing a watchdog role and digging out the truth, journalists should be careful in interpreting facts and evidence.

It is important that the media plays the role of an honest broker of information for its readers without deliberate bias or favouritism. The media must consider its independence to be its most valuable commercial, editorial and moral asset. Maintaining its independence through professional behaviour and a code of conduct that is subscribed to by all journalists, the media can be a powerful user of the RTI Act and an agent for the empowerment of people through an Information Society. The objective of the Act to usher in a practical regime of right to information cannot be attained without a proactive role played by the media.

### 3.4 Suggested Areas for Action by the Media

The following section provides cues for the media to use the RTI Act in discharging the following roles:

- In monitoring implementation of the Act
- In reporting on the effectiveness & efficiency of public service delivery
- In highlighting corruption and fraud related issues
- In highlighting citizen grievances
- In highlighting significant cases or efforts made by organisations/individuals on RTI.

However, it needs to be noted that the suggested areas are selective and are provided only to guide the media to effectively use the RTI Act provisions.

| Role of Media                                   | Suggested Areas for Coverage and Reporting  |
|---|---|
| <p><b>Monitor Implementation of the Act</b></p> | <p><b>Appropriate Government</b></p> <ul style="list-style-type: none"> <li>• Have appropriate rules been framed? Are they in conformance with the spirit of the Act?</li> <li>• Is there a centralised monitoring mechanism? What systems have been put in place to monitor the implementation of the Act?</li> <li>• What efforts have been made to sensitise and train government servants and elected representatives?</li> <li>• What public education and mass awareness activities have been undertaken?</li> <li>• Has the government developed and published user guides for citizens on the RTI Act?</li> <li>• What actions have been undertaken to ensure compliance with the Act and Rules by public authorities?</li> </ul> <p><b>Public Authorities</b></p> <ul style="list-style-type: none"> <li>• Have PIOs, APIOs, Appellate Officers been appointed? Has a directory of PIOs, APIOs, Appellate Officers been compiled and is it available in the public domain?</li> <li>• Are public authorities setting up proper systems of records management that involves proper indexing, cataloguing and maintenance of records?</li> <li>• How is IT being used in records management by different public authorities?</li> <li>• Have all public authorities made <i>suo motu</i> disclosure under section 4 (1) (b) of the Act? Are these documents available widely through various channels and easily available to the public? What is the quality of such disclosure?</li> <li>• Are all relevant facts being published while formulating or announcing key policies?</li> <li>• Are reasons provided for administration or quasi-judicial decisions to affected persons?</li> <li>• What efforts have been made to sensitise and train functionaries on the Act?</li> <li>• What public education and mass awareness activities have been undertaken?</li> <li>• What actions have been undertaken to ensure compliance with the Act and Rules by functionaries?</li> <li>• Whether disposal of requests for information and first appeals are following the time limits stipulated under the Act?</li> </ul> |

| Role of Media  | Suggested Areas for Coverage and Reporting   |
|--|--|
|  | <ul style="list-style-type: none"> <li>• Details of applications rejected (or partial information withheld) by Public Information Officers</li> <li>• Details of ‘third party’ information provided to seekers</li> <li>• Amount of charges collected by each public authority under the Act;</li> <li>• Particulars of penalties paid by erring Public Information Officers</li> <li>• Particulars of disciplinary action taken against officers in respect of administration of the Act;</li> <li>• What systems have been put in place to monitor the implementation of the Act?</li> </ul> <p><b>Information Commissions</b></p> <ul style="list-style-type: none"> <li>• Disposal of Complaints and Appeals and qualitative analysis;</li> <li>• Specific case studies on appeals and complaints</li> <li>• Directions to Public Authorities to comply with Act provisions;</li> <li>• Decisions requiring public authorities to compensate complainants</li> <li>• Imposition of Penalties and recommendation of Disciplinary Action against PIOs - Description of cases and lessons for the future;</li> <li>• Recommendations made to Government for effective implementation of the Act;</li> <li>• Key findings from the Commission’s Annual Report</li> </ul> |
| <p>Report on Effectiveness &amp; Efficiency of Public Service Delivery</p> | <p><b>Asking Right Questions: Some Examples</b></p> <p><b>Public Distribution System</b></p> <ul style="list-style-type: none"> <li>• Verification of the number and details of beneficiaries</li> <li>• Stock verification exercise - assess the total stock received by the fair price shop, total stock distributed, balance available</li> <li>• Supply verification to assess the total sale of provisions to crosscheck whether all cardholders received the rations provided to them as per entitlements</li> <li>• Whether list of BPL cardholders is displayed at the fair price shop</li> <li>• Whether list of commodities and rates fixed by the Government are displayed for public scrutiny</li> <li>• Examination of other registers supplied by Civil Supplies Officer/ Mandal Revenue Officer.</li> <li>• Functioning of fair price shops – days open, working hours, stock availability etc.</li> </ul>  |

| Role of Media | Suggested Areas for Coverage and Reporting   |
|---------------|--|
|               | <p data-bbox="443 250 1101 286"><b>Integrated Child Development Scheme (ICDS)</b></p> <ul data-bbox="491 300 1292 801" style="list-style-type: none"> <li>• Registration of beneficiaries</li> <li>• Attendance of children and <i>anganwadi</i> teacher</li> <li>• Growth monitoring of children and pregnant women</li> <li>• Participation in immunization</li> <li>• Provision of Vitamin-A solution to children</li> <li>• Supplemental nutrition</li> <li>• Early childhood care and development (0-3 years)</li> <li>• Pre-school education ( 2-5 years)</li> <li>• Health check-up</li> <li>• Enrolment in primary schools after completing pre-school</li> <li>• Implementation of Citizen's Charter etc.</li> </ul> <p data-bbox="443 815 1380 851"><b>Primary Health Services subject to exemptions under section 8(1)</b></p> <ul data-bbox="491 864 1356 1541" style="list-style-type: none"> <li>• Attendance of medical officer and other staff in the PHC</li> <li>• Field visits of the PHC staff</li> <li>• Supervisory visits undertaken by other health officials</li> <li>• Stock registers of medicines with dates of procurement, expiry dates of medicines etc.</li> <li>• Number of outpatients treated</li> <li>• Maintenance of safety pits in the centre</li> <li>• Number of surgeries conducted and their success rate</li> <li>• Immunisation achieved as against the Action Plan</li> <li>• Inspection of vaccines in the cold chain (refrigerators)</li> <li>• Inspection of safety measures followed by the staff in regular medical treatment</li> <li>• Maintenance of counterfoils on immunizations</li> <li>• Inspection of other relevant registers</li> <li>• Implementation of Citizen's Charter etc.</li> </ul> <p data-bbox="443 1554 1292 1590"><b>Primary Education subject to exemptions under section 8(1)</b></p> <ul data-bbox="491 1603 1332 2038" style="list-style-type: none"> <li>• Attendance of teachers (Teacher Attendance Registers)</li> <li>• Attendance of students (Pupil Attendance Registers)</li> <li>• Teaching standards in the schools (Curriculum and daily lessons)</li> <li>• Enrolment and drop-out rate of students (boys/girls)</li> <li>• Academic performance of schools</li> <li>• Implementation of Mid-Day Meal Programme</li> <li>• Infrastructure standards in the schools (Class rooms, black boards, teaching aids, equipments, toilets – general and girls etc.)</li> </ul> |

| Role of Media                         | Suggested Areas for Coverage and Reporting   |
|---------------------------------------|--|
|                                       | <p><b>Land Records</b></p> <ul style="list-style-type: none"> <li>• Land title (Private ownership)</li> <li>• Land allotted to institutions</li> <li>• Details of lands under Government/trusts/temples/ department authorities etc.</li> <li>• Agriculture land records</li> <li>• Forest land records</li> <li>• Lands under public domain</li> <li>• Details of persons who are in illegal possession of land and their status</li> <li>• Lands acquired for rehabilitating communities/affected people</li> <li>• Lands assigned to weaker sections, their development and use etc.</li> </ul> <p><b>Environmental Protection</b></p> <ul style="list-style-type: none"> <li>• Details of forest and natural resources, endangered species etc.</li> <li>• Levels of environmental pollution</li> <li>• Records relating to public safety and threshold levels of pollution</li> <li>• Inspection of industrial units and trades that are potentially environment sensitive</li> <li>• Environmental clearances</li> </ul> <p><b>Public Works</b></p> <ul style="list-style-type: none"> <li>• Contractual procedure</li> <li>• Rate at which work awarded</li> <li>• Basis for decision to undertake this work</li> <li>• Contract clauses for work monitoring &amp; completion</li> <li>• Status of work</li> <li>• Work monitoring</li> <li>• Copy of sketch of each work</li> <li>• Inspection of work</li> <li>• Samples of materials used in work undertaken</li> </ul> <p><b>Use of MP/MLA Local Area Development Scheme Funds</b></p> <ul style="list-style-type: none"> <li>• Details of all the works awarded during the year out of the MP/ MLA Constituency Development Scheme viz. type of work, name of agency, amount sanctioned, rate at which work awarded, date of commencement, date of completion, basis for decision to undertake the work, status of work etc (Please check mplads.nic.in before filing an RTI Application. The information may already be available on the web).</li> </ul> |
| Highlight Corruption - related Issues | <ul style="list-style-type: none"> <li>• Details of complaints of corruption received and the nature of allegations against each one of them subject to exemptions under section 8.</li> </ul>   |

| Role of Media  | Suggested Areas for Coverage and Reporting  |
|--|---|
|  | <ul style="list-style-type: none"> <li>• Copies of the complaints</li> <li>• List of complaints that were closed without any investigation and reasons.</li> <li>• List of complaints closed after investigation and copies of enquiry reports on the basis of which the complaints were closed.</li> <li>• Cases where penal action has been initiated and details of penal action initiated.</li> <li>• Cases where criminal complaints have been filed and their status. Cases that are pending and expected timeline for investigation to be completed</li> </ul>   |
| Highlight Citizen Grievances   | <ul style="list-style-type: none"> <li>• List of all the grievances received from the public during the year or quarter and copies of the grievances.</li> <li>• Action taken on each grievance</li> <li>• Time limits for each grievance to be resolved as per rules/Citizen's Charter</li> <li>• Penalty prescribed against the officials if they do not adhere to these time limits</li> <li>• Reasons for delay in resolution of the grievances Action taken against the officials in each case of delay</li> </ul>   |
| Highlight significant Cases or Efforts made by Organisations, RTI Champions & Citizens | <ul style="list-style-type: none"> <li>• Publicity stories on cases where citizens managed to access information revealing public inefficiency or corruption</li> <li>• Publicity stories on successful appeals to Information Commission</li> <li>• Publicity stories on cases where information was wrongly withheld by PIOs</li> <li>• Publicity stories on specific decisions by Information Commissions.</li> <li>• Profiles of organizations promoting RTI</li> <li>• Personality stories on Information Commissioners, prominent personalities and activists involved in the RTI campaign</li> <li>• Write-ups on Right to Information in general</li> <li>• Significant initiatives undertaken by civil society organizations and community based organizations</li> <li>• Editorials</li> <li>• Social Audit Case Studies</li> </ul> |



### 3.5 Reporting Social Audit

RTI is the single most significant law which enhances the scope of social audit of public policies and programmes to hold public officials socially accountable. The Act secures for every citizen the enforceable right to know, examine, audit, review and assess Government activities and decisions and also ensure that these are consistent with the principles of public interest, probity and justice. By securing access to relevant information and knowledge, the citizens would be able to assess Government performance and participate in and influence the process of policy formulation and programme implementation, particularly on issues relating to public service delivery.

Using the RTI Act, the civil society including the media can facilitate social audit of Government processes, activities, programmes, schemes etc., and help improve public service delivery and the efficacy and accountability of public officials. They can use the RTI Act to inspect various processes, programmes and schemes of any public authority. They can even examine the works undertaken by any Government Department at any stage and draw samples of materials that are in use. They can also collect and verify records, documents and samples of particular works undertaken by the Government. The media can play a key role in publicising the results of social audit.

Social audit of the implementation of the National Rural Employment Guarantee Act, 2005 is legally mandated (Section 17). The RTI Act can be used as an effective tool for undertaking social audit of the implementation of the NREGA. In this context, civil society organisations including the media, can inspect mandatory records that are maintained by the Gram Panchayats and seek information and explanation from the concerned. They can verify the following facts:

- Whether the Gram Sabha was involved in the identification of works in the village?
- Was there transparency in the process of registration?
- Was there transparency in the issuance of job cards?
- Whether applications were processed as per the guidelines?
- Was there transparency in the sanction of works?
- Was there transparency in the implementation of works?
- Whether quality was maintained in the work?
- Whether wages were paid on time according to the measurements?
- Whether payments for all the bills have been made?
- Whether prescribed worksite facilities were made available to the workers?
- Whether measurement, check measurement, and quality control inspection data recorded tally with the actuals on ground?

