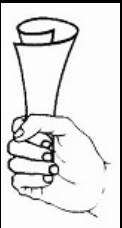


INDIA – Governance & Rights To Information



GOPAC – Dhaka July 07



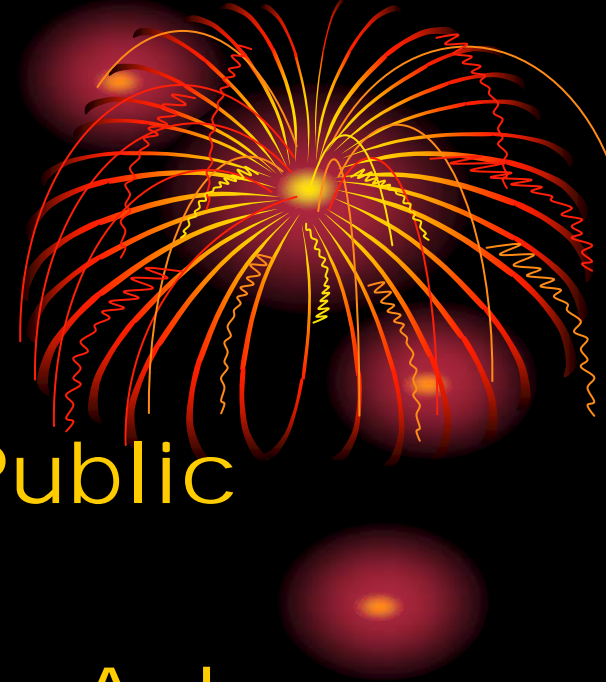
RTI - 2005

- Changes the way India is Governed (Shekhar Singh)
- Promotes Participatory Democracy
- Positive Step – Reducing Corruption
- Creates demand for Transparency
- Creation of Parliament



Key Concepts

- Transparency – every Public Authority
- Right of every Citizen to Ask
- Duty to Pro-Actively to Provide
- Responsibility of All – Citizens, NGOs, Media



Questions:

- Will RTI lessen Corruption & Inefficiency ?
- Will Public Access improve cost effective delivery of services?
- Will it make it easier for the people especially the poor and the weak to participate in their Development ?
- What is the experience and what are the expectations?



Understanding the Institution

- RTI Effective : 13 October 2005
- State, Local Govts and dependent NGOs
- Covers Executive, Judiciary and Legislature
- Information from private bodies which can be accessed by Govt under any other law

Understanding the Institution



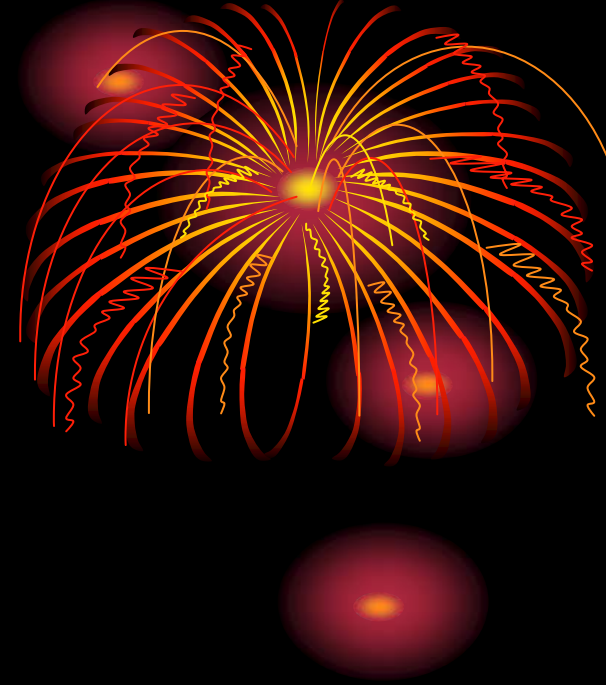
- “Information” means any material in any form, including e-mails, opinions, advices, contracts, samples etc
- Viewed as a Good Practice Example
- Right to-
 - (i) inspection of work, documents, records;
 - (ii) taking notes, extracts, or certified copies of documents or records

Obligations

- Section 4 (1)

Access Facilitation measures

- Maintain all Records
- Appropriately Computerized
- Within reasonable time –
connected through a network



Understanding The Processes of Access....



- Taking certified samples of materials
- Inspecting development Projects underway
- 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

Understanding the Processes...

- Application to be submitted in writing or electronically, with prescribed fee, to Public Information Officer (PIO).
- Envisages PIO in each department/agency/public authority to receive requests and provide information. These will be existing officers.
- No action on application for 30 days is a deemed refusal.

Understanding the Exemptions...



Exempt information:

- Disclosure prejudicially affects the sovereignty and integrity of India .. or may be contempt of court
 - Disclosure would cause a breach of privilege of Parliament or Legislature
 - Commercial confidence, trade secrets or intellectual property, where disclosure would harm competitive position, or available to a person in his fiduciary relationship, unless larger public interest so warrants
 - Received in confidence from foreign government

Understanding the Exemptions



- Cabinet papers
 - Provided decision records are made available post facto
- Private information...unless larger public interest justifies it

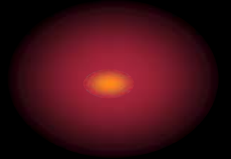
Understanding Exemptions contd.

- Information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.
- Notwithstanding anything in the Official Secrets Act, 1923 ... a public authority may allow access to information, if public interests in disclosure outweighs the harm to the protected interests
- Most exempt information to be released after 20 years
- Third party information to be released after 12 giving notice to third party



Understanding Appeals & Complaints

- First appeal with Supervisor within the department
- Second appeal with Information Commission
- Appeal to be disposed of in 30-45 days
- Onus of proof on refuser/public authority



Central Information Commission

- Autonomous Body
- Receives Public Complaints
- Impose Penalties



Understanding The Penalties

Information Commission can impose Penalties



- Delay: Rs 250 per day up to Rs 25,000
- For wrongful acts including knowingly providing false information, destruction of information, etc. – up to Rs. 25,000 fine
- Recommendation for departmental action for persistent or serious violations
- No criminal liability
- Immunity for actions done in good faith

Understanding – Scope of Public Access

Universal Access – especially to the Poor

- Fee at a reasonable level - No fee for BPL.
- No need to specify reason for seeking information or other personal details
- Provision to reduce oral requests into writing
- Provision to provide all required assistance, including to disabled persons.
- Information to be provided in local languages
- Only for citizens



Understanding Responsibilities of Public Authorities



- Appointing PIOs within 100 days
- Maintaining, cataloguing, indexing, computerising and networking records
- Publishing within 120 days of enactment a whole set of information and updating it every year
- Publishing all relevant facts while formulating important policies or announcing the decisions which affect public

Understanding Responsibilities of Public Authorities Contd..



- Providing reasons for its administrative or *quasi judicial* decisions to affected persons
- Providing information *suo moto*
- Providing information to Information Commission
- Raising awareness, educating and training
- Compiling in 18 months, and updating regularly, local language guide to information

EXERCISING THE RIGHT



Who uses the Act, for what, and how?

- Individuals using it to tackle personal or societal issues
- Groups of individuals or NGOs using it to resolve a set of individual or societal problems.
- Communities using it to demand institutional and governmental accountability – social audits.

Success stories..fighting corruption



- Social Auditing : Civil Works in Resettlement Colonies improved
- Leaking Pipeline repaired
- Incomplete civil works completed
- Wrong Electricity Bills corrected
- Incomplete road repaired
- Public Distribution System improved
- National Campaign against Bribes

Constraints and Challenges

Within Civil Society

- Lack of awareness- need training
- Cynicism- need successes
- Vulnerability – need protection



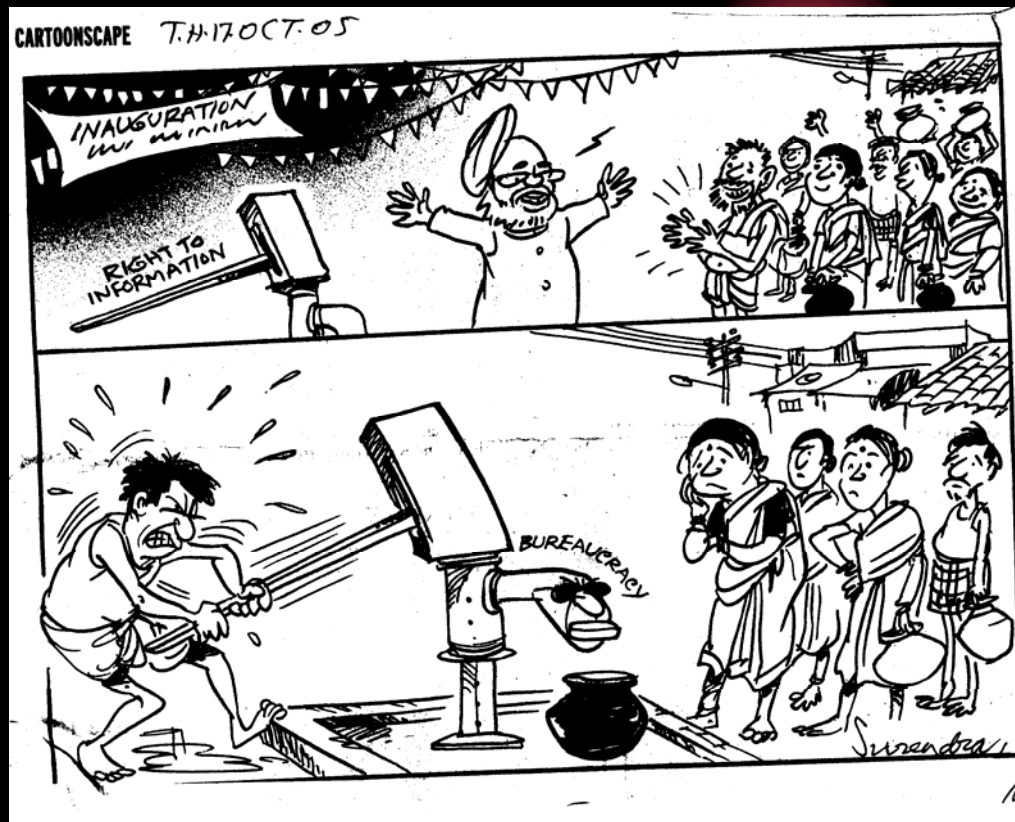
Constraints and Challenges...contd.



With Civil Servants

The Empire Strikes Back!

- Obstructionist approach (eg. file notings)
- Multiple PIOs (42 in the DoPT!)
- Inaccessible PIOs/cashiers
- Exorbitant fees
- Illegal conditionalities



Constraints and Challenges...contd.



Huge Delays

- In appointment of information commissions/facilities
- In appointment of PIOs/APIOs
- In suo moto declarations
- In Providing Information



Constraints and Challenges...contd.

Bureaucratic Hurdles

Reveal the minimum
possible

Suspicion - what are
their motives?

Self righteousness -
who are they to
question us?



*How about page 1246 from
Volume 23 of this report? Let's
make that public!*

Building Institutional Capacity

- Raising public awareness
- Increasing citizen participation
- Dispelling cynicism
- Building up support networks
- Setting up information clearing houses
- Building partnerships with the government
- Institutionalizing Transparency



Fiduciary Groups...next steps



- Understand & Promote Fiduciary Links
- Encourage Project Level Disclosure Policies and commensurate Records Management
- Integrate in all PFMA AAA (Example Rajasthan SFAA, ULB Study etc)
- Help India build Capacity to meet requirements - including Education of Civil Society, Training of PIOs, & Social Auditing
- Encourage web based Suo Moto Disclosures