



# Transparency Review

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## THE BHILWARA ACHIEVEMENT

Given the unhappy record of so many official programmes designed to alleviate poverty, it is easy to be cynical about the National Rural Employment Guarantee Act (NREGA), the ambitious effort to provide the minimal employment required to keep workless millions from the verge of starvation. The cynicism flows from accounts of the bulk of anti-poverty funds being diverted into the pockets of politicians, officials, contractors and others in the easily perforated pipeline between the authorising authorities and the luckless intended beneficiaries. The underlying flaw is the absence of a reliable official audit agency. They have become part of the problem.

But can we do nothing in the face of the shameful figures collected by international agencies showing that more people in India are hungry than in the rest of the world? The bulk of them subsist in villages; their condition accentuated by periodic drought and flood.

NREGA is a carefully targeted move to allay their plight that has registered some successes. By limiting relief to those willing to undertake manual labour, the Act has combined it with self-respect and constructive work for the community.

What those concerned can do to plug and expose corruption was demonstrated by a massive exercise in social audit in the Rajasthan district of Bhilwara. Much dirt was exposed but that, as the Right of Information Act has already established, is an essential step in cleaning the system. In view of its increasing significance this issue focuses on NREGA including two articles on the Bhilwara achievement published by The Hindu. We also carry the speeches of the



President and Vice-President of India at the convention to celebrate four years of Right to Information. Unlike previous years, however, attendance was limited. A CMS survey on the occasion appears.

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**Editor: Ajit Bhattacharjea**

## **TRANSPARENCY STUDIES**

The Right to Information Act 2005 represents a historic breakthrough in recognising the citizen's democratic rights to monitor measures affecting the public good. Following adoption of the Act by the Parliament of India, the CMS has set up a Transparency Studies wing to document, examine and publicise the interrelation between governance and society in all its aspects. It facilitates dissemination of relevant material, confers with experts and field workers and networks with the media to promote implementation and awareness.

### ***The functions of Transparency Studies include:***

- Publishing and distribution by electronic mail of Transparency Review, a journal designed to publicise news, articles and documentation concerning developments in Right to Information and the overall interface between governance and society. Priority is given to right to education, especially of children; right to work; right to justice and associated human and social rights, especially at the grassroots.
- Operating Transparency Features to disseminate articles and information on the above.
- Linking with civil society groups to further common objectives like exposing corruption, monitoring elections, improving civic services.
- Arranging discussions on emerging issues and problems between specialists and mediapersons.



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## RIGHT TO WORK

### NOW MAHATMA GANDHI NREGA

The UPA government has renamed its flagship rural job guarantee programme — the National Rural Employment Guarantee Act (NREGA) — after Mahatma Gandhi on the occasion of his 140th birth anniversary.

“The Union Cabinet has decided to rechristen NREGA as the Mahatma Gandhi Rural Employment Guarantee Act,” Prime Minister Manmohan Singh told a gathering of heads of villages to commemorate the 50th anniversary of the launching of Panchayati Raj.

Dr. Singh said the scheme had been aptly named after the Father of the Nation as he always held the concept of Gram Swaraj in high esteem.

“Several States have still not provided adequate funds, functions and functionaries to Panchayati Raj Institutions (PRIs). This system needs to be changed.”

UPA Chairperson Sonia Gandhi expressed the hope that Parliament would approve the Bill providing for 50 per cent reservation to women in panchayats. The Cabinet has already approved a proposal to this effect.

Emphasising the importance of PRIs in the socio-economic system, Ms. Gandhi said weaker sections should effectively raise their voice and they should be heard. “There should not be any stumbling block in this,” she added.

It was the responsibility of the State governments to take steps towards strengthening panchayats, she said, adding that the Centre had taken several measures to empower weaker sections. “We have achieved a lot, and still a lot has to be done,” she told the convention.

### BHILWARA SHOWS THE WAY

By Vidya Subrahmaniam

For watchers of India’s grassroots democracy, the place to be in recently was Bhilwara in Rajasthan; the town and the countryside were decked out in carnival colours for an audit exercise that saw thousands come together — social rights activists led by Mazdoor Kisan Shakti Sanghatan’s stalwart campaigners Aruna Roy and Nikhil Dey, NGOs, State government officials and Ministers, and observers from the office of the Comptroller and Auditor General of India .

The project under the scanner was India’s showpiece Mahatma Gandhi National Rural Employment Guarantee Scheme, and the purpose of the social audit was to assess how the programme worked, if it worked at all. Naturally, it was democracy, warts and all, in exhibition, with commitment and dedication battling entrenched vested interests at every step.

First, the positives. The most striking thing about the campaign was its unflagging spirit. For close to a fortnight starting October 1, bands of social audit activists, among them farmers, labourers and schoolteachers, ate, breathed, slept and walked — yes walked — NREGA. A total of 125 *tolis* (groups) set out on foot across 375 panchayats, poring over muster rolls, job cards, cash books, technical sanctions and other NREGA documents. They carried out spot inspections, gathered feedback from beneficiaries, and took complaints right down to where it mattered — to the local post office that blocked payment of wages and to the sarpanch who, villagers fearfully whispered, had siphoned off NREGA funds.

The padayatris drew no stipend, not taking even a food allowance, and quite gamely let on that “we were told we wouldn’t get a paisa, and must ask for food from the villagers.”

For those of us in the media who had descended on Bhilwara straight from the elitist environs of Delhi, there was something unreal about so many young men and women toiling hard without expectations of a reward. Yet how could anyone miss the commitment of a people who trudged from village to village in the hot afternoon sun, singing and shouting NREGA slogans? *Sona chandi main nahi maanga; gadi, bangla, main nahi maanga; Limca, Shimca, Pepsi Cola, main nahi maanga; rozi roti, purna padhaiyee, photocopy; desh ka kharcha, kharcha ka hisab, main ne maanga* (I don't want gold and silver; car and bungalow; nor do I want Limca and Pepsi Cola; But I do want food, full literacy, photocopies and an account of public spending).