The media can play an important role in seeking answers to questions as above and reporting the answers in terms of published case studies.

### **A Case Study:**

#### **Social Audit of National Food for Work Programme (NFFWP) In Andhra Pradesh**

Kadarpathy is a village located in Nakrekal Mandal of Nalgonda District in Andhra Pradesh. The social audit of works undertaken under the NFFWP in this village was initiated by Department of Rural Development, Andhra Pradesh in association with the Centre for Good Governance. It also involved ActionAid India and MKSS, Rajasthan.

The work started with information collection on the works performed under the National Food for Work Programme for the financial year 2004-2005 from the village. The information was collected nearly one week prior to the social audit. It was decided to conduct social audit for two works taken up in the village: desilting of a feeder channel and construction of a road. In both the cases, the information was collected from different documents available at the district and block level offices. Once collected, all the information and records were sorted and filed work- wise.

The next step in the process was to analyse the available information. Records were studied for violation of norms and guidelines for minimum and equal wages, execution of works by contractors, breaching of estimates, and so on. The team also converted technical data into information that could be easily triangulated with the information collected from villagers. This was followed by visits to villages by the social audit team for nearly one week during which they developed good rapport with the villagers. During this period, an engineer checked the physical works that had been completed and audited last year. He gave his assessment of the expenditure incurred and of deviations from the plans submitted in the Gram Panchayat.

A public hearing was held subsequently to disseminate the findings of the social audit. Around two hundred people from the Gram Panchayat gathered to participate in the first opportunity they ever had of questioning the public servants for their commissions and omissions.

Some key findings and observations from the social audit were:

1. Some muster rolls were empty (without names) with only signatures. Names of some labourers who worked were not registered in the muster roll.
2. Measurement books were not available in files for some works.
3. The wages recorded in the muster role were higher than the amounts actually paid to the labourers as per muster roll.
4. There were no display boards of work undertaken.
5. The team leader (Maisthri) of the workers took all the rice coupons from the officials and collected the rice from the fair price shop.
6. Some finger prints in the registers did not match with those of the actual workers - even the literate workers had their fingerprint in the muster roll.
7. Labourers from the other villages were engaged in contravention of the rules.
8. Measurements of the work were not taken in the presence of the workers.
9. The quality of the rice issued was not good. Rice distributed to the workers was not properly measured.

There was a difference of 2 meters when a feeder channel was measured and compared with the M Book.

## Chapter 4: Selected Media Reports

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### 4.1 Information Exposure by Media

Freedom of Information laws across the world have greatly enhanced the power of the media to contribute to transparency, accountability and good governance through startling disclosures of information which could not be possible in the past. This chapter provides a compilation of media reports/case studies drawn from different countries that highlight how the media has used Freedom of Information laws or reported on related issues in different contexts.

### 4.2 India: Select Media Reports

**4.2.1 Media Awareness stimulates RTI in Rural India** by Rohit Parihar, India Today – dated 17<sup>th</sup> September, 2001.

A sustained right to information campaign by villagers exposes corruption at the panchayat level.

“Enough of theft and embezzlement. Let us speak out.” As the puppet before them breaks into a song, the villagers at the street corner at Janawad in Rajasthan’s Rajsamand district join the chorus. Puppeteer and firebrand activist of the Mazdoor Kisan Shakti Sangathan (MKSS), Shankar Singh has their attention as he tells them how their sarpanch and other officials gobbled up the money meant for their development. As the show ends, Singh holds up two volumes of a 400-page report. “Do you know what this is?” he asks. “Yes,” comes the collective reply. “A guide to corruption.”

Indeed, the report brought out by State Deputy Secretary (Finance-Audit) Banna Lal on grassroots corruption in Janawad is virtually a list of the ways in which money can be misappropriated. Submitted after a probe ordered by Chief Minister Ashok Gehlot in April this year, it points out that 55 per cent of the funds meant for development works - Rs 68 lakh out of Rs 1.23 crore - had been misused over the past six years.

While such revelations have become common in a corrupt society like India, what has made a difference this time is the manner in which the report came about. The product of a relentless public campaign, it is the first document to have been procured by the people through the Right to Information Act, enacted by the State Government in May. And perhaps for the first time, the state has admitted to the stink in its administration and taken corrective action. Seven officials were suspended, with Gehlot asking the Anti-Corruption Bureau to initiate criminal proceedings against the accused and recover Rs 67 lakh from them. "Let citizens use their right to information to expose corruption," he said promising a similar exercise in other panchayats.

The first string of allegations against the officials of Janawad panchayat came to light early last year after the MKSS launched its right-to-information initiative. Under its guidance, villagers demanded that the Government display on boards the details of works undertaken and the expenditure incurred on them. When this was done, they realized that most of the works were either completed years ago or did not exist at all. Soon Magsaysay Award winner Aruna Roy joined the campaign and within a year, they procured the documents needed for an investigation.

#### **4.2.2 Indian Express Pune, PIO Denies Information; Pays Rs 8000 Penalty',**

<http://7/cilies.expressindia.com/fullstory.php/newsid=122321>

The imposition of Rs. 8000 as penalty on a District Sports Officer for giving incorrect information in Pune came as a wake up call for Public Information Officers (PIOs) in the State of Maharashtra. The Maharashtra Right to Information (MRTI) Act had one of the most progressive penalty provisions amongst the states with access laws in India. The Act permitted the imposition of a fine of Rs. 250/- per day for unreasonable delay in providing information, and permitted fines 'not exceeding Rs. 2000/- on a PIO who has knowingly given incorrect, misleading, wrong or incomplete information'. Using such provisions, this case sets an impressive precedent and should act as a serious deterrent for PIOs unwilling to disclose information under the provisions of the Act.

The PIO concerned, Wali Jamadar, deposited the fine amount in the Government treasury after consumer activist Dhyanchandra Patil was given incorrect information on four application requests made under the MRTI to the PIO at the District Sports Office.

By citing an outdated circular, the PIO had misled the requester, claiming that there was no law on the right to request such information. Arguing that the PIO's claim was clearly misleading information, Patil called for a penalty of Rs 2000 to be imposed on the PIO. In his capacity as Appellate Authority, the Deputy Director asked the PIO to explain his actions and then reprimanded him for furnishing misleading information. Patil was not satisfied with the Deputy Director's response and informed him that as the Appellate Authority, it was imperative that he impose a penalty and fine on the PIO and that the appeal had to be decided within 30 days or only in exceptional cases in 60 days. Patil was clear that if his appeal was not decided within the stipulated time, he would be forced to approach the Lokayukta.

Responding favourably, in November 2004, the Deputy Director ordered the PIO to pay a penalty of Rs. 2000 for violating Section 12(2) of the MRTI Act. Yet, Patil was adamant that the PIO be penalized for providing misleading information on all four applications made by him and should be penalized for each act of non-compliance with the law. Patil's argument was soon conceded. This is perhaps the first such penalty imposed under the MRTI Act for giving misleading information.

**4.2.3 Right to Information — Path to Swaraj** by Shailesh Gandhi, The Hindu, dated October 07, 2005.

A SIMPLE yet very powerful example of the use of the Right to Information (RTI) is of a slum dweller who applied for a new ration card. He was told he would have to give a bribe of Rs.2000 to obtain it. Our friend — an RTI-empowered citizen — smiled, and just went ahead and applied for the ration card without offering any bribes. His neighbours warned him he would never get his ration card. They also told him how he would now have to keep visiting the rationing office. Some well meaning friends praised him for being courageous. They suggested he should approach some non-governmental organization to take up his case, so that ultimately he would get his ration card.

Our citizen had decided to become an enforcer of good governance. He found out in how many weeks everyone who paid bribes got their ration cards. He waited for an

extra four weeks after applying for his card, and then applied for information under the RTI. Using the simple format with an application fee of Rs.10, he delivered it to the Public Information Officer of the Food and Supply office. He had asked up to which date applications for ration cards had been cleared and the daily progress report of his application. This shook up the officials, since they would have to acknowledge in writing that they had given ration cards to others who had applied after him, which would be conclusive evidence that they had no justification for delaying his card. Happy ending: the ration card was given to him immediately.

No bribes, no endless visits. Our citizen was able to use the might of the Right to Information. This story has been repeated a thousand times to get a road repaired, an electricity connection, admissions to educational institutions.

The Right to Information is derived from our fundamental right of expression under Article 19. If we do not have information on how our Government and public institutions function, we cannot express any informed opinion on it. This has been accepted by various Supreme Court judgments, since 1977. All of us accept that the freedom of the press is an essential element for a democracy to function. It is worthwhile to understand the underlying assumption in this well entrenched belief.

Nine States in India have an operational Right to Information Act. Parliament passed this as Act no.22 of 2005 in May this year. It will become operational across the country on October 12, 2005. It promises to be a single piece of legislation that can result in the victory of participatory democracy. There are some signs of the various power-wielders of government seeking to regress on the provisions of the Act, but citizens will not permit this. It is a right that has belonged to us for the last 55 years, and now we shall not allow it to be diluted.

The Right to Information Act is a codification of this important right of citizens. The right has existed since the time India became a republic, but was difficult to enforce without going to court. The Act and its rules define a format for requisitioning information, a time period within which information must be provided (30 days), method of giving the information, some charges for applying, and some exemptions. The prin-

principle is that charges should be minimum – more as a token. They are not at all representative of the costs that may be incurred. Citizens can ask for information by getting xerox copies of documents, permissions, policies, and decisions. Inspection of files can also be done and samples can be asked for. All administrative offices of public authorities have to appoint 'Public Information Officers (PIO).' Citizens can apply for information to the PIO of the office concerned. If it is not provided or is refused, the citizen can go to an Appellate Authority who would be an official in the same department, senior to the PIO. If this too does not produce a satisfactory result, one can appeal to the State or Central Information Commissioner, an independent Constitutional Authority being established under the Act.

One of the major reasons for the success of the Maharashtra and Delhi Acts is that there is a provision for penalising the PIO in case he does not give the information within the mandated period. The National Act, which has drawn a lot of inspiration from the Maharashtra Act, also provides for a penalty for delay on the PIO at a rate of Rs.250 a day. There is also provision for disciplinary action against recalcitrant PIOs in some cases. Thus the Right to Information provides for a time bound and defined process for citizens to access information about all actions taken by public authorities. The penal provisions are the real teeth of the Act, which ensure that the PIO does not treat citizens' demands for information in a cavalier manner.

I have myself used the Right to Information in a variety of ways. It has been possible to get a Commission report to be made public using the RTI. In another case, a police inspector had raped a minor and was reinstated in service within five months! Using RTI as a pressure device resulted in the inspector being dismissed from service. In another instance, proof has been obtained about political interference in police transfers. The major fraud of looting money meant for providing livelihood under the employment guarantee scheme (EGS) has been going on for years. Presently, a campaign has been initiated in Maharashtra to get citizens across the State to ask for EGS muster rolls using RTI and then auditing them with people's participation. The primary power of RTI is the fact it empowers individual citizens to requisition information. Hence without necessarily forming pressure groups or associations, it puts power

directly into the hands of the foundation of democracy — the citizens. There will certainly be an attempt to subvert this revolutionary right by the ruling coterie, since it strikes at the basics of their power. This can easily be countered if enough citizens use the Act. Citizens can use the right from their own houses — and usually it does not take more than about two hours to make an RTI application.

A few million applications across the country by concerned citizens on issues that interest them will bring a major change in India and be a determined move towards the Swaraj we desire. There is a great need to spread the usage of this countrywide, so that transparency and good governance triumph. We now have the power; we only need to use it. It is simple to use, and the benefits are immense.

#### **4.2.4 Garbage Collection by MCD, Indian Express, Delhi, August 2004:**

S.P.S. Nagar retired two years ago from the Municipal Corporation of Delhi (MCD) but he has not lost his interest in the civic body. Since he no longer has access to files and records, the 60-year-old, who has worked as a health and sanitation expert, is using the Right to Information Act to keep track of the way the agency is working. His attention was drawn to MCD's garbage collection by the overflowing dhalao in his Yamuna Vihar colony.

“In my colony, the garbage is never lifted. The dhalaos never maintained and there are unutilised trucks lying around,” says Nagar. So he decided to find out why.

Nagar sought details on MCD and garbage collection from 1978 onwards, and the civic body furnished him with information from 1998 to 2003. He discovered that the MCD is not charging commercial and industrial units for picking up their garbage. According to his calculations, this is causing a revenue loss of Rs 91 crore per annum.

“Under Section 356 of the DMC Act, all commercial and industrial units are to either take the responsibility of transporting garbage produced by them to landfill sites or pay the MCD to do it. Despite the provision of the DMC Act, the MCD never charges either,” says Nagar.

MCD had not recovered these costs from four zones — Rohini, Sadar Paharganj zone,



Najafgarh and Shahdara (South). In some zones, the MCD had recovered partial costs such as Rs 16,720 and Rs 62,264 from banquet halls in the Central zone in 2000-01 and 2002-03 respectively.

Through the RTI Act, Nagar also found out that MCD is short of more than 200 trucks (a total of 500 trips daily) to pick up garbage. After calculations, Nagar concluded that the MCD could make up part of its deficit by just charging commercial and industrial units.

The Indian Express, a national *newspaper*, along with Parivartan, has been guiding people in exercising their right to information through a RTI forum. It has been doing this through a regular column – “Express Initiatives” - in which recent developments in this area are mentioned along with people’s experiences. It has not only reported cases of success and failure in use of the Right to Information Act but also published sample ‘questions’ to assist citizens in framing ‘well drafted’ questions.

In addition to this column, the Indian Express has organized awareness camps and training workshops in association with other institutions to guide people in accessing information. They also have an interactive website to address queries and to provide suggestions.

*To view the columns visit*  
**<http://expressindia.com/initiatives/rti>**

#### **4.2.5 It happens only in Bangalore, or does it?**

Times of India, dated June 15, 2006

**BANGALORE:** It happens only in Bangalore Mahanagara Palike. Paying Rs 10 lakh to a contractor for a road not asphalted! And patting him too for “satisfactory execution of work.”

The case in point is a perfectly good Rama Iyengar Road, perpendicular to the famed Food Street in South Bangalore. But BMP prepared an impressive sounding detailed estimate for — “depression filling, levelling coarse for camber correction, applying bituminous tack coat at Rs 2.5 per 10 sq metres, brushing and cleaning the road surface...” at a cost of Rs 10,76,808.

The road has not seen any asphaltting. But the contractor was paid his dues. This fraud came to light thanks to S R Venkataram, president of residents’ welfare association,

Suprajaa. Using the RTI (Right to Information Act), he procured details on the non-work. Explains Venkataram: “I have lived in this area all my life and no one can bluff to me about the work. So I asked for technically and administratively sanctioned copy of the estimate, tender rates and copy of the duplicate bill. I was shocked when the papers claimed that this road has been asphalted for Rs 10 lakh...

What is happening to the tax-payers’ money?” The executive engineer at Basavanagudi under whose jurisdiction this road falls has declared: “Certified that the measurements were checked by me and found correct.” The contract certificate, a copy of which was obtained by The Times of India, reads:

“Certified that the contractor has executed the work satisfactorily and the work is as per schedule.

“Certified that the contractor has removed all the debris from the work spot.”

The contractor has been paid Rs 10,67,808 vide cheque No. 037508. Venkataram has forwarded all the documents to the Lok Ayukta.

NDTV in partnership with leading civil society organisations have launched a nationwide campaign on RTI that seeks to build public awareness on RTI and wherein people are being encouraged not to pay bribes, but to ask for information under the RTI Act to solve their problems.

The Drive Against Bribes campaign covers the period July 1-15. Nearly 1500 trained volunteers are available at centres in 48 cities around the country. Eight media partners and more than 700 civil society groups are a part of this initiative.

*To know more about it visit  
<http://www.ndtv.com/rti/>*

**4.2.6 Right to Information is a Boon** – Andhra Prabha, dated July 5, 2006 (translated version)

Pune, July 4: Ramesh Pongde retired from government service after serving for 40 years, out of which he had served 27 years in the Pune Municipal Corporation (PMC). When he received his first monthly pension cheque, he was shocked to find that it was for Rs. 5000/- instead of Rs. 7000 that was due to him every month. He continued to receive Rs. 5000 every month.

Over the next four years, Mr. Pongde wrote many letters to the PMC in this regard but did not get a single response for four years. He made 16 representations to the Government. He attended the pension court five times. When he requested for his pension papers, he was asked to pay bribes by officials.

When Mr. Pongde came to know of the RTI Act, he decided to use it to obtain his papers. Using the RTI Act, he obtained all his pension papers from PMC. He also got the details of his representations sent to the Government highlighting the mistakes made by PMC in computing his pension.

Ramesh got his total pensions due to him within 3 months. Government corrected his pension enhancing the same from Rs.5000/ to Rs. 8000/- per month. Further, he was paid the difference of amount due to him for the last four years amounting to Rs. 1,78,000/-. Ramesh is happily telling everybody that he got his due because of the Right to Information Act.

RTI is a powerful tool that people can use to make the government transparent, responsive and accountable.

### **4.3 United Kingdom: Select Media Reports**

**4.3.1 Our Dirty Secret: How Britain gave Israel the bomb** by Meirion Jones, 'New Statesman' cover story dated 13 March, 2006.

Top secret papers obtained using the U.K. Freedom of Information Act show how Britain helped Israel make the A-bomb in the 1960s, supplying tons of vital chemicals including plutonium and uranium. And it looks as though Harold Wilson and his ministers knew nothing about it.

The heroic images of the Six Day War when Israel took on the Arab world in June 1967 defined Israel as a daring community, "who risked everything on the throw of a dice". At that time it was not known to the world that Israel had a secret weapon, two, to be precise.

"It has been known for some time that the French helped build Israel's reactor and reprocessing plant at Dimona, but over the past year our research team at BBC

*Newsnight* has unearthed something no less astonishing and much closer to home – top-secret files which show how Britain helped Israel get the atomic bomb”.

When Harold Wilson was Prime Minister the UK supplied Israel with small quantities of plutonium despite a warning from British intelligence that it might “make a material contribution to an Israeli weapons programme”. This, by enabling Israel to study the properties of plutonium before its own supplies came on line, could have taken months off the time it needed to make weapon. Britain also sold Israel a whole range of other exotic chemicals, including uranium-235, beryllium and lithium-6, which are used in atom bombs and even hydrogen bombs. And in Harold Macmillan’s time the UK supplied the heavy water that allowed Israel to start up its own plutonium production facility at Dimona – heavy water that British intelligence estimated would enable Israel to make “six nuclear weapons a year”.

“After we exposed the sale of heavy water on *Newsnight* last August, the government assured the International Atomic Energy Agency (IAEA) that all Britain did was sell some heavy water back to Norway. Using the Freedom of Information Act, we have now obtained previously top-secret papers which show not only that Norway was a mere cover for the Israel deal, but that Britain made *hundreds* of other secret shipments of nuclear materials to Israel in the 1950s and 1960s”.

#### **4.3.2 City of outlaws leads** by Richard Ford, THE TIMES dated 23 May, 2006

Nottingham is the most dangerous city in England and Wales, according to a study of serious crimes in big urban areas published today.

The city, once famous for its outlaws, comes out as the modern-day capital of crime in a survey of seven offences from murder to vehicle crime. Residents are four times as likely to be victims of burglars, muggers and rapists than those who live in the safest places – Southend-on-Sea, in Essex and Poole, in Dorset.

The study, Urban Crime Rankings, uses data obtained under Freedom of Information laws and police-recorded crime figures. It is based on 2005 figures for murder, rape, assault, burglary, robbery, vehicle and gun crime.

The crime tables throw up some surprises. Who would have thought, for example, that Portsmouth was the rape capital of England and Wales or that Ashford, in Kent, would finish eighth for murder – Way ahead of Liverpool and even London?

Better information and improved policing based on direct accountability to local communities was urgently needed to increase public safety.

**4.3.3 “So you want to see the PM’s memos?”** by Martin Rosenbaum, BBC News Political Programmes, dated 4th January 2005.

Two years ago I visited the Prime Minister’s office. The friendly staffs were welcoming to me and Michael Crick, the reporter I was with, and gave us a large pile of Mr. Blair’s correspondence with other world leaders, which we sat down and read. But we weren’t in Downing Street - we were in Stockholm in the office of the Swedish Prime Minister, Goran Persson. Sweden has possibly the strongest freedom of information laws in the world, and the government there is happy to make available the sort of documents that other countries like Britain have preferred to keep secret. The pile of Mr. Blair’s letters to Mr. Persson contained one we found particularly enjoyable. It was sent in the wake of England beating Germany 5-1 in the World Cup qualifiers in 2001, a triumph for the new England manager Sven-Goran Eriksson.

Mr. Persson was interviewed on BBC Radio 4’s Today Programme about this boost to Anglo-Swedish relations - following which Tony Blair dispatched him a short handwritten note:

“You are a star,” said Mr. Blair. “You can appear on British radio anytime. And thank you for Sven.”

But when we asked Downing Street for copies of Tony Blair’s letters to Goran Persson, we were told they could not release them as it might “damage our international relations”.

Who was the person who told us this? ‘The Cabinet Office official with the grand title of ‘Openness Coordinator’.

**4.3.4 Information Commissioner clashes with Whitehall over deleting civil servants' names in FOI requests** by Patrick Wintour, David Leigh and Rob Evans, The Guardian dated February 1, 2006.

Civil servants are refusing to accept a landmark ruling from the independent information commissioner which forbids them from routinely deleting their names before releasing documents.

Freedom of information campaigners yesterday condemned the practice of keeping identities secret. They were also angered by proposals from the Lord Chancellor, Lord Falconer, to reject outright many FOI requests on grounds of cost, by tightening up the rules about use of civil servants' time. Campaigners say this could block thousands of requests.

In his first major collision with Whitehall since the Act came into force in January last year, Richard Thomas, the Information Commissioner, has issued a formal "decision notice" outlawing the removal of civil servants' names.

The Department for Education and Skills, the immediate subject of this month's ruling, has refused to accept it. Last night it said it was considering whether to appeal, a decision which must be made by tomorrow.

The Department of Trade and Industry, in a batch of documents released yesterday, once again deleted without explanation all its officials' names, including that of the trade minister Ian Pearson's private secretary, a senior Whitehall post.

The Ministry of Defence has refused to release its arms sales unit staff list on the grounds that officials fear attack by activists. The Home Office, one of the most uncooperative departments since FOI was enacted, also refused this week to stop deleting names. It claims it is acting on advice from the Department for Constitutional Affairs, and that disclosure would breach the act's privacy section.

Maurice Frankel, Director of the Campaign for Freedom of Information, said erasing the names of officials was widespread and often absurd.

He said that the Foreign Office had even removed Nelson Mandela's name from documents it had released. The Education Department argued that officials could be less candid with advice to ministers if they thought their names might be disclosed.

In his ruling, made on January 4, Mr Thomas said: "A distinction can be drawn between information relating to someone's private life and information relating to their professional or working life. The information in question merely identifies civil servants as attending a meeting in their official capacity, or giving their professional advice."

Lord Falconer told the Guardian he was tightening up the costs rule because he found it extraordinary that civil servants' time was not being counted. He denied he was planning to start charging fees. A request for information can be rejected if the cost to the state is more than £600.

He said the civil service was being bothered by vexatious claims such as how many lavatories there are in the Education Department and how much each department spends on makeup.

#### 4.4 United States : Select Media Reports

**4.4.1 "Reagan, Hoover, and the UC Red Scare"** by Seth Rosenfeld, *San Francisco Chronicle*, 9 June 2002, p. A1 "Feinstein demands answers from FBI: Report on UC activities generates 'deep concern'" by Seth Rosenfeld, *San Francisco Chronicle*, 23 June 2002, p. A1

FOIA documents obtained after a 17-year legal battle showed the FBI had conducted unlawful intelligence activities at the University of California, the nation's largest public university, in the 1950s and 1960s, including covert support for movie star Ronald Reagan's first successful campaign for state governor pledging to suppress student protests. The FBI also secretly campaigned to get UC President Clark Kerr fired, conspired with the director of the CIA to pressure the University's Board of Regents to "eliminate" liberal professors, and mounted a covert operation to manipulate public opinion and infiltrate agents provocateurs into non-violent student dissent groups. California's senior U.S. Senator followed up the story with Congressional queries about the current state of FBI political surveillance activities.

**4.4.2 “Widespread Water Violations Decried”** by Eric Pianin, *The Washington Post*, 7 August 2002.

Using documents obtained through the Freedom of Information Act, The U.S. Public Interest Research Group (PIRG) released a report finding that nearly one-third of major industrial facilities and government-operated sewage treatment plants have significantly violated pollution discharge regulations during the past two years, but relatively few are being prosecuted. Using the Freedom of Information Act, PIRG analyzed the behaviour of industrial facilities, municipal treatment works and federal installations by reviewing violations between January 2000 and March 2001, as recorded in the EPA's permit compliance system database.

**4.4.3 “Program Blasted by HUD; City Told to Halt Housing Repairs,”** *The Houston Chronicle*, Nov. 13, 2003, at A29, by Dan Feldstein.

The Department of Housing and Urban Development (HUD) ordered the city of Houston to suspend a housing-assistance program for poor-quality work and overpayment to contractors. The Houston Chronicle obtained documents through FOIA that show HUD inspections turned up numerous problems with homes that had been worked on as part of the Houston program. Among the problems HUD cited were poor work quality, incomplete work, and discrepancies in the estimated amount of materials and those actually used. Homeowners, also complained of negative attitudes among workers and contractors and lack of information provided about equipment and warranties.

**4.4.4 “Stealth Merger: Drug Companies and Government Medical Research; Some of the National Institutes of Health’s Top Scientists Are Also Collecting Paychecks and Stock Options from Biomedical Firms. Increasingly, Such Deals Are Kept Secret,”** *The Los Angeles Times*, Dec. 7, 2003, at A1, by David Willman.

*The Los Angeles Times* conducted an investigation of payments from drug companies to employees of the National Institutes of Health (NIH) and the agency's research collaborations with the industry. Documents obtained from the NIH under FOIA showed that researchers and scientists receive consulting fees and stock options from



biomedical companies. The NIH allows the majority of its officials to keep such income confidential and does not require that it be reported in financial disclosures. The practices raise ethical concerns regarding whether those incomes will affect researchers' decisions regarding the safety of subject patients, public health, and the interpretation of study results.

**4.4.5 “Pentagon Ban on Pictures of Dead Troops Is Broken,”** *The New York Times*, Apr., 23 2004, at A14, Bill Carter, by Jim Rutenberg and Mindy Sink contributed reporting for this article.

Russ Kick, who operates the website the Memory Hole, obtained photographs of flag-covered coffins of deceased soldiers returning from Iraq through the FOIA. Initially, Kick's request was denied by the Air Force but, upon appeal, 361 photographs were released to him. The release broke a ban that the Pentagon had issued prohibiting media coverage of arriving coffins. An employee of a defense contractor and her husband were fired when she released a photo of flag-draped coffins she had taken while on a military transport plane. News organizations were unaware that such photographs even existed - unaware the Pentagon was continuing to take pictures for historical purposes. These organizations have argued that the release of such photos should be allowed as part of the national dialogue on the Iraq war. Polls have also shown that public support favors release of such photos.

**4.4.6 “Wandering weapons: America's lax arsenal”** by Sydney P. Freedberg and Connie Humburg, *St. Petersburg Times*, 11 May 2003

Documents made public by the Pentagon in response to a Freedom of Information Act request from the St. Petersburg Times, indicate that since the 1991 Persian Gulf War, thousands of pounds of explosives, hundreds of mines, mortars, grenades and firearms and dozens of rockets and artillery rounds have been lost or stolen from U.S. stockpiles and have possibly been misused. In many of the documented 242 cases the lost or stolen munitions were safely recovered, however some remain unaccounted for. And at least four devices have blown up, injuring 15 people. The Army was the most responsive branch of the military, releasing 223 incident reports. The Navy and Marines

made public 15 reports of lost munitions, and the Department of Defense released four. The Air Force did not release any reports. Army documents obtained through FOIA indicated that oversight was so lax at a few bases that it was easy to steal almost anything designed to cause death or serious battlefield injuries and elaborated that in one case, classified guidance systems for three Stinger missiles disappeared somewhere between Fort Bliss, Texas, and Tucson, Ariz., in 1998 or 1999.

**4.4.7 Ex-official got raises during probe** by Gene Johnson, Associated Press, June 20

SEATTLE - A former federal official, convicted of accepting gratuities from a natural gas company that overcharged the government, received nearly \$22,000 in raises while he was under investigation, according to documents obtained by The Associated Press.

But he remained on the payroll, and his salary increased to \$93,781 before he retired last December, according to records released under a Freedom of Information Act request.

“What? How can you give a raise to someone who’s under criminal investigation?” Assistant U.S. Attorney David R. Jennings said Tuesday. “Very often, it’s the government’s policy to assume people are innocent until proven guilty, and so they aren’t necessarily terminated right away. But that doesn’t mean you promote them.”

The center is an office of the General Services Administration. A GSA spokeswoman did not immediately return a message.

Prosecutors said he accepted gratuities from Tiger Natural Gas Inc., of Tulsa, Okla. The company suggested it would hire him to open a Northwest branch, paid his wife \$11,000, and gave him \$14,000 in meals and entertainment from 1998 to 2001.

Mitten pleaded guilty in federal court to conspiracy to engage in conflicts of interest. A charge against his wife was dropped.

Jennings wrote in court papers that investigators had identified at least a dozen

schemes being run out of Mitten's office and that other GSA workers were involved. He has declined to say whether he expects to file further criminal charges.

## **4.5 Other Countries : Media and FoI**

### **4.5.1 Canadian Officials' lavish spending exposed**

Information released under a Canadian access to information statute revealed outrageous travel costs incurred by the Premier of Alberta and his entourage. The information disclosed included evidence of orange juice costing \$27 a glass, a four day rental of a van and touch totalling \$8,000, and a \$2,600 lunch tab for 12 people in Mexico. "From these expense accounts, we can see they are living the lifestyles of the rich and famous," Liberal MP critic Hugh MacDonald said of the Premier and members of his staff.

Source: Jerry Ward, Tories' Travel Costs Soar; Receipts Reveal Lavish Lifestyle with \$27 Orange Juice and \$1,400 Lunches, February 19, 2004 at 5.

### **4.5.2 In Ireland, the high cost of looking good**

According to documents obtained under Ireland's 1997 Freedom of Information Act, Prime Minister Bertie Ahern's makeup and grooming requirements have cost the taxpayers some •140,000 over the last seven years. "While the nation is relieved that [Ahern] has dropped his anorak and gallon of Bass persona when he meets foreign leaders, we feel that perhaps he has spent too much time in the company of those flouncy continentals, and their fancy, no-Irish ways," wrote Ian O'Doherty in his regular weekly column.

Source: Ian O'Doherty, It's Bertie the Metrosexual, July 30, 2004

### **4.5.3 FOI Request Reveals Weaknesses in Ireland's e-Voting Scheme**

A computer specialist who has been critical of the government's implementation of electronic voting has received hundreds of pages of documents confirming what he has argued for over two years: the existence of serious deficiencies in Ireland new electronic voting scheme. The documents were released by the Committee on the Environment and Local Government and made headlines recently when the web site

for electronic voting went offline. Thus far the government has spent •40 million on the system.

Source: Jamie Smyth, Decision Vindicates Early Doubter, May 1, 2004

#### **4.5.4 Jamaica: Media as a Strategic Partner**

The Jamaican experience provides an excellent case study. In Jamaica, the Access to Information Implementation Unit (ATI Unit), set up under the prime minister's office, developed an implementation strategy which prioritized inclusion. It was at the outset recognized that scarce resources for implementation would need to be creatively utilized to stretch further. One strategy was to draw in other government agencies with complementary mandates, such as the Information Department, Social Development Department, Consumer Affairs Group and the Records Office (a critical group because without easy retrieval and ordered records, implementation would be easily undermined).

As a unit working as part of government, the ATI Unit recognized that the historical suspicion between government, media and civil society needed to be overcome, because civil society partnerships are essential. Accordingly, upon commencement of the act, the ATI Unit sent out introductory letters to MPs, the opposition, civil society groups, human rights organizations, educational groups and the media.

The unit was keen to devise a collaborative rather than a confrontational strategy. Institutionally, this objective was taken forward by the establishment of a stakeholders' advisory group, comprising civil society, media and government representatives (including the responsible minister on occasion). The group's terms of reference include assisting the government with implementation, monitoring and making recommendations for improvements. With such wide representation, the ATI Unit has found that there is less suspicion from civil society, media and government.

#### **4.5.5 Mexico: Media enables Effective Monitoring of FOI Requests**

Objective media reportage ensured effective and increased monitoring in this example. In Mexico, a heavy emphasis was put on systems. The priority for the government and commission was to set in place an easy, accessible, robust system that could withstand

the pressure of more and more requests as the system was entrenched.

Mexico developed a unique IT application and appeals processing system (called SISI) which allows requesters to lodge their applications and appeals via the internet. In this way, they are assured of a receipt with a reference number, and their application is automatically directed to the relevant public office.

Media attention has ensured that the mechanism built checks for lapses and made the system more transparent and accountable. Since the act came into force two years ago, the government has received approximately 70,000 requests and 92% were made on-line.

Very few Mexicans have access to internet but a computer with internet access is closer to more Mexicans than the federal capital which is where the government is based. Recognizing this, the commission has worked with media and other agencies to agree on MOUs to allow people to use their computers to make applications. Indeed, a large part of this exercise was awareness generation.

## Appendix 1

### Some Important Questions

**(1) When did the Right to Information Act, 2005 come into force?**

The Right to Information Act came into force fully on the 12th October, 2005 (120th day of its enactment i.e., 15th June, 2005). Some provisions came into force with immediate effect viz. obligations of public authorities [Section 4(1)], designation of Public Information Officers and Assistant Public Information Officers [Sections 5(1) and 5(2)], constitution of Central Information Commission [Sections 12 and 13], constitution of State Information Commission [Sections 15 and 16], non-applicability of the Act to Intelligence and Security Organizations [Section 24] and power to make rules to carry out the provisions of the Act [Sections 27 and 28].

**(2) Who is covered under the Right to Information Act, 2005?**

The Act extends to the whole of India except the State of Jammu and Kashmir [Section 1].

**(3) Are “file notings” included in the definition of Information?**

Section 2 (f) of the RTI Act defines ‘information’ which includes ‘record’. Section 2(i)(a) states that a ‘record’ includes any document, manuscript and file. The operative definition of a ‘file’ is given in the Manual of Office Procedure prepared by the Central Secretariat, Government of India. The definition of ‘file’ in the Manual includes ‘notes’ and ‘appendices to notes’.

In CIC Decision No. ICPB/A-1/CIC/2006 dt.31.01.2006, the CIC held that “file notings are not, as a matter of law, exempt from disclosure”. Thus, file notings can be disclosed under the Act.

**(4) If the law under which a Public Sector Unit (PSU) has been constituted does not allow access to information to the people such as agendas of board meetings etc., will such information have to be given under the RTI Act?**

PSUs fall within the category of public authorities. Even if the law constituting a

PSU does not allow disclosure of certain categories of information, the RTI Act, 2005 overrides any such law in existence. Hence the designated PIO for the organisation under question has to provide the information.

However, if an applicant seeks information, that includes commercial confidence, trade secrets or Intellectual Property Rights (IPRs) etc. the disclosure of which will affect the competitive position of that PSU, such information may not be given unless there is a larger public interest involved.

**(5) Government offices have been providing information to people on the basis of their oral requests in the past. Does the RTI Act require such informal practices to end?**

No, there is no need to discontinue the conventional and informal practice of giving information upon oral request. The RTI Act does not put an end to such practices. If information can be given without delay upon oral request it is better to give such information to the requester rather than require him/her to put in a formal application. This helps reduce paper work for the public authority.

**(6) Can Government officers get access to Annual Confidential Reports (ACRs) under the RTI Act?**

As per decision No.18/IC(A)/2006 dt.28.03.2006, the CIC held that “the assessment reports by the superior officers are personal and confidential information and therefore exempted under Section 8 (1)(j) of the RTI Act”.

In the case stated above, the Central Information Commission upheld the public authority’s (Indian Oil Corporation’s) decision that ‘Annual Performance Appraisal Reports’ cannot be shared as they are confidential in nature.

**(7) Can students ask for copies or inspection of their answer scripts if they are unhappy with the marks awarded by the examiner in public examinations?**

The present position is that the Central Information Commission has ruled, on an appeal submitted to it, that students cannot have access to answer scripts / supplements [CIC Decision No. 22/ICPB/2006 dt. 18.05.2006]

**(8) Every department performs different kinds of functions at different levels of operation from the Secretariat to the Taluka/Village level. Will disclosure under Section 4 (1) (b) have to be made for every one of these levels separately?**

Yes. In several states more than one public authority are notified within every department from the secretariat level to the district and sub-district levels. Every such public authority will have to develop its own proactive disclosure documents or Information Handbooks unique to its powers, functions, area of operation etc.

Section 4 (1)(b) is designed to ensure that public authorities disclose certain information which are important to the public voluntarily at every level of operation. It is to be noted that, if implemented properly, Section 4(1) (b) will reduce the workload of officials and public authorities with regard to the requirement of providing information on request. This is because the information which is regularly needed by the public can be accessed by them without the need of going through a process of making specific request.

**(9) Will not the publication of the 17 manuals mentioned under Section 4(1)(b) be very difficult and burdensome?**

The requirement to publish 'manuals' reflects the objectives of Section 4 (1)(b) for proactive disclosure on the part of every public authority, which is simply to publish and disseminate key information routinely in a manner and form which is easily accessible and understood by the public [Sections 4(3) and 4(4) of the RTI Act which specifically require this].

The 17 subsections of Section 4(1)(b) are 17 categories of information that a public authority is required to prepare and disseminate proactively through handbooks, notice boards, print and electronic media etc.

Most of the information required to be published proactively under this section may already be available within the public authority albeit in a scattered manner. These will need to be collected and collated to fulfil the requirement of Section 4(1)(b). Several officials are pleased with Section 4(1)(b) as it will help them



streamline their own recordkeeping, monitoring and reporting procedures. Once the information is compiled and published in a suitable format it will be easy to update it.

Furthermore, not every public authority may be required to collate information under all categories of Section 4(1)(b). For example, the Finance Department in a State may not be issuing any permits or concessions. As it does not perform such functions the Finance Department will not be held at fault for not including this category of information in its Public Information Directory.

The CIC has, in one of its letters (dt. 10.05.2006) to all Ministries / Departments, stated that “it is in the interest of the public authorities to make available all the 17 manuals to the citizens, which is likely to reduce the volume of requests for information under the RTI Act”.

If appropriate management information systems are developed and maintained by departments using information and communication technologies, the preparation of the information to be published at different levels annually can be a simple affair

**(10) Is it enough to disseminate information under Section 4 (1)(b) on the Internet?**

Information under Section 4 (1) (b) shall be disseminated through notice boards, news papers, public announcements, media broadcasts, the Internet or any other means.

**(11) Is it enough to publish information under Section 4 (1)(b) only once at the time of the commencement of the RTI Act?**

No. The Act requires that every public authority has to update its publications under Section 4(1)(b) every year. The Central/State Government/ Departments will have to come out with general instructions for time-bound updating of all categories of information, including formats for publication. Every public authority may in turn publish updated information that is specific to its functions following the guidelines.

**(12) What will be the penalty if a public authority/department is not able to meet the deadline for proactive disclosure (120 days)?**

It is advisable to publish as much information as possible under Section 4(1)(b) and give it wide media publicity so that people know that the public authority/department is earnest about implementing the law. Any person can make complaint to the relevant Information Commission under Section 18 (1)(f) of the Act and the Commission may even require the public authority to compensate the complainant for any loss or other detriment suffered.

It must be noted that the Information Commission has the power under Section 19(8)(a)(vi) to receive from a public authority an annual compliance report in relation to Section 4 (1)(b). This reporting mechanism will technically make the public authority answerable to the Information Commission for all acts of commission and omission in relation to proactive disclosure.

**(13) Can a request be denied if it is too big? If not, how can we handle such requests best? How much information can a citizen request in one application? If he/she asks 20-30 kinds of information in one application should it be given? Or should the citizen be asked to put in fresh applications for each point of information requested and also be asked to pay application fees every time?**

The Act does not permit rejection of an application simply because it relates to a large number of documents. Under Section 7 (9), information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority. A PIO can request the applicant to visit his/her office personally and inspect the required documents or files. However, the PIO shall communicate the date and time to the applicant for such inspection. The PIO has to determine and justify what constitutes 'disproportionately divert resources'.

An applicant can ask for 20 to 30 different kinds of information in the same application and cannot be asked to apply afresh.

If the information published under Section 4 (1) (b) of the Act is comprehensive and proper information systems are maintained to enable such publication, even if an applicant requests for many pieces of information, the same can be provided to the applicant without much difficulty. Appropriate record management systems need also to be instituted.

**(14) If in a single application the applicant requests information that relates to a public authority and also other public authority/authorities, is the PIO responsible for giving all that information himself/herself?**

The RTI Act makes it clear that the PIO has the power to transfer an application or parts of it if the same relates to information held by another public authority [Section 6 (3)]. The application shall be transferred to the PIO concerned immediately - within 5 days - and the applicant has to be informed about the transfer in writing.

**(15) Is it possible that some elements may misuse this law and use the information to blackmail/threaten officers?**

The fact that the Act requires making as much information as possible available with the public authorities in the public domain may actually prevent blackmail to honest and sincere officers. If information is divided into two types, namely 'open to disclosure' and 'not open to disclosure', that which is not disclosed must be based only on the exemptions stipulated under the Act. Thus, the question of blackmail or threatening may not arise. As far as possible, information must be made public so as to reduce any possibility of blackmail. An honest and sincere officer need not fear blackmail at all. Strict adherence to the law would facilitate smooth functioning of such officers as they will be protected by law.

**(16) Some unscrupulous elements may misuse the copies of documents they access under the RTI Act. How does one prevent such misuse of information released under the RTI Act?**

The Government may have to devise a means of authenticating documents released under the RTI Act to ensure that they are not misused. One suggestion

is to mark every page of a document accessed under the RTI Act with a rubber stamp impression saying -"Document released under the RTI Act containing XX pages." If electronic files are requested the same may be provided in PDF or TIF format on floppies or CDs. This will also obviate the need for certifying the documents separately if the requester wishes to use the same in some litigation.

**(17) If there is a flood of applications for inspection of records how will the PIO provide access to all applicants and also do justice to his/her other designated duties? What if one such applicant mutilates or destroys a record during inspection?**

Under the Act, every public authority will need to designate as many PIOs as may be required to deal with requests for information from citizens. The PIOs may fix one or two particular days in a week for inspection of records. The Competent Authority needs to make rules and guidelines for public authorities regarding the procedure to be followed for allowing inspection of records [The Public Records Rules (1997), Rule No. 11(2) prepared by the Government of India may be adopted as a model].

It is important that the PIO takes adequate precautions for the safety of records being inspected. If, however, it is found that a person examining a record or document has mutilated or tampered with the document or attempted to do so it will be appropriate for the PIO/public authority to lodge a criminal complaint immediately.

**(18) If the same kind of information is sought by more than one person should it be made available to all such requesters?**

Yes, it has to be made available. However it is advisable that such records be digitised as far as possible and uploaded on the Internet to facilitate easy access.

**(19) If the information requested by a citizen has already been proactively disclosed can a PIO refuse to accept the request?**

There is nothing in the RTI Act that states that information disclosed proactively should not be provided to a citizen on request. If such information is requested

the same can be provided in the available formats upon payment of fees/charges at rates prescribed by the Government.

**(20) Is the Assistant Public Information Officer (APIO) an assistant to the Public Information Officer (PIO)?**

No, the APIO is not an assistant to the PIO. A Central / State APIO (as the case may be) may be designated at the sub-district or sub-divisional level where a public authority may not have an office or administrative unit [Section 5(2)].

Designation of APIOs is particularly useful for Departments of the Government of India which rarely have offices below the district level. However, it has been decided that the CAPIOs of Department of Posts will also act as CAPIOs for other Central Government Public Authorities, which do not have an office / or an administrative unit operative at the sub-district / sub-divisional level.

These CAPIOs (of the Department of Posts) will receive requests on behalf of the Central Government public authorities and forward them to the CPIOs concerned.

**(21) If the information requested by the applicant is in the possession of the APIO should he/she not give that information to the applicant?**

Under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith – within five days.

**(22) If a PIO has touring duties as well, then he will not be physically present to receive application in the office. Will his absence amount to refusal to accept information request?**

The best solution for such situations is for the public authority concerned to designate another official within the same public authority (to act as PIO) and to receive applications. The duty of this PIO in maintaining the PIO's register will be the same. This will ensure that citizens' applications are always received to suit their convenience and prompt action is taken on the same.

Incidentally, a particular public authority may appoint multiple numbers of PIOs such that each PIO is designated for a specific area of the organisation's functioning. Yet, if an applicant approaches any PIO, he/she cannot refuse to accept the application on the ground that it does not belong to his/her jurisdiction.

Accepting the application, the PIO has to seek the requested information from the officer/s in control of the requested information (who may be another PIO, but for the purpose of dealing with this application, he/she becomes an 'Other Officer' – in control of the requested information). He / she cannot direct the applicant to take his / her application to the other PIO.

**(23) Will Panchayats/Municipalities (or any local authority) have to appoint PIOs irrespective of the size of their office / administrative unit?**

Yes. Every public authority shall have to appoint a PIO, irrespective of the size of its office / administrative unit.

**(24) Should BPL applicants be charged the further fees for providing information requested?**

Persons belonging to the 'Below Poverty Line' category cannot be charged any fees / charges at all. The form of access can be decided by the PIO concerned subject to the provision of the Act that information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority.

**(25) If the applicant does not pay the additional fees towards cost of providing information within the 30 days deadline will the PIO be penalised for failing to provide information to the applicant?**

No. The PIO will not invite any penalty in such cases. The 30-day clock stops ticking from the date of dispatching the intimation for further fees issued by the PIO and restarts on the date on which the applicant pays the additional fee [Sections 7(3)(a) & 7(3)(b)].

For example, if the PIO dispatches the intimation letter on the 5th day from the date of receipt of the complete application only 5 days would have elapsed out of the 30 days limit. The clock will restart on the date on which the applicant pays the 'further fees'. The PIO will have to provide the information within 25 days from the date of payment of such further fees. If the applicant chooses to seek a review of the additional fee from the appellate authority or the SIC/CIC the period taken for giving a decision on this matter (if it is decided that no further payment is needed) or for actual payment of further fees (if it is decided that further fees would need to be paid), will not be included in the 30 day limit.

**(26) If the applicant does not respond to the intimation letter of the PIO requesting payment of further fee will the PIO be duty-bound to provide information to the applicant? Will the PIO be duty-bound to provide information within 30 days even in such cases?**

No. The PIO is not duty bound to provide information to the applicant in such cases. The RTI Act states very clearly that the PIO will provide access to information only upon payment of further fee as may be determined [Section 7(1)] by him/her (for non-BPL cases).

**(27) Are officials required to give information about themselves and their families under the law? Can the public request this kind of information? Should it be given?**

Officials are not required to provide private or personal information which is exempted under Section 8(1)(j) of the Act. Again, this must be decided on a case by case basis (as has indeed been the case with the decisions of the CIC). If public interest is served by disclosing such information then it must be given.

**(28) Can any citizen ask any information that is more than 20 years old even if it does fall within the category of exemptions? Will the PIO be penalised if he/she is unable to provide such information?**

Yes, any citizen can ask any information more than 20 years old held by or under the control of a public authority, irrespective of whether the information requested

for falls within the category of exempted information or not. Nothing in the Act bars a citizen to ask for such information. The PIO concerned has to provide information 'held' under the control of the public authorities subject to the provisions of the Act relating to exemptions stipulated under the Act.

**(29) In cases where building plans and designs of bridges or other important public structures have been requested and if the PIO has reasonable suspicion that the applicant will use those plans for commercial purposes and make a profit out of it, should such information be given?**

If disclosure of building plans and designs would prejudicially affect the economic or security interests of the State or if they relate to commercial confidence, or trade secrets or intellectual property rights, the disclosure of which would harm the competitive position of a third party, then such information would attract exemption under the Act. However, if the concerned authority is satisfied that larger public interest warrants the disclosure of such information, the same can be disclosed.

**(30) If a case is still under consideration (i.e., 'live' or 'current' file) for final decision, can that file be made available to the requester before the decision has been taken?**

A request cannot be rejected on this ground. The requester will have to be given the requested information. It is important to note, however, that such disclosure cannot run contrary to the provisions of the Act that exempt certain categories of information. If so, the PIO cannot provide such information, but has to clearly state the reasons for not doing so. If partial disclosure is possible and is not exempted, then the PIO should disclose that part of the record.

**(31) What if existing departmental manuals prevent disclosure of information to the people?**

All such manuals were drawn up before the RTI Act came into force. These manuals will have to be reviewed in the light of the new law and all procedures for denying access to information will have to be done away with unless they



relate to the exempt categories of information. Even in the case of exempt information the manuals should be so designed as to facilitate complete or partial access in the public interest. All new departmental manuals likely to be drawn up in future must conform to the new regime of transparency set up under the RTI Act, 2005.

**(32) Periodic weeding of files results in destruction of many documents which are not important enough to maintain for as long as 20 years or more. So it will not be possible to give such information after they have been destroyed. Will the PIO be penalised for this?**

If a record has been destroyed legally the question of penalisation does not arise. But the RTI Act clearly requires a review of all weeding practices in existence to ensure that information which could be requested under the Act is not destroyed. More generally, it is necessary to consider a review of current records management processes.

**(33) What is the process for taking a decision on granting partial access to a record? Who is the authority to make this decision within a public authority?**

Section 10(2)(b) of the RTI Act makes it clear that the PIO is the deciding authority for granting partial access to records that may contain exempted information. However, when partial information is disclosed the PIO needs to provide valid reasons for the decision. He also needs to mention his name and designation as the decision maker and the applicant's right with respect to the review of the decision, including the particulars of the AO, time limit, process etc.

Only that part of the record which does not contain any information which is exempt from disclosure and which can reasonably be severed from any part that contains exempt information, may be provided.

**(34) Will the APIO be punished for giving wrong or misleading information just as a PIO can be penalised under this Act?**

Given that, under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith - within five days, the question of punishment for an APIO for giving wrong or misleading information does not arise.

In one of its decisions, the CIC has stated that the APIO has a limited role of transmitting applications and appeals to their proper destination... and that the APIO's responsibilities are not co-extensive with the PIO.

**(35) Will a PIO be penalised if the superior officer orders him not to release information to the requester?**

It needs to be mentioned here that the PIO must note that it is not necessary on his / her part to seek the permission / approval of a superior officer of the public authority concerned for providing information under his / her control. The Act is clear about the fact that the PIO is an independent authority under the law and no approval is required from any superior official to release the requested information.

If a PIO acts upon any order of his/her superior and malafidely rejects requests fully / partially, he/she is liable to be penalised under the Act.

In case the information sought for is not available with a PIO, he/she can take the assistance of any other officer including asking for information under that officer's control and such officer will be treated as a PIO for the purpose of the Act and its penal provisions.

In the event a PIO seeks information from another official for providing information, his/her communication and receipt of information (to and from the other official) should be put down in writing and a proper record of the same should be maintained. This will be helpful, in the defense of the PIO concerned, should the information, turn out to be misleading or wrong, and an appeal is made against the PIO.

**(36) If the information given by the PIO in response to a request turns out to be wrong, false or misleading but the PIO was not responsible for the creation of that record or such information will he/she be penalised by the ICs?**

The RTI Act provides protection to the PIO for 'action taken in good faith'. If the requested record has not been prepared by the PIO but by some other officer or if the data compiled by the PIO was received from some other officer and the

PIO merely passed on that information to the applicant without having prior knowledge that such information was wrong or false or misleading he/she is not guilty of an offence under the RTI Act. The Information Commission will penalise PIO only in such cases where it may find him/her guilty of giving wrong, false or misleading information in a malafide manner.

**(37) What if the applicant claims that he/she did not receive the intimation letter from the PIO and files an appeal with the AO and the Information Commission? Will the PIO be penalised?**

The PIO would do well to maintain a copy of the intimation letter in his/her records for use in such cases. Furthermore, the PIO may send the intimation letter Under Certificate of Posting (UCP) to the applicant. This should be ample proof that the PIO had taken action in good faith. The PIO will not attract penalty in such cases.

The law requires that the PIO be given an opportunity to present his/her case before the relevant Information Commission issues a decision imposing penalty. But a default may invite penalty for the PIO.

**(38) The PIO continues to be under the purview of the Official Secrets Act (OSA) of 1923. How will he reconcile his duties under the RTI Act with the secrecy required to be maintained under the OSA? What happens to the oath of secrecy every officer is required to take while joining service?**

It must be noted that the provisions of the RTI Act, 2005 shall be effective notwithstanding anything that may be inconsistent with its provisions in the Official Secrets Act, or any other Act of the Union or the State Governments (see RTI Act, 2005, Chapter VI, Section 21).

The 'Oath of Secrecy' taken by Government employees therefore only applies to the information that has been exempted from the ambit of the provisions of the said Act. Broadly, this exempted information pertains to matters / issues related to national security, defence, and integrity of the country. The Oath will not be adequate and the test of public interest is the overriding consideration.

### **(39) What is “Public Interest”?**

In the Indian context, and especially in the context of the RTI Act, 2005, a significant judgment of the Supreme Court of India can be taken note of in understanding the term “public interest”.

In ‘*S. P. Gupta v President of India*’, AIR 1982 SC 149, Justice Bhagwati, in referring to ‘public interest’, maintained:

“Redressing public injury, enforcing public duty, protecting social, collective, ‘diffused’ rights and interests vindicate public interest... [in the enforcement of which] the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.”

In *State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat & others* AIR 2006 Supreme Court 212, the Apex Court held “the interest of general public (public interest) is of a wide import covering public order, public health, public security, morals, economic welfare of the community, and the objects mentioned in Part IV of the Constitution [i.e. Directive Principles of State Policy]”.

One of the decisions of the Central Information Commission also throws some light on this term. Public interest includes “disclosure of information that leads towards greater transparency and accountability” [in the working of a public authority] (Decision No. CIC/OK/A/2006/00046, dt. 02.05.2006).

### **(40) Who are the Appellate Authorities and what are the key provisions for appeal under the Act?**

1. First Appeal: First appeal to the officer senior in rank to the PIO in the concerned Public Authority within 30 days from the expiry of the prescribed time limit or from the receipt of the decision (delay may be condoned by the Appellate Authority if sufficient cause is shown).
2. Second Appeal: Second appeal to the Central Information Commission or the State Information Commission as the case may be, within 90 days of the date on which the decision was given or should have been made by the First Appellate

Authority (delay may be condoned by the Commission if sufficient cause is shown).

3. Third Party appeal against PIO's decision must be filed within 30 days before first Appellate Authority; and, within 90 days of the decision on the first appeal, before the appropriate Information Commission which is the second appellate authority.
4. Burden of proving that denial of Information was justified lies with the PIO.
5. First Appeal shall be disposed of within 30 days from the date of its receipt. Period extendable by 15 days for reasons to be recorded in writing. [Section 19 (6)]
6. There is no time limit prescribed under the Act for deciding second appeals.

#### **(41) What is the jurisdiction of courts?**

Lower Courts are barred from entertaining suits, applications or other proceeding against any order made under this Act [Section 23]. However, the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226 of the Constitution respectively remains unaffected.

For a more comprehensive and up-to-date understanding of the intricacies of the RTI Act, it is suggested that [www.cic.gov.in](http://www.cic.gov.in) may be referred to.

## Appendix 2

### UNESCO Declaration on Mass Media

*Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War*

*Final text adopted at the 20th session of the General Conference, Paris, October-November 1978 (UNESCO document 20C/20 Rev., 21 November 1978).*

#### PREAMBLE

##### *The General Conference,*

*Recalling* that by virtue of its Constitution the purpose of UNESCO is to ‘contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms’ (Art I, 1), and that to realize this purpose the Organization will strive ‘to promote the free flow of ideas by word and image’ (Art I, 2),

*Further recalling* that under the Constitution the Member States of UNESCO, ‘believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge, are agreed and determined to develop and to increase the means of communication between their peoples and to employ these means for the purposes of mutual understanding and a truer and more perfect knowledge of each other’s lives’ (sixth preambular paragraph),

*Recalling* the purposes and principles of the United Nations, as specified in its Charter,

*Recalling* the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations in 1948 and particularly Article 19 thereof, which provides that 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’; and the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations

in 1966, Article 19 of which proclaims the same principles and Article 20 of which condemns incitement to war, the advocacy of national, racial or religious hatred and any form of discrimination, hostility or violence

*Recalling* Article 4 of the International Convention on the Elimination of all Forms of Racial Discrimination, adopted by the General Assembly of the United Nations in 1969, and the International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted by the General Assembly of the United Nations in 1973, whereby the States acceding to these Conventions under-took to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, racial discrimination, and agreed to prevent any encouragement of the crime of apartheid and similar segregationist policies or their manifestations,

*Recalling* the Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples, adopted by the General Assembly of the United Nations in 1965,

*Recalling* the declarations and resolutions adopted by the various organs of the United Nations concerning the establishment of a new international economic order and the role UNESCO is called upon to play in this respect,

*Recalling* the Declaration of the Principles of International Cultural Cooperation, adopted by the General Conference of UNESCO in 1966,

*Recalling* Resolution 59(1) of the General Assembly of the United Nations, adopted in 1946 and declaring:

‘Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated;

Freedom of information requires as an indispensable element the willingness and capacity to employ its privileges without abuse. It requires as a basic discipline the moral obligation to seek the facts without prejudice and to spread knowledge without malicious intent;

*Recalling* Resolution 110(11) of the General Assembly of the United Nations, adopted in 1947, condemning all forms of propaganda which are designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression,

*Recalling* resolution 127(11), also adopted by the General Assembly in 1947 which invites Member States to take measures, within the limits of constitutional procedures, to combat the diffusion of false or distorted reports likely to injure friendly relations between States, as well as the other resolutions of the General Assembly concerning the mass media and their contribution to strengthening peace, trust and friendly relations among States,

*Recalling* resolution 9.12 adopted by the General Conference of UNESCO in 1968, reiterating UNESCO's objective to help to eradicate colonialism and racialism, and resolution 12.1 adopted by the General Conference in 1976, which proclaims that colonialism, neo-colonialism and racialism in all its forms and manifestations are incompatible with the fundamental aims of UNESCO,

*Recalling* resolution 4.301 adopted in 1970 by the General Conference of UNESCO on the contribution of the information media to furthering international understanding and co-operation in the interests of peace and human welfare, and to countering propaganda on behalf of war, racialism, apartheid and hatred among nations, and aware of the fundamental contribution that mass media can make to the realizations of these objectives,

*Recalling* the Declaration on Race and Racial Prejudice adopted by the General Conference of UNESCO at its twentieth session,

*Conscious* of the complexity of the problems of information in modern society, of the diversity of solutions which have been offered to them, as evidenced in particular by the consideration given to them within UNESCO, and of the legitimate desire of all parties concerned that their aspirations, points of view and cultural identity be taken into due consideration,

*Conscious* of the aspirations of the developing countries for the establishment of a new, more just and more effective world information and communication order,



*Proclaims* on this twenty-eighth day of November 1978 this Declaration on Fundamental Principles concerning the Contribution of the Mass Media to strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War.

### **Article I**

The strengthening of peace and international understanding, the promotion of human rights and the countering of racism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information. To this end, the mass media have a leading contribution to make. This contribution will be the more effective to the extent that the information reflects the different aspects of the subject dealt with.

### **Article II**

1. The exercise of freedom of opinion, expression and information recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding.
2. Access by the public to information should be guaranteed by the diversity of the sources and means of information available to it, thus enabling each individual to check the accuracy of facts and to appraise events objectively. To this end, journalists must have freedom to report and the fullest possible facilities of access to information. Similarly, it is important that the mass media be responsive to concerns of peoples and individuals, thus promoting the participation of the public in the elaboration of information
3. With a view to the strengthening of peace and international understanding, to promoting human rights and to countering racism, apartheid and incitement to war, the mass media throughout the world, by reason of their role, contribute to promoting human rights, in particular by giving expression to oppressed peoples who struggle against colonialism neo-colonialism foreign occupation and all forms of racial discrimination and oppression and who are unable to make their voices heard within their own territories.

4. If the mass media are to be in a position to promote the principles of this Declaration in their activities, it is essential that journalists and other agents of the mass media, in their own country or abroad, be assured of protection guaranteeing them the best conditions for the exercise of their profession.

### **Article III**

1. The Mass media have an important contribution to make to the strengthening of peace and international understanding and in countering racialism, apartheid and incitement to war.
2. In countering aggressive war, racialism, apartheid and other violations of human rights which are *inter alia* spawned by prejudice and ignorance, the mass media, by disseminating information on the aims, aspiration, cultures and needs of all peoples, contribute to eliminate ignorance and misunderstanding between peoples, to make nationals of a country sensitive to the needs and desires of others, to ensure the respect of the rights and dignity of all nations, all peoples and all individuals without distinction of race, sex, language, religion or nationality and to draw attention to the great evils which afflict humanity, such as poverty, malnutrition and diseases, thereby promoting the formulation by States of the policies best able to promote the reduction of international tension and the peaceful and equitable settlement of international disputes.

### **Article IV**

The mass media have an essential part to play in the education of young people in a spirit of peace, justice, freedom, mutual respect and understanding, in order to promote human rights, equality of rights as between all human beings and all nations, and economic and social progress. Equally, they have an important role to play in making known the views and aspirations of the younger generation.

### **Article V**

In order to respect freedom of opinion, expression and information and in order that information may reflect all points of view, it is important that the points of view presented by those who consider that the information published or disseminated about them has

seriously prejudiced their effort to strengthen peace and international understanding, to promote human rights or to counter racialism, apartheid and incitement to war be disseminated.

### ***Article VI***

For the establishment of a new equilibrium and greater reciprocity in the flow of information, which will be conducive to the institution of a just and lasting peace and to the economic and political independence of the developing countries, it is necessary to correct the inequalities in the flow of information to and from developing countries, and between those countries. To this end, it is essential that their mass media should have conditions and resources enabling them to gain strength and expand, and to cooperate both among themselves and with the mass media in developed countries.

### ***Article VII***

By disseminating more widely all of the information concerning the universally accepted objectives and principles which are the bases of the resolutions adopted by the different organs of the United Nations, the mass media contribute effectively to the strengthening of peace and international understanding, to the promotion of human rights, and to the establishment of a more just and equitable international economic order.

Professional organizations, and people who participate in the professional training of journalists and other agents of the mass media and who assist them in performing their functions in a responsible manner should attach special importance to the principles of this Declaration when drawing up and ensuring application of their codes of ethics.

### ***Article IX***

In the spirit of this Declaration, it is for the international community to contribute to the creation of the conditions for a free flow and wider and more balanced dissemination of information, and of the conditions for the protection, in the exercise of their functions, of journalists and other agents of the mass media. UNESCO is well placed to make a valuable contribution in this respect.

## **Article X**

1. With due respect for constitutional provisions designed to guarantee freedom of information and for the applicable international instruments and agreements, it is indispensable to create and maintain throughout the world the conditions which make it possible for the organizations and persons professionally involved in the dissemination of information to achieve the objectives of this Declaration.
2. It is important that a free flow and wider and better balanced dissemination of information be encouraged.
3. To this end, it is necessary that States facilitate the procurement by the mass media in the developing countries of adequate conditions and resources enabling them to gain strength and expand, and that they support co-operation by the latter both among themselves and with the mass media in developed countries.
4. Similarly, on a basis of equality of rights, mutual advantage and respect for the diversity of the cultures which go to make up the common heritage of mankind, it is essential that bilateral and multilateral exchanges of information among all States, and in particular between those which have different economic and social systems, be encouraged and developed.

## **Article XI**

For this declaration to be fully effective it is necessary, with due respect for the legislative and administrative provisions and the other obligations of Member States, to guarantee the existence of favorable conditions for the operation of the mass media, in conformity with the provisions of the Universal Declaration of Human Rights and with the corresponding principles proclaimed in the International Covenant on Civil and Political Rights adopted by the General Assembly of the United Nations in 1966.

## Appendix 3

### Freedom of Information Disclosures: Media Coverage Reports - International

#### 1. Information Requests Reveal Destruction of Records by Administrative Agencies in Japan

Information Clearinghouse Japan, a non-profit organization, conducted an investigation based on information requests filed under the Japanese public information disclosure law regarding the destruction of official records before that law came into effect in March 2001. The records showed that at least ten agencies significantly increased their disposal of documents during fiscal year 2000, some by as much as 20 percent. The Ministry of Agriculture, Forestry and Fisheries (MAFF) increased its disposal volume during that period by more than twenty times: in fiscal 1999, MAFF destroyed only 11 tons of documents, compared to 233 tons in fiscal 2000. Government officials claimed that the widespread disposal occurred in expectation of the consolidation of some government ministries and the changes in records management rules.

K. Tsuruoka, "Leap in records scrapped prior to FOI," *Yomiuri Shinbun*, Dec. 9, 2004.

#### 2. In London, Health Hazard at Harrods Revealed

Pamela McLay used the new British Freedom of Information Act to make public a report condemning food safety practices at the posh London department store. Ms. McLay suffered salmonella poisoning after eating at Harrods, and although she received compensation but no admission of liability, she had not been able to view confidential inspection reports until recently.

Krissy Storrar, "Horrid Harrods: Food poison pensioner proves posh shop got hygiene warning," *The Mirror* (Scotland), Jan. 3, 2005, at 15.

#### 3. Released Documents Show Significant Anomalies and Possible Illegal Dealings in South African Arms Procurement

Defense contractor Richard Young won a long court battle against Auditor-General Shauket Fakie to gain the release of confidential documents related to South Africa's multi-million

dollar arms deal under South Africa's Promotion of Access to Information Act. The documents, early drafts of a final report that was published in November 2001, show that a number of significant findings had been omitted or watered down in the publicly-released report, suggesting "serious irregularities" in the procurement process. Omitted from the final report included findings that there were "fundamental flaws" and improper bias in the selection of British-Swedish bidders BAE/Saab to supply training and fighter aircraft; that defense minister Joe Modise personally caused the selection of the British Hawk jet, double the cost of one from an Italian maker that was favored by the South African Air Force; and that the evaluation process for submarines was "materially flawed" and resulted in "potential prejudice to unsuccessful bidders." The draft reports also evidence, among other serious anomalies, the omission of a second set of minutes from a ministerial briefing-where the decision was made to recommend purchase of the Hawk-that differ significantly from the published account of the meeting. Fakie, who was questioned by members of Parliament in 2003, denied making any material edits in the final report and provided to committee members only one chapter of the draft report for comparison.

Sam Sole, "[Arms report sanitised.](#)" *Mail & Guardian*, Jan. 7, 2005. "Young wins right to see arms report," *Africa News*, Oct. 18, 2004.

#### **4. Mexican Lawyers Win Partial Release of Genocide Indictment against Former President Echeverria**

Former President Luis Echeverria was indicted for genocide in 2004, charged with the killings of at least 25 student protestors by government paramilitary troops in 1971. A group of lawyers at Freedom of Information-Mexico won a long legal battle, despite a Mexican law that previously allowed the government to keep all indictments sealed but which was amended in 2002 to exclude cases of crimes against humanity. A court ordered the attorney general to release the indictment, but the government ultimately turned over only 691 out of 9,382 pages in the file. Nonetheless, the documents reveal important information about Echeverria and his organization of a secret government paramilitary unit which attacked students engaged in peaceful protest and the release represents the first time that an indictment of a high-level official has been made public in Mexico.

Ginger Thompson, "Mexico partly opens file on '71 killing of students Former president is focus of indictment," *International Herald Tribune*, Feb. 14, 2005, at 6.

### **1. South Africans to Learn about GM Crop Dangers**

On February 24, 2005, the Pretoria High court ordered the South African government to release information about the country's production and importation of genetically modified crops. The group Biowatch sought to publicize the records, including a list of all GM crops, the areas where they are grown, the government's plan for securing the crops, and any environmental impact studies. Said one Biowatch official, "The ruling will help change the way the agriculture department relates to the public, because up to now its processes were shrouded in secrecy."

"Court orders South Africa to release GM crop data," *Greenwire*, Feb. 25, 2005.

### **2. Confidential Cabinet Documents Expose New Zealand's Flawed, Ineffective Tsunami Warning System**

Reviews obtained by media under New Zealand's Official Information Act express findings that the nation's new seismic warning system is incomplete, facing a more than \$18 million budget shortfall, and lack a nationwide program to educate people about what they should do in the case of a tsunami threat. Officials called on the nation's Earthquake Commission and others to report by September on ways to improve the warning system.

"Report: New Zealand works to upgrade badly flawed tsunami warning system," AP Asia, Feb. 28, 2005.

### **3. Mumbai Property Rental Statistics Show City Taxes Subsidize Private Interests in Richer Suburbs**

Prompted by the World Bank's recent loan of Rs. 170 million [\$3.8m] in order to repair sidewalks in Mumbai, India, Shailesh Gandhi sought information under the Maharashtra Right To Information Act (MRTI) regarding property rental and sale rates as compared to the city's spending needs; what he discovered was alarming. In the suburban areas of Mumbai, the average land value is Rs. 22,000 [\$502] per square meter. The average

lease price was Rs. 4.11 [\$2.40] per sq. meter; interestingly, however, of these leases, the price for new leases average Rs. 106 per square meter compared to an estimated market price of Rs. 1700 [\$38] (8% of the current land value)-representing a loss to the citizens of Mumbai of approximately Rs. 487 million [\$11m] annually. Mr. Gandhi writes, "In Mumbai itself, three authorities, the Mumbai Collector, the municipal corporation (BMC) and the Bombay Port Trust have leased large tracts of our land in their charge. . . I am sure other citizens will also ask for information on how our lands are being given away by our 'public servants.'"

Shailesh Gandhi, ["RTI findings: Cities subsidizing the rich."](#) India Together, Mar. 17, 2005.

#### **4. Bulgarian Supreme Administrative Court Affirms Fundamental Civil Right to Information**

On April 13, 2005, the Bulgarian Supreme Administrative Court (SAC) decided a case brought by an NGO that was denied access to mayoral records related to public registers in the town of Razgrad. By requiring the NGO to produce a document showing its court registration, thus imposing an additional hurdle to access, the SAC ruled that the mayor had violated the fundamental right of all citizens to access information from public institutions. In its decision, the SAC said:

The access to public information is a phenomenon belonging (immanently) to the very essence of civil society. That is why Article 41 of the Constitution of Bulgaria, which is consecrated to the right of information, states that: "Everyone has the right." This means that even civic organizations without any legal status are entitled to seek and have the right to obtain any public information they want. That is the reason why the Access to Public Information Act (APIA) lacks any requirement that an organization, seeking access to public information, needs to prove its legal status. Such a requirement could be senseless since everyone is entitled to seek and receive information. Every organization is constituted of members by definition and each member as a natural person has the right to access public information.



The case was sent back to the District Court for a new consideration in the lights of SAC findings.

Supreme Administrative Court of Bulgaria, Decision No. 3335 (April 13, 2004); [Access to Information Program - Bulgaria](#), Access to Information Litigation, Selected cases Vol. 3 (English version, forthcoming Nov. 2005).

## **5. Senior Officials Feared Terrorist Attack on Canadian Subways**

According to internal memos obtained by the Canadian Press under the Access to Information Act, senior officials feared a possible attack by Islamic extremists on Canadian mass-transit networks in the spring of 2004. Prime Minister Paul Martin was briefed twice about suspicious incidents on the Toronto subway. Toronto's Transit Commission sent an urgent message to its employees, warning them to watch for suspicious packages and people; however, the public was not notified of the threat.

"Prime Minister given two briefings on suspected threats to T.O. subway," *Brockville Recorder and Times* (Ontario), July 13, 2005, at A2.

## **6. Inter-American Commission Finds Chile Violated Human Rights Charter when Denied Environmental Information**

The Inter-American Commission for Human Rights has reviewed the case of *Claude v. Chile*, originally brought in 1998 by Terram, a Chilean environmental group that sought and was denied information from the government regarding a major logging project and the record of the company managing the project. After all of Terram's appeals were dismissed, the case was brought before the Commission, which determined in a preliminary report that Chile was in violation of Article 13 of the American Convention on Human Rights, which guarantees the right to access public information. The case was referred to the Court when Chile failed to act within 60 days to comply with the ruling. It will be the first access to information case ever adjudicated by the Inter-American Court.

First freedom of information case reaches America's Court, Open Society Justice Initiative, July 14, 2005.

## **7. In Australia, Lax Shipping Permit Investigations Heighten Risk of Maritime Terrorist Attack**

A review of the Australian Transport Department's ship permitting process in October of 2004, recently obtained by The Australian using the country's Freedom of Information law, shows poor and ineffective administration whereby the "department risks granting a permit based on a bogus or unauthorised application." Few if any checks are made of the authenticity of documents or other information provided by applicants, and in a significant number of cases, permits were issued although the application form was missing the required signatures. Australia issues about 1000 coastal permits each year, and ships carry various cargo including fuel, chemicals, and fertilizer.

Michael McKinnon, "Lax ship checks expose ports to terror threat," *The Australian*, July 18, 2005, at 4.

## **8. Dutch Agriculture Minister Forced to Disclose Personal Farming Interests**

Agriculture minister Cees Veerman received about \$233,000 in European farm subsidies last year for his farms in France and the Netherlands, according to records released to the Dutch Labor Party under freedom of information laws. Critics accused Veerman of improper conflicts of interest in decision-making regarding Dutch agriculture subsidies. The revelations came amid heated debate in Europe over how billions of euros in farm subsidies are allocated and the division of funding between agriculture and modern industries on the European continent.

Graham Bowley, "[Dutch minister got farm subsidy.](#)" *International Herald Tribune*, Aug. 19, 2005, at 1.

## **9. Australian Labour Department Officials Admit Immigration Mistake Allowed Entry of Former Saddam Hussein Associate**

Documents obtained under the Official Information Act say that despite "sensitive risk," former Iraqi ambassador and close associate of Saddam Hussein, Zuhair Mohammed al Omar, was granted a visitor's permit. Although immigration officials have written that al Omar was not "a suitable person . . . to remain in New Zealand" and that he

should never have been let into the country in the first place, they may be unable to deport him under a UN refugee convention. While denying any security threat from al Omar's presence, officials admitted a "policy gap" and said that visa applications from Iraq and other high-risk countries were being checked more carefully.

Andrea Hotere, "Saddam's sidekick: Officials admit border bungle," *Sunday Star Times* (Auckland, NZ), Aug. 21, 2005, at 3.

## **10. 'Superbug' Infecting Patients in, and out of, Hospitals in Ireland**

The prevalence of MRSA (methicillin-resistant *Staphylococcus aureus*) has been increasing steadily in recent years, with more than 500 cases of MRSA bloodstream infections reported in Irish hospitals in 2004. In one hospital in Dublin, officials have reported eight cases of a particularly dangerous strain of the infection which, according to documents released under the Freedom of Information Act, were contracted outside of the hospital and therefore present a threat of community-wide transmission of the drug-resistant infection that had in the past largely been confined within hospitals. The documents also indicate that approximately 7,000 patients in 36 hospitals in Ireland are carriers of the so-called MRSA 'superbug.'

Eithne Donnellan, "Virulent strain of MRSA is detected," *Irish Times*, Sept. 6, 2005, at 6.

## **11. Public Readings of Employment Rolls in Maharashtra Reveal Fraud**

Maharashtra District Collector Manisha Verma discovered a fraud of more than Rs 9 crores [\$2 million] in the use of money allocated to provide employment opportunities when Employment Guarantee Scheme (EGS) muster rolls were made accessible under the Maharashtra Right to Information Act in August 2005. The EGS scheme has been known to be rife with corruption. Subsequently, the Chief Minister issued new instructions to halt the public readings until further notice.

Shailesh Gandhi, "Public audit unearths fraud, stayed," [India Together](#), Sept. 6, 2005.

Source: [www.freedominfo.org](http://www.freedominfo.org)

## Appendix 4

### Freedom of Information Disclosures: Media Coverage Snapshots – United Kingdom (October 2005)

The following pages provide a snapshot of the media coverage generated by the Freedom of Information Act in October 2005, illustrating the breadth and volume of information being released. It has been divided into categories for ease of access.

#### Transport

- Stations that provide the worst facilities for passengers are revealed by the National Audit Office, following a request by **The Guardian** under the Freedom of Information Act
- **Liverpool Daily Post** describes how the company behind the proposed Central Railway used the Act to look at official government papers about its original proposal
- More than half of Flintshire's crash deaths have taken place on just five roads, reports the **Evening Leader**, following an FOI request.

#### Health

- The **Sunday Telegraph** reports on how the Department of Health is meeting the targets outlined in the Efficiency Review. Answers to freedom of information requests show that a number of government departments have made no redundancies of any kind since the cost-cutting drive was launched
- Seven doctors have been allowed to return to work in the NHS after being convicted of looking at child pornography. Details released under the Freedom of Information Act show they are among 21 doctors who have been disciplined for looking at disturbing images of children in the past four years, reports the **Evening Standard**.

- **The Hastings & St Leonard's Observer** applied for the details of the pay off awarded to the Chief Executive of the East Sussex NHS Hospitals Trust to be released under freedom of information. Between 2004 and 2005 Annette Sergeant was paid £7000 per month. The rumoured pay-off is between £240,000 and £500,000.
- Under freedom of information, the **Leicester Mercury (Loughborough edition)** revealed hospital managers in Leicester mount up a hefty £10,000 /week taxi fare cost.
- Seventeen members of staff have been sacked from the East Kent Hospitals Trust over the last nine years, reveals the **KM Extra** with data released under freedom of information.

### Local government

- Council leaders in Bracknell have spent more than £13,600 on snacks and hot drinks in the past year, according to information released under FOI, reports the **Bracknell News**.
- More than 145,000 parking tickets were issued to motorists in Enfield in the past 12 months, according to figures released under FOI to the **Enfield Advertiser**.
- **Press & Journal** reports that Highland Council has paid almost £5 million to consultants in the past 12 months, that's double the sum of three years ago, through documents released under freedom of information.
- The **Evening Chronicle (North)** obtained details under the FOI Act of officials' and councillors' visits to European cities, America and the Far East paid by the taxpayer, which included Newcastle City Council's 150 trips exceeding £48,000.
- Speed cameras in Hertfordshire made an annual profit of £90,000. The request was made by the conservative party under the Freedom of Information Act, reports the **Royston & Buntingford Mercury**.

- A man who had to resort to FOI to fight against a parking fine has won his case against Camden council, reports the **Ham and High**.
- Fenland District Council has disclosed – under Freedom of Information – that £1million is owed to the council from developers, reported the **Cambridge Times**.

## Education

- Teachers' pensions are secretly costing the taxpayer an extra £1billion a year as the feared public sector pensions crisis begins to bite, reports the **Mail on Sunday**. The £1billion bill is revealed in a Department for Education and Skills document released under freedom of information.
- **The Guardian** and **The Daily Telegraph** report on a table publicised by the BBC and released under freedom of information which exposes the extent to which schools will manipulate exam entries to improve their standing.
- The Campaign Against Arms Trade has 'named and shamed' 67 universities as substantial investors in the arms trade, reports **The Times Public Agenda**. The article states that the group made the revelations following a freedom of information request.
- Concern has been expressed over new figures, released under the Freedom of Information Act, which show the numbers of pupils permanently excluded from Doncaster schools have shot up by a 32.8 per cent in the last academic year, reports the **Doncaster Free Press**.
- Following a request to Dudley Council under the Freedom of Information Act, the **Express and Star** (Strafford) discovered that 29 pupils were excluded from Midland secondary schools after being caught in possession of drugs.
- Figures released under the Freedom of Information Act revealed that students in Scotland need only pass 31% of a maths paper to gain a level 2 pass, **Scotland on Sunday** reports.

## Law and order

- Letters released under freedom of information have revealed Sir Ian Blair tried to block an investigation into the Tube killing of Jean Charles de Menezes, reports the **Daily Star, the Evening Standard, The Guardian, The Times and the Daily Mail**.
- Knife crime in England and Wales has leapt by as much as 90% in two years in some areas, according to new police data released under freedom of information, writes the **Sunday Times**.
- Figures obtained by the Fire Brigades Union under freedom of information are being cited as evidence that costs for the new regionalised fire control centre North East prisons are awash with illegal drugs, reports the **Evening Chronicle**. Figures obtained by the paper, under freedom of information revealed 135 prisoners were caught with illegal substances in the last two years.
- The **Shrewsbury Chronicle** obtained figures under the Freedom of Information Act which showed that almost half of all alcohol-related crime in the town centre is violent, with drink directly linked to hundreds of attacks.
- Knife crime figures obtained under the Freedom of Information Act shows that knife-attacks are increasing in Nottinghamshire at a faster rate than any other policing area; with a 92% rise between 2002 and 2004, reports the **Nottingham Evening Post**.

## Environment

- Documents released under the Freedom of Information Act show how councils and developers disagree with the Environment Agency's opinion about the risks of building new homes on flood plains, reports **The Guardian**.
- **Building** is using FOI to find out how City Hall in London is delivering on energy targets

- **Northampton Chronicle** reports on suggested negligence by the Environment Agency over flooding after data was exposed under the Freedom of Information Act.

## Government / Politics

- **The Daily Mail** reports that Patricia Hewitt sexually discriminated against a man by appointing a less qualified woman, according to documents released under freedom of information.
- A former Downing Street adviser lobbied the government to relax gambling laws and pave the way for valuable casino contracts on behalf of Kerry Packer, the Australian billionaire, according to documents released under freedom of information, reports the **Sunday Times**.
- MPs were paid more than £80 million to cover staffing costs and expenses last year, according to figures released yesterday under the Freedom of Information Act, report the **Daily Mail** and the **Daily Telegraph**.
- Residents in Norwich have used freedom of information to discover the Ministry of Defence sprayed a poisonous chemical over the city in the sixties, reports the **Sunday Express** and the **Daily Mirror**.
- A UN report claims that up to 100,000 illegal immigrants enter the UK illegally every year. UK ministers commissioned a study in 2003 but it was only published two years later after they were threatened with new Freedom of Information laws, says the **Daily Mail**.

## Culture / Media

- Ahead of the government's announcement on exam performance, the **Daily Mail** reports that the BBC has obtained information under FOI which, the paper suggests, show that standards are falling.
- The Tate Gallery spent £700,000 on buying a work from one of its trustees after it was told that he was getting married and might need the money, according to



emails released under freedom of information, report the [Sunday Telegraph](#) and the [Sunday Times](#)

### Documents released by National Archives

- The near-collapse of Slater Walker Securities in 1975 sent shockwaves through the government and sparked a furious row between the Treasury and the Bank of England, according to documents released under Freedom of Information, writes the [Sunday Times](#).
- Notebooks which record how Winston Churchill governed Britain from his Whitehall bunker in the darkest days of the Blitz are to be released under freedom of information, reports [The Guardian](#).
- British commanders sailed into the Falklands war deeply concerned that the Argentinians could capture their nuclear weapons, according to papers released under freedom of information to [The Guardian](#).
- Alcohol has caused 61% more accidents at sea than fatigue since 1991, according to statistics released by the Marine Accident Investigation Branch under freedom of information, reports [Lloyd's List](#).
- The Government knew it could be poisoning thousands of British troops with controversial vaccinations in the first Gulf war, according to documents released to the [Sunday Mirror](#) under freedom of information.
- The [Sunday Express](#) reports on the investigation into the death of Princess Diana. The article highlights how documents released under freedom of information show the investigation cost almost £800,000 in its first year.
- According to documents released under freedom of information, Harold Wilson was told by senior advisers that the Queen could choose a political outsider to be the next prime minister if he resigned, reports the [Daily Telegraph](#).

## Scotland

- Scotland's Tory leader David McLetchie has finally admitted spending almost £900 of taxpayers' money on taxis after Scotland's Information Commissioner ordered Holyrood bosses to disclose the figure under freedom of information, reports [The Mirror](#) and [The Times \(Scottish editions\)](#).
- [The Scotsman](#) reports that new charges could be levied for freedom of information requests following an announcement by the Minister for Parliamentary Business, which discussed the system used in Dublin to flat charge £10 for each request.
- [Sunday Herald](#) reports that the Scottish Information Commissioner is facing his first legal challenge when he faces court proceedings brought by the NHS determined to keep controversial cancer statistics secret.
- According to stats released under the FOI Act, Grampian Police spent £171,583 monitoring sex offenders last year reports the [Press & Journal – Aberdeen](#).
- Scottish Tory leader, Henry McLeish, has been asked to explain the whereabouts of £5000 of taxpayers' money. He has been accused of disgracing the Conservative reputation running up taxi bills he was not entitled to – including visiting his elderly mother, the [Daily Record](#) reported, suggesting it might be cheaper to get the bus. Figures released under FOI.
- [East Kilbride News](#) reports that details obtained under freedom of information show that the Treasury has overstated the amount of public spending in Scotland.
- Data released under freedom of information show Diageo is the biggest polluter in Scotland according to the [Sunday Herald](#).
- POSTCOMM, the postal service regulator, has told the government that maintaining most of the 1600 smallest Post Office branches "is not justified". MP Alistair Carmichael said he had uncovered this advice using freedom of information laws, the [Shetland Times](#) reported.

## Wales

- **Western Morning News** reports that Sylvia Hardy, the pensioner imprisoned for refusing to pay council tax, is using the Act to find out who paid the last outstanding amount that saw her released from prison.
- **South Wales Echo** reports that £3.6 million has been spent on training sessions for staff at Cardiff Council over the last two years after data was released under the FOI Act.
- A Welsh MP is using Freedom of Information in a bid to force the publication of a report into the death of four young recruits at the Deepcut Army Barracks, reports the **Western Mail**.
- Information uncovered by the Campaign Against the Arms Trade under the Freedom of Information Act revealed Swansea University owns about 1.3 million shares in arms companies - the third highest of any university in the UK, reports the **Western Mail**
- A Welsh politician who lost his marginal seat at the general election was the most expensive MP in Parliament last year, according to figures released under freedom of information, reports the **Western Mail**

## Northern Ireland

- The **Belfast Telegraph** reveals details of city centre food outlets which have received poor ratings from food safety inspectors. The list was issued following a request under FOI.
- Figures accessed under the FOI Act found Family Planning Clinics across the North treated 708 girls' ages 11 to 12 years. The New Sexual Offences Act, which came into Britain last year, states that a child of 13 or under cannot consent to sex, reports **Derry News**.
- The **Belfast Telegraph** released figures under the Freedom of Information Act that confirmed six east Belfast food outlets have received poor food safety ratings from the council's environmental health department. The information included Kentucky Fried Chicken, which was fined £12,000 for selling undercooked chicken.

Source: [www.ico.gov.uk](http://www.ico.gov.uk)

## Appendix 5

### List of Select Web Resources on Right to Information

- [www.righttoinformation.gov.in](http://www.righttoinformation.gov.in)
- [www.rti.gov.in](http://www.rti.gov.in)
- [www.cic.gov.in](http://www.cic.gov.in)
- [www.r2inet.org](http://www.r2inet.org)
- [www.righttoinformation.info](http://www.righttoinformation.info)
- [www.freedominfo.org](http://www.freedominfo.org)
- [www.indiatogether.org](http://www.indiatogether.org)
- [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)
- [www.parivartan.com](http://www.parivartan.com)
- [www.prajanet.org](http://www.prajanet.org)
- [www.righttoinformation.org](http://www.righttoinformation.org)
- [www.geocities.com/mahadhikar](http://www.geocities.com/mahadhikar)
- <http://groups.yahoo.com/group/mahadhikar>
- <http://indiarti.blogspot.com>
- <http://groups.yahoo.com/group/kria>
- <http://www.delhigovt.nic.in/right.asp>
- <http://www.nagrikchetna.org/>
- <http://www.mahadhikar.org/>
- [www.nyayabhoomi.org](http://www.nyayabhoomi.org)
- [www.agnimumbai.org](http://www.agnimumbai.org)
- <http://www.adrindia.org>
- <http://www.respondanet.com/>
- [www.article19.org](http://www.article19.org)
- <http://www.info.gov.hk/access/code.htm>
- <http://www.globalknowledge.org>
- [www.opendemocracy.org.za](http://www.opendemocracy.org.za)
- [www.freedomhouse.org](http://www.freedomhouse.org)
- [www.foiadvocates.net](http://www.foiadvocates.net)
- [www.ifitransparency.org](http://www.ifitransparency.org)
- [www.transparency.org](http://www.transparency.org)