A bigger surprise was the Rajasthan government's drive and enthusiasm. The young District Collector of Bhilwara, Manju Rajpal, was on the job 24x7, making surprise checks, holding meetings late into the night, examining complaints and booking FIRs against errant panchayat staff. Banna Lal, the State government's newly appointed director of social audit, came with a formidable reputation, having unearthed a huge scandal in a food-for-work programme in Janawad in Rajsamand district. Also in Bhilwara for the audit was the State Commissioner for NREGA, Rajendra Bhanawat — again a tough taskmaster judging by the steel he displayed at a meeting with zilla parishad Chief Executive Officers. When a CEO quoted a village sarpanch as saying he needed to share his bribes with “people on top,” Mr. Bhanawat shot back: “Who are the people on top? I want the names.”



But this was not all. The Rajasthan Minister for Panchayati Raj and Rural Development Bharat Singh sat through five hours of a *jan sunwai* (public hearing) on the social audit, and the final day saw the organisers debate the outcome of the audit in the presence of Union Minister for Rural Development C.P. Joshi. Mr. Joshi, of course, was brought by a personal reason to Bhilwara: It is his parliamentary constituency.

*Prima facie* it all seemed too good to be true. As a hack remarked, the selfless MKSS activists, the earnest Collector, a government that would go the extra mile to facilitate the audit, all recalled a 1970s feel-good Doordarshan documentary more than real-time India with its conflicts and confrontations.

Obviously, the Bhilwara project was not quite the glitchless, seamless mass movement it appeared to first-time observers. Behind the impressive grand

finale was a history of struggle for accountability in public spending. The MKSS had met with resistance in all its previous social audits in Rajasthan. In 2008 in Jhalawar, MKSS audit members were

brutally set upon by village officials. The Bhilwara audit was itself preceded by days of dharna by sarpanchs (village heads) who feared being held to account. And though they came around eventually, the truce turned out to be fragile. In a lot of places, the records had to be wrested from reluctant panchayat officials. There were also showdowns between the sarpanchs and the auditors at many of the *jan sunwais* held on the penultimate day. In Baran village, a young woman auditor who reported irregularities in NREGA work was heckled by sarpanchs who told her plainly that she was a

busybody. In Taswaria, the village heads insisted on being spared punishment for wrongdoings, unmindful of the presence of Minister Bharat Singh.

The social auditors confronted irregularities almost everywhere, and these went well beyond the expected complaints around delayed and stalled payment of wages. Job cards, required by law to be in the beneficiaries' possession, were routinely withheld by the panchayat staff, resulting in NREGA workers not being able to claim what they earned. NREGA is premised on simple transparency, an example being the use of village walls to display work and payment details so that these become public knowledge. Yet the auditors repeatedly found fake muster rolls, bare walls and misplaced job cards. The material used in construction work was substandard and record books showed inflated figures against usage.

In the villages in Panchayat Samiti Hurda, the auditors were stonewalled by a vexing collusion between the panchayat staff and a powerful section of villagers for the use of JCB earthmovers for digging trenches. NREGA's cost components are just two, labour and material, with asset creation being the end product. Yet because the programme's primary objective is labour employment, machines, which would speed up asset creation, are excluded from it unless justified by impossibly difficult terrain. Even in such a situation, machines must be separately accounted for and not adjusted against material costs.

The sarpanch-villager collusion worked like this: The sarpanch and his acolytes would hire the JCB machine to cut down time and labour, yet fudge the record books to show full employment and extended periods of work, thus earning huge sums of money for no labour at all. Obviously, the conspiracy excluded the bulk of the workers in whose names the wages were drawn. When social auditors brought up this point at the Taswaria public hearing, they were shouted down by the sarpanchs and their supporters,

all insisting that they were not up to doing tough NREGA labour. One villager challenged MKSS functionary Shanker Singh to do the labour himself.

Mr. Singh tried reasoning with the angry gathering. Using limericks and humour, he argued that the JCB was not an innocent machine but a precursor to big corporate giants eyeing the NREGA's vast funds. "Mind you, the minute corporates come in, NREGA goes out," Mr. Singh said, comparing the situation to the story of the mouse and the fat man. The man was unperturbed when the rat ran over his belly but in reality the rodent had shown the way to snakes and scorpions that would surely follow. As Mr. Singh explained to *The Hindu*, in Rajasthan alone, an estimated Rs. 9,500 crore will be spent on NREGA in 2009, making the programme lucrative for big corporates. If they came in, the NREGA would cease to be a wage employment programme.

The roadblocks that the Bhilwara social audit teams faced cannot however detract from the achievements of the exercise, which for the first time ever united two sections conventionally at loggerheads: civil society and government. And obviously the irregularities we witnessed in Bhilwara were nothing compared to the situation in other States where NREGA was struggling to get off the ground.

Reluctant as the Bhilwara sarpanchs were, they produced the account books in the end, enabling the audit teams to understand how the system worked and plan for future improvements.

As Ms Roy explained, "Yes, there are irregularities but I would think these form a small proportion of NREGA work. More to the point, through years of struggle we have institutionalised a system of transparency in Rajasthan which ensures against big scams." Mr. Dey saw the audit as a prototype for NREGA assessment elsewhere in the country. "We have shown that given political will, resistance can be beaten down."

# SOCIAL AND POLITICAL DIVIDENDS

**I**t is a measure of the hard labour that awaits NREGA activists in other States that a social audit conducted under blazing arc lights, and with so much official support, such as the one in Bhilwara in Rajasthan, could run into so many roadblocks. Virtually all of the Rajasthan government ( in September Rajasthan became the second government after Andhra Pradesh to set up a Directorate of Social Audit) was at the disposal of the Bhilwara audit team which also had the full backing of C.P. Joshi, Union Minister for Rural Development, elected to Parliament from Bhilwara.

Mazdoor Kisan Shakti Sanghatan activists Aruna Roy and Nikhil Dey said they chose Bhilwara for the audit exercise because they wanted to see if the Minister could face up to an NREGA audit in his constituency; after all, there was no knowing what the audit would reveal. Yet a question arises: Would Mr. Joshi have shown interest in the Bhilwara audit had he not been its MP?

Secondly, what happens to NREGA work in States that lack men and women of the calibre and commitment of Ms Roy, Mr. Dey and other MKSS activists? Can a programme's success be made dependent on a few individuals? What happens when the government shows no interest which is the case in most States?

Mr. Dey argued that the MKSS social audit had visibly and strongly demonstrated the positive effects of civil society-government collaboration. The unity of purpose shown in Bhilwara by social auditors, government, media and the office of the Comptroller and Auditor-General was replicable in other States. Indeed, if Minister Joshi took the trouble to watch

over the audit in his constituency, it only showed that there was huge political capital to be made from pushing NREGA.

Through the audit the Bhilwara team was inundated by calls from people impressed by its work in the district. And a day after the gargantuan exercise wound up, Congress MP from Alwar, Jitendra Singh, turned up in Bhilwara asking that the MKSS organise an NREGA audit in his constituency.

The Rajasthan experiment is itself based on the Andhra Pradesh government's success with conducting NREGA audits. The A.P. government did this off its own bat, at the urging of Y.S. Rajasekhara Reddy, whereas in Rajasthan the push came from

civil society. The A.P. government was the first to institutionalise social audit by means of a Social Audit Directorate. Since then the state government has gone a further step with a committed budget for social auditing and provisions to

host audit results on its NREGA website.

At a meeting the Bhilwara audit team had with Rajasthan government officials and other experts, Sowmya Kidambi, an MKSS activist deputed to work with the A.P. government, strongly advocated bringing audit results into the public domain via computerisation, arguing that this had greatly increased transparency in Andhra Pradesh.

In the final analysis, what makes any NREGA social audit worth all the pain and effort is the awareness it creates among poor beneficiaries, who slowly but surely learn to hold the programme's managers to account. A quick survey by *The Hindu*

**In the final analysis, what makes any NREGA social and it worth all the pain effort if the awareness it creates among poor beneficiaries**

in a cross section of Bhilwara's villages showed that the village people had fully internalised their rights and entitlements. But because of the patriarchal, dominating nature of the panchayat set-up, most of them lacked the courage to speak up. This situation would gradually change if accountability was built into the system.

Accountability could also impact social evils like untouchability, which the audit team found was widely prevalent in NREGA sites. In many panchayats, Scheduled Caste and Scheduled Tribe NREGA beneficiaries were given separate utensils and prevented from accessing common resources.

The social and economic spin-offs from even partial implementation of NREGA were only too evident in Bhilwara. NREGA beneficiaries were unanimous that the programme had improved their lives. For years the Bhil tribal community in Malanas in Gram Panchyat Jindras had battled hunger and poverty, travelling out of the State in search of work. Today, most Bhil wives are employed under NREGA, bringing

stability and assured incomes to families that were until recently desperately poor. NREGA also made valuable contributions in times of drought which was the case in Rajasthan this year. Though poor, few families in Bhilwara seemed on the brink of starvation. Besides, as many villagers pointed out, the minimum wage of Rs. 100 a day under the NREGA had increased wage levels across the private sector, benefiting both families that could not avail NREGA work and families that had completed the NREGA quota of 100 work days per family. As MKSS activist Shanker Singh remarked: "NREGA has greatly

increased the bargaining power of poor people. They are no longer willing to work cheap."

One has only to look at the funds the NREGA has placed in the hands of local administrators to understand its poverty reduction potential. Bhilwara alone drew Rs. 330 crore from the NREGA budget in 2009-2010. As MKSS activists stress, "funds are available for the asking now. Assuming the programme is properly utilised, NREGA can change the complexion of poor India."

Yet the Bhilwara social audit also revealed that funds can easily get into the wrong hands. Indeed, even as the MKSS team deservedly takes credit for the massive Bhilwara social audit, it must know that it can hardly rest on its laurels. On the concluding day of the audit, a Rajasthan Minister suggested that while

sarpanchs caught with their hands in the till must be made to refund the misappropriated funds, they ought not to be punished. This is exactly what the sarpanchs demanded at the various *jan sunwais* (public hearings). If this point were conceded, the social audit would

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lose its purpose, irreversibly damaging NREGA. Other dangers include threatened official amendments to a job programme hailed far and wide as progressive and empowering.

Even with all these ifs and buts, the Bhilwara exercise is worth emulating by other States. For as the audit and the responses to it showed, there is political dividend to be had from investing in NREGA. If politicians can use NREGA to win elections that will surely be the job guarantee programme's best guarantee for survival.

Which politician would not like that?

# 40% NREGA FUNDS SIPHONED OFF

Subodh Ghildiyal

The National Rural Employment Guarantee Scheme, the UPA's flagship anti-poverty scheme, has come to be wracked by corruption which sabotaged similar measures in the past. A government investigation into the working of the scheme with an annual budget of Rs 40,000 crore has revealed the siphoning off of a whopping 40% of the allocation and woefully inadequate implementation of the scheme in districts where it is needed most.

The reality check from a detailed panchayat-wise probe in Tikamgarh (MP) and Lalitpur (UP) has come as a shocker to the government which had hoped that built-in safeguards would deter corruption.

Rural development minister C P Joshi is now planning to accelerate ongoing efforts to institutionalize 'social audits' and appointment of ombudsmen in districts to help the 'aam aadmi' scheme realize its potential.

Tikamgarh and Lalitpur are part of the impoverished

Bundelkhand region for which the job scheme was supposed to be a lifeline. The audit by monitors deputed from the Centre has revealed that a huge chunk of money meant for the unemployed poor and for creation of rural assets was being pocketed by sarpanchs, panchayat secretaries and their accomplices.

The monitors sent by minister of state for rural development Pradeep Jain found that in Tikamgarh, of the Rs 384 crore spent so far on the NREGA, Rs 120-150 crore was pilfered by panchayat functionaries.

The story in Lalitpur, one of the most backward districts of UP, is more serious because functionaries, besides being corrupt, have also been revealed to be indifferent towards NREGA. The district has been

able to spend Rs 157 crore — far short of what is required in the unirrigated region ravaged by drought.

The most common irregularity is faking of old assets — roads and wells — as new, and spiriting away the allocation. Money is also being pocketed by inflating the scale of work — like construction of bunds and digging — while muster rolls have been cooked up to make fraudulent withdrawals. This was the tale across gram panchayats Patha, Bilt, Paniyara, Budera, Ram Nagar, Barethi, Sunderpur, Bhamora and Mawai.

Budera, the monitors reviewing a jatropa plantation work of Rs 4.10 lakh, found nothing on the ground for the Rs 80,000 that was claimed to have

been spent. A well on the land of Achheylal Kushwaha was shown as a fresh construction though it has been in existence since 2004.

In Sukwaha, the monitors found an ingenious way of misappropriation. The functionaries claimed payment for construction of three roads whereas they had constructed one. A

road from Sukwaha to Gundwara was made and widened alright measuring 1,280 metres. But it was found that the road was also broken into two — Sukhwaha to Barai Tal and Barai Tal to Gundwara — on papers and the measurement book of the original road split. The money for one road was thus paid thrice.

There are serious doubts on the construction of 'kuchcha roads' made in Patha. While a road from Patha to Sagoni (Rs 3.92 lakh) and Deviji Mandir Patha to Matauli (Rs 4.90 lakh) were made, land records show that these were existing roads.

Poor workers have lost in the process. In Patha, the sarpanch kept a blank document signed by him which could be used by secretaries to create fabricated records. In a check dam, with an estimated



cost of Rs 4.99 lakh, money was embezzled by passing off 15 cm-thick RCC slabs as 25cm. The structure was so weak that no shutters could be put for fear of water pressure triggering a collapse. The muster roll signatures appeared signed by one person, sarpanch or secretary.

In Bilt, while plantation was poor, tree guards, involving material cost on cement and bricks, have been made in large number at Rs 1,200 each. The monitors found that plant survival rate was barely 10-15% while 'tree guards' had leakages upto 60%.

In Lalitpur, monitors found that the spending has not just been inadequate but even unwise. The monitors found while wells here of 10m diameter cost Rs 6 lakh, neighbouring Tikamgarh had wells of 6m diameter for Rs 1.75 lakh. Curiously, the minor irrigation department of UP has directed for wells of 6m only. Thus three-times more money has been shown to be spent. With an isolated exception, old

bunds after some repair were shown as new, leaving a scope for misappropriation of upto 70%.

In GP Birdha, revival of ponds was taken up in 2006-2008 (Rs 10.83 lakh) and plantation (Rs 4.07 lakh) in 2009. The inspectors found trenches 10m x 30m were shown as dug up in the measurement book. While they could not be measured being submerged in water, the measurements given were seen as practically impossible. It was found strange why 30-year-old ponds were dug up twice in two years. 90% work is suspected to be fake. Similarly, only 250 trees were found on the bund which could have been a misappropriation of 70-80%.

Suspect mud-digging work was found in Piprai, Pataua, Kapasi, Kurrat and Dhaurisagar GPs. In Kapasi, the bund construction at the cost of Rs 2.77 lakh is totally fake. In Dhaurisagar, not one tree was found in the places where plantation of Rs 1.48 lakh was said to have been completed.

## MAINTAINING THE ASSETS

**Y.B. Prasad**

**F**ew laws have had such stimulating economic, social and political impact so soon in India as the National Rural Employment Guarantee Act, 2005 — since renamed Mahatma Gandhi Rural Employment Guarantee Act. Think of the guaranteed employment to 4.47 crore rural households; additional income flowing to wage earners' hamlets to the tune of Rs.18, 155 crores; S.C, ST and women workers far out-numbering other sections of workers; 31.2 million poor families opening accounts in banks, post offices; and the ruling party handsomely rewarded at the Lok Sabha hustings. The quintessence of this phenomenal legislation lies in fulfilling the twin mandatory objectives of this historic Act — providing a right based 100-day unskilled employment in a year to strengthen the subsistence livelihood support, enhancing the rural households' purchasing power and capacity to alleviate hunger and directing the colossus amount of wages towards creating productive and durable assets of irrigation, drought-proofing, land and water conservation, horticulture and connectivity to generate a prosperous livelihood support system. In actual operationalisation of the Act, however, the first objective assumes by far the most dominant concern of the law, and no wonder, the second objective of securing sustainable productive assets stands in the shadow.

Even during the social audit, the prime attention goes to matter related to registration, issue of job card, allocation of work, timely wage payment and work site facilities, rather than the utilisation of the works completed, increase in production, multiplier aspects of income generation, diversification and processing activities, let alone the overriding issue of ownership, operationalisation and maintenance of the assets created on public lands. The suggestion with regard to convergence of NREGS with other flagship development programmes has proved theoretical rather than practical. Since NREGA schemes have to have 60 per cent earthwork, it is important that the durability aspects are given serious attention. It appears that the Act itself is greatly more tilted toward the first objective, wages. With regard to the second objective, the Act lays the focus on water conservation and water harvesting; land development; flood control and protection works; rural connectivity and any other work, which may be notified by the Central government. It also states that the scheme shall be subject to appropriate arrangement as may be laid down by the State government under the rules issued by it for the proper maintenance of public assets created under the scheme.

# HALF THE EARTH

Pamela Chatterjee

In this 2009 drought, — before the late monsoon rains in September, the River Kosi in Kumaun, Uttarakhand, had been reduced to a muddy stream. The women of the mahila mandals in the villages around decided that conservation measures like check dams, gully plugs, ponds were needed to increase infiltration of water into the sub-soil. This was so that the flow of water in the river could be enhanced, at least to the extent that this was within their control.

In the adjoining Gram Sabha, the 'bahu pradhan' (father-in-law of the pradhan), arranges for the check-dam along the stream flowing into the Kosi, with National Rural Employment Guarantee Act (NREGA) funds. While we watched, the women were carrying heavy stones in the hot sun, while the men were constructing the dam. The stream was so swift that a farmer working there said, "We need to use wire netting to hold the stones in place". However the junior engineer told him, "The funds are not sufficient for wire netting for the four dams. But it does not really matter if the dams do not last, for after all the idea is to provide employment to people". And sure enough with the first downpour, all four dams were wrecked and washed away.

In a programme involving crores of rupees to be delivered to crores of people, there are bound to be problems before it 'gets going'. From all accounts, NREGA has not worked well in some states and in others there have been massive frauds. But it has indeed worked well in some states. This just means that more serious efforts need to be made to make it work optimally, in every state, as the stakes are truly high for poor people in rural areas.

A special point needs to be made on the role of women who have been accorded equal importance in the NREGA programme. Increased participation can be expected from them when they are organised in 'mahila mandals' as belonging and bonding in a group brings out their inherent strength. Not so long ago, a mahila mandal near the town of Kausani, in Kumaon, got together and took action against a local hotel. They had made gully plugs and had planted broad leaved trees, in the vicinity of the stream running through their village, so that the flow of water would be maintained. However, due to the shortage of water in the town, a

hotel sent a truck to fill up water from the stream. In response to the women's protest, the hotel reported to the police and a posse of policemen were sent to intimidate them. The women stood linked with arms on the road and one spoke for them, "We have worked to conserve this water and it is our right. We will not allow you to take this water in your tanks, but you may come here and drink it." The hotel had no option but to withdraw and tap another source. This strength of the mandals can be used for giving impetus to NREGA.

The various provisions of NREGA are not known to women, nor indeed to the pradhans themselves. In a small village in Kumaun, the women of the mahila mandal surrounded the pradhan saying: "We want job cards. We want work". He told them: "Only one adult member in a family, at a time, can work in the NREGA programme", and gave the job cards to the men. Moreover, the women also protested saying, "The programme for planting fruit trees in the village should not be done on land belonging to individual farmers." The women were silenced when the pradhan said, "The sanction has come from the Block office and had been recommended by the gram sevak and the earlier pradhan". It was no surprise, then, that after a few weeks there was not a tree to be seen.

Employing the right media to communicate the working of NREGA in villages, will spread the message fast. We attended a 'nukkar natak' (street play) in a nearby village. The young women and girls of the mahila mandal performed in front of the gram sabha and had the audience in splits of laughter with the dominating attitude of the pati pradhan (the husband of the pradhan). Eventually, the woman pradhan took back the office seal from her husband, amid cheers from the onlookers — even men. And other anecdotes, enacted there, made everyone understand the provisions clearly.

It is surprising how with the encouragement of the mandals, the ostensibly shy women are able to perform even in public. The mandals can turn out to be a firm base from which the message of NREGA can spread to the men in the village and indeed to others concerned with the work.

Courtesy: The Indian Express

# MAKE NREGA NEW

Ashwani Kumar

Much of the public imagination on the National Rural Employment Guarantee Scheme has been focussed on stories of corruption and conspiracy theories, with most public policymakers still debating over the merit of entitlement vs direct cash transfer, I would like to raise the stakes, perhaps a little audaciously. The truth is that the fate of NREGA and democracy in India are intertwined. In fact, NREGA is locked in an eccentric paradox: its promise to secure rural livelihood is embedded in the decentralisation of state power, but its implementation is unfortunately driven by a multilayered, centralised, bureaucratic mode of governance.

Take one example. Section 16(3) & (4) of the act clearly states that “every Gram Panchayat shall prepare a development plan” but the strangulating hold of district programme coordinators in the name of scrutinising the adequacy of works has suffocated the spirit of Panchayati Raj. The resurgence of an imperial bureaucracy, one that treats every Gram Panchayat as a den of vices and views every sarpanch as suspect, is hampering the NREGA’s success. Consider the bureaucratic impunity granted by the act. In the era of widening and deepening of democracy in India, Section 30 of the act boldly states that “no suit, prosecution, or other legal proceedings shall lie against the District Programme Coordinator, Programme Officer or any other person who is deemed to be a public servant.” For stark, ironic contrast, read Section 25, which states, “whoever contravenes the provisions of the act shall on conviction be liable to a fine which may extend to one thousand rupees”!

It is no surprise that almost no one in the bureaucracy, including bank and post office staff is hauled up for delayed payment or non-payment of employment allowances or cases of fraud. Check the status of complaints compiled by the rural development ministry. Mostly, replies are awaited for want of action taken by state governments. In short, NREGA suffers from a governance deficit and not from a resource deficit or lack of ideological commitment. (This doesn’t mean, of course, that NREGA has failed or it needs to be replaced.)

With the reconstitution of the Central Employment Guarantee Council, the time has come to infuse new life into the scheme. Its first task should be to develop a durable and robust mechanism of decreasing bureaucratic control over procedural aspects of implementation and monitoring. This can be done by

setting up a NREGA Mission, in which civil society actors could play a significant role. Next, we must strictly follow the provisions of NREGA with regard to the autonomy of Gram Sabhas and Gram Panchayats in planning, implementation and social auditing. Bureaucratic Rip Van Winkles must wake from their self-induced slumber and re-imagine the implementation of NREGA by genuinely devolving funds, functions and functionaries. In this context, the recent declaration of 2009-10 as the year of the Gram Sabha by the Panchayati Raj ministry is a recognition of the institution’s growing importance as a genuine deliberative and participatory space.

Next, we need to move away from surrogate and ad hoc solutions by vigorous and timely implementation of the District Ombudsman provided for by section 27(1) of the act for grievance redressal and ensuring disciplinary and punitive action against erring persons in a time-bound manner. Selected through public verification among persons of standing and integrity with at least twenty years experience in public administration, law, academics, social work or management, ombudsmen are expected to be independent of central or state governments. Armed with powers to initiate proceedings suo motu within his/her jurisdiction, ombudsmen has the potential to consolidate NREGA in a big way.

One of the long-lasting multiplier effects of the NREGA is new, fast-evolving architecture for financial inclusion in rural India. Yes, bank and post-office accounts too can be manipulated, and we have not solved the dilemmas of delays in payments; but this should not deter us from deepening the banking in rural India. Since opening branches in all rural locations is difficult, we need to use what is called the Business Correspondent Model — where individuals act as agents for banks — prudently. We should consider examining and extending bank correspondents and facilitators. In a joint initiative with the State Bank of India, the Orissa government has recently decided to cover all the state’s Gram Panchayats through correspondents. This also requires the participation of women in banking activities in the villages; I am hopeful that it is the women who would be ultimately “game changers”. The success of NREGA lies in this transition from inertia to activism, despair to hope, tradition to innovation.

*The writer teaches at the Tata Institute of Social Science in Mumbai and is a member of the Central Employment Guarantee Council*



## **RTI HAS CREATED A VIRTUAL PARLIAMENT OF THE PEOPLE**

**President of India Pratibha Patil**

I am pleased to inaugurate the Annual Convention of the Central Information Commission. It was on this day in 2005 that the landmark legislation of the Right to Information Act came into effect giving to the people of India a powerful instrument for their empowerment.

In a democracy it is the people who are supreme. They elect their Government and it is for them to judge the performance of their elected representatives. While the casting of the vote enables them to take the important decision on what Government they want, for assessing deliverability, they need information about how their Government is functioning. The RTI gives to each individual citizen the means to question and to get answers. The significance of this becomes evident when we recall that before 2004, it was largely the Members of Parliament and Members of State Legislatures who could question the performance and functioning of Government authorities through proceedings in their respective Legislatures. The Act has, in a manner of speaking, now created a virtual “Parliament of the People”, where every citizen, through a simple method, can seek information from public authorities; and expect a response in 30 days. This has been the biggest fundamental difference that has been brought about by the RTI enactment - providing relatively easy access to information. There is no doubt that the flow of information to the citizens will help them make enlightened judgments.

Interaction between the citizens and the public authorities is important in making democracy participatory and to move forward towards the

common national goals of progress and prosperity. India seeks to build an inclusive society and is committed to an inclusive growth process. Government has made available substantial amount of funds for numerous social and economic schemes. A major challenge is to ensure the effectiveness of the delivery mechanisms, so that the impact of these schemes is felt by the beneficiaries. It is of utmost importance that these funds are spent in conformity with the canons of efficiency and productivity, as well as their wastage and pileferage avoided. The “RTI Route” can be instrumental in bringing about improvements in the public service delivery systems and mechanisms.

Public authorities are progressively becoming pro-active to the spirit behind the Act and are responding favourably. The best practices adopted by various States in response to the RTI Act should be codified and practiced. Various public authorities have simplified their procedures and transformed their citizen interface into the e-governance mode and the Commission itself is one of them. I am also told that since the Act came into being a large number of Government websites invariably have the “Right to Information button” on them. It is important that technology is used for better management of records and data, this in turn would make information sharing easier.

Institutions are increasingly coming under greater scrutiny. Information is no longer the preserve of a few and there is greater emphasis on transparency of work and accountability. However, there are many occasions where the bureaucracy, evokes an image of red-tapism and certain

opaqueness. It is my hope that as the Right to Information gets further embedded into our civil society, there will be even more urgency felt to take action to negate this perception, which at times may be wrong. Good governance and corruption free systems are what people are rightfully expecting, and they can use the Act to get it in full measure.

The Right to Information Act has the potential to make Government and the people work together for the benefit of both. The occasionally noticed tendency to view public authorities as adversaries should go. There is a fine balance which needs to be maintained between applications under the Right to Information to public authorities and also ensuring that public authorities are not flooded with applications some of them of frivolous nature, which could overwhelm their ability to respond in time. Therefore, there is a need for a sense of responsibility for more openness on the part of public authorities as also within civil society to ensure that applications which reach authorities are those that genuinely need immediate attention. It is here that the role of the Central Information Commission, as a regulator, balancer and educator, is critical.

Citizens exercising the right to information have substantially grown in numbers, complexion, and stature. There are many illustrative cases - physically handicapped persons getting their entitlement, women getting old age pension, students getting correct evaluation of exams, damaged roads being repaired. This speaks of the success of the RTI Act in creating conditions for free flow of information and thereby empowering the citizen. Applications that result in public benefits, in the timely implementation of schemes; that bring relief and welfare to people; help in citizens getting what is theirs rightfully, should receive the uppermost priority. Efforts must also be made to ensure that the RTI option is known and exercised in rural areas and by the disadvantaged sections of society.

Rights given under this Act to our citizens are extensive and, therefore, it is important that there be a deep sense of responsibility while exercising them. The civil society can play an important role in creating awareness about the importance and spirit of the Act, so that collectively the people and their elected Governments can build the future of the country responsibly and constructively.

## **AREAS OF DISSATISFACTION**

**Vice President, Hamid Ansari**

**I** start today from a contrarian view point. In any democratic society, a level of dissatisfaction among the citizenry towards their government should be taken as a given. Far from being a nuisance to the process of governance, it is such dissatisfaction that propels government to improve its functioning, be sensitive and empathetic to the problems of citizens and ensures efficient allocation and spending of public resources.

It is no surprise that the Right to Information Act is no exception to this trend. When passed in 2005, it was hailed as a revolutionary step aimed at fundamentally altering the balance of power between the government and citizens. Four years hence, some dissatisfaction is evident and pertains to five major themes.

First, a vast number of organizations that should have been covered under the definition of “public

authority” for being owned, controlled or substantially financed, directly or indirectly, by funds provided by the appropriate government, have not come forward pro-actively to be covered by the Act. They await a case-by-case ruling by the Central or State Information Commissions to be so considered and hence covered by the Act. Currently, neither the Information Commissions nor the governments have ensured that all bodies that are covered by the definition of ‘public authority’ undertake action as listed in Chapter II of the Act.

Second, very few public authorities of the Central and State governments have followed the provisions of Section 4 of the Act in letter and spirit. It would be useful to review if cataloguing and indexing of records and data-sets has changed during the last four years in a manner that could facilitate the Right to Information under the Act. Section 4(2) of the

Act calls on public authorities to provide as much information to the public at regular intervals, through various means of communication, so that public has minimum resort to the use of the Act.

The actual disclosure of information by the public authorities is marked by inconsistency and unevenness. There has been little innovation and adaptation to capture information in government agencies and thereafter bring about suo-moto disclosure. The websites of the central and state governments also lack technical and content standardization. There is clearly a case for putting in place detailed 'RTI Act friendly' record management practices.

Third, it is important to note that Section 4 of the Act mandates every public authority to publish the manner of execution of subsidy programmes, including the amounts allocated and details of beneficiaries. This is a significant step when one considers that the total quantum of subsidies provided by the central and state governments to the citizens in the country exceeds Rs. 200,000 crores. While such a process has been initiated with respect to NREGA, significant work remains to be done on this issue.

Fourth, currently the Central and State Information Commissioners work in relative isolation, with each of their decisions not being available in a systematic manner or in real time to the general public or even to other Commissioners. The decisions of the Information Commissioners also do not constitute precedence for dealing with similar cases. Further, there are still doubts about the validity of decisions taken by individual Commissioners due to a notion that a full bench of the Information Commission should hear the case that comes before it.

Fifth, an important lacuna has been the lack of a mandatory monitoring mechanism to look at the implementation of the RTI Act and to ensure that the Act is implemented in letter and spirit. Currently, the media and civil society groups are undertaking this task on an ad hoc basis. The Price Waterhouse Cooper's report has recommended periodic Third Party Audit to ensure that public authorities comply with provisions and guidelines of the Act.

The existence of dissatisfaction is by no means a denial of the significant achievements of the

RTI Act in bringing about transparency and reducing corruption. The basic tenets have been implemented and the institutional structure is being utilized by citizens. The Right to Information has become an important instrumentality to our media and civil society. What we see is the beginning of decentralization and participatory governance and a citizen-friendly orientation to government.

The previous Conventions of the Central Information Commission, I note, came forth with an exhaustive list of recommendations. I am not aware about the extent of acceptance and implementation of these recommendations by various stake holders. The collective outcome of a convention of Information Commissioners must be subject to serious deliberation and active consideration, with a view to appropriate implementation.

I would like to conclude with an observation. I have noticed that information on the RTI Act, including the translation of the Act itself, is not available in all the 22 languages mentioned in the Eighth Schedule of our Constitution. The website of the Ministry of Personnel, Public Grievances and Pensions has the RTI Act in only 11 languages. The web sites of most Information Commissions are not multilingual covering the official languages adopted by the appropriate governments. For example, the Central Information Commission does not have a Hindi website for dissemination of information. Likewise, neither the RTI Act nor data on the web sites of Information Commissions of states where Urdu is the Second Official Language are available in Urdu.

This issue needs to be addressed at the earliest. Empowerment would be meaningless if it is sought to be achieved through a language that the citizen does not understand. Section 4 (4) of the RTI Act mandates that "all materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area". Article 350 of the Constitution also entitles every person "to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be".

# A LACKLUSTRE CONVENTION

**Dr. N Bhaskara Rao**

**T**he RTI Act is a revolutionary piece of legislation with implications for every section of people and every public service and utility. The UPA Government which ushered in the Act four years ago has been claiming it ever since as its prime initiative. It is four years since most State Information Commissioners came into being. Implementation of the Act was hardly discussed. The Central Information Commission (CIC) has been organizing national level conventions annually in the nation's capital. It organized a two day annual convention on October 12 and 13 for the fourth anniversary. State Information Commissioners attended the meet as on the previous three annual conventions.

But there were hardly any other public celebrations elsewhere in the country. No political leader or party talked about it. An exclusive interview with the Chief Information Commissioner of CIC, Mr. Wajahat Habibullah, was the only one the news media in the national capital with more than a dozen newspapers, only two had an editorial on RTI Act and its implementation (Pioneer, Mint and HT). NDTV announced awards for implementation of RTI.

The President of India was the Chief Guest at all four conventions. The first was held in New Delhi's Vigyan Bhawan in which over 750 persons attended. The CIC invited State Information Commissioners of all States, some Central Ministries, PSUs, media, civil society groups and activists. In contrast, out of about 650 invitees for the 4th Convention only about one-third attended and most of them were from the Information Commissions of the Centre and the States. Also, while there were nearly a hundred representatives from civil society at the first convention held at Vigyan Bhawan, from many parts of the country, there were hardly 20 at the 4th anniversary, most of them from Delhi and around – out of some 85 – 90 invitations sent out.

Similarly, the 4th convention was barely covered in the news media. A session was devoted to "Preparation of RTI Culture – role of Media and other traditional media". But while civil society groups and media have done more than the Government at the

Centre and the States did towards promoting RTI, neither of the principal speakers at the inaugural session or later acknowledged the fact.

Stock taking on implementation of RTI Act was limited to presentation of two studies—one by the Department of Personnel conducted by a foreign consulting firm and the other a more comprehensive one by civil society groups. Although it was claimed that the commissions themselves did a study on implementation, no specific presentation of its outcome was made.

Highlights of these studies were published in Transparency Review (Jan-Feb 2009 and August 2009). A nation-wide study by the Centre for Media Studies among BPL households in 27 States at the end of the first year was published in the Transparency Review (April 2006, June 2006, Jan 2008, April 2008). CMS has been tracking implementation of RTI Act from the very outset. It was CMS which brought together Chief Information Commissioners for first time after they were appointed in 2006 and organized a day long interactive meet with activists at the Administrative Staff College Campus, Hyderabad. CMS also did a feedback survey among participants of the first national convention in November 2006 in New Delhi. The highlights of that survey were published in Transparency Review (Nov – Dec 2006).

The low key atmosphere of at the convention reflects the over all situation of the RTI Act in the country. The convention was largely confined more to Information Commissions. There was hardly any discourse on the implementation of the Act at the grassroots. Nor was there any recognition of initiatives by some Commissioners, media, civil society and acknowledgement of disappointments, not to talk of coming up with any plan of action for improved implementation of the Act.

Summing up implementation of the Act, eminent bureaucrat and former Chief Vigilance Commissioner of India, N Vital, wrote to Transparency Review on the eve of the 4th convention that "what is needed is a mind set change in the bureaucracy." Finding an

effective method of achieving this is the real challenge. Otherwise RTI becomes a mere shibboleth to display at election time'. The convention hardly discussed such issues. .

The Government, on the other, tried to use the occasion to push through amendments to the Act. Two proposals of the government were opposed. Fortunately, the Chief Information Commissioner and the other Commissioners opposed the need to fiddle with the Act. The proposed changes try to revive the controversial move to exempt "file notings" which was rejected earlier. The other proposed change is to authorise PIOs to reject certain applications as

"frivolous or vexatious." The attempt has been opposed by media and civil society as also by Wajahat Habibullah.

As Wajahat Habibullah completes his tenure as the first Chief Information Commissioner of the Central Information Commission, he can be credited with institutionalizing the right to information regime in the country and setting good practices in that process. He can be also be credited with setting an example of fairness and transparency and standing up to strong pressures to dilute the Act. We wish him well for his next key assignment of setting up a Information Commission in Jammu and Kashmir.

## GOVERNANCE FOR COMMON MAN

**W**hen Mazloom Nadaf was sanctioned Rs.25,000 by the gram panchayat under the Indira Niwas Yojana, he knew little of the struggle that awaited him.

This 70-year-old rickshaw puller from Bihar's Madhubani district begged and pleaded for three years to receive the money but to no avail. After all to the block development office he was just a septuagenarian rickshaw puller. Mazloom finally found justice with the help of the Right to Information Act. Many such stories were shared at a national convention on the Right to Information in the Capital on Sunday which was organised by Kabir — a platform for Right to Information (RTI) — Social Watch India, United Nations Millennium Campaign (UNMC), and Wada Na Todo Abhiyan.

Delivering the keynote address, Chief Information Commissioner Wajahat Habibullah stressed the need for democratic struggle which he said was an integral part of social change. "The RTI is one such example. Over the past four years, we have seen people struggle to bring it into the limelight and as a result of this, the RTI has continued to evolve." According to Wada Na Toda Abhiyan convenor Amitabh Behar, the RTI was the most significant paradigm shift in governance in recent times. "Transparency and accountability are integral to the success of RTI, which needs also to be backed by a formal mechanism for public support. The movement is still young but I'm hopeful the success stories I've heard today are

heart-warming — of poor people helping themselves and those around them." Sharing his views, Jagadnanda, State Information Commissioner, Orissa Information Commission, said: "RTI is helping the common man become empowered. Through the RTI there have been major inroads in dealing with poverty — there is no other comparable tool available. What we need now are youth RTI ambassadors to take the message forward. Also, at the government level, archaic information systems and their outdated mindsets need to change." The convention brought together citizens' voices from across the country on the occasion of the RTI Act completing four years of its enactment. For the first time, the actual users of RTI from the grassroots were provided a platform at the national level to share experiences of how RTI has helped them access government services better.

The consultation highlighted the use of RTI as a "tool of governance" in the hands of the people to ensure that basic services and entitlements relating to health, education and livelihoods are reached, leading to the achievement of the Millennium Development Goals and the National Development Goals. The convention came out with suggestions like request for the hearings of the appellate authorities to be taken to the village level, creation of a people's helpline, monthly progress reports at various Information Commissions on how many RTIs have been filed and what progress has been made on them.

# EMASCULATING RTI: LETTER TO PM

Dear Dr. Singh,

We are alarmed and distressed to learn from media reports that the Government of India proposes to introduce amendments to the RTI Act. This is despite categorical assurances by the Minister of State, DoPT that any amendments, if at all necessary, would only be decided upon after consultations with the public. We are further dismayed to read that far from strengthening the RTI Act, as stated by the Honourable President of India during her speech to the Parliament on 4th June 2009, the governments proposition would in fact emasculate the RTI Act. The proposed amendments include, introducing an exemption for so-called “vexatious and frivolous” applications, and by excluding from the purview of the RTI Act access to “file notings” and the decision making process, this time by excluding “discussion/consultations that take place before arriving at a decision”.

Two current nation-wide studies, one done under the aegis of the Government of India and the other by people’s organizations (RaaG and NCPRI), have both concluded, that the main constraints faced by the government in providing information is inadequate implementation, the lack of training of staff, and poor record management. They have also identified lack of awareness, along with harassment of the applicant, as two of the major constraints that prevent citizen from exercising their right to information. Neither of these studies, despite interviewing thousands of

PIOs and officials, has concluded that the occurrence of frivolous or vexatious applications is frequent enough to pose either a threat to the government or to the RTI regime in general. Certainly no evidence has been forthcoming in either of these studies that access to “file notings” or other elements of the deliberative process, has posed a major problem for the nation. On the contrary, many of the officers interviewed have candidly stated that the opening up of the deliberative process has strengthened the hands of the honest and sincere official.

We strongly believe that it is impossible to come up with definitions of “vexatious” and “frivolous” that are not completely subjective and consequently

prone to rampant misuse by officials. We also feel that it is a hollow promise to have legislation for ensuring “transparency” and encouraging “accountability” in governance which excludes the basis on which a decision is taken. Would it be fair to judge a decision (or the decision maker)

**We strongly believe that it is impossible to come up with definitions of “vexatious” and “frivolous” that are not completely subjective and consequently prone to rampant misuse by officials**

without knowing why such a decision was taken, what facts and arguments were advanced in its favour, and what against? Can one hold a government (or an official) accountable, just on the basis of what they did (or did not do) without knowing the real reasons for their action or inaction? We, the people of India, already directly or indirectly know the decisions of the government, for we are the ones who bear the consequences.

What the RTI Act facilitated was a right to know why those decisions were taken, by whom, and based on what advice. This right is the bedrock of democracy and the right to information, and cannot be separated or extinguished without denying this fundamental right.

In any case, in case the government has credible evidence, that despite the findings of the earlier mentioned studies, and despite the safeguards inherent in the RTI Act, “vexatious and frivolous” applications, and access to the deliberative process, are posing a great danger to the Indian nation, these should be placed in the public domain. We are confident that the involvement of the people of India will result in evolving solutions that do not threaten to destroy the RTI Act itself. For a government that has been repeatedly been appreciated for bringing about this progressive legislation, such a move would strengthen the spirit of transparency and public consultation. Surely that is the least that can be expected of a government that propagates the spirit of transparency.

It is significant that even among the collective of Information Commissioners from across the country, whom the government recently “consulted”, the overwhelming view was against making any amendments to the RTI Act at this stage of its implementation. These Commissioners, all appointed by the government, have a bird’s eye view of the implementation of the RTI Act. They have the statutory responsibility to monitor the implementation of the Act, and the moral authority to speak in its defense. Since the government

works with the democratic mandate of the people, the collective wisdom, of people across the board who use and implement the law with an ethical base cannot be put aside. In any case we feel the advice of the Information Commissioners should be taken into account.

We urge the government to therefore, abandon this ill advised move to amend the RTI Act. Instead, we request it to initiate a public debate of the problems that it might be facing in the implementing

of the RTI Act and take on board the findings of the two national studies that have recently been completed. It is only through such a public debate that a lasting and credible way can be found to

**We urge the government to therefore, abandon this ill advised move to amend the RTI Act. Instead, we request it to initiate a public debate of the problems**

strengthen the RTI regime.

This government gave its citizens the RTI Act, and there has been no crisis in government as a result of its enactment. In fact the Indian State has, as a result greatly benefited, and the RTI Act and its use by ordinary people is helping change its image to that of an open and receptive democracy. An amendment in the Act would be an obviously retrograde step, at a time when there is a popular consensus to strengthen it through rules and better implementation and not introduce any amendments. We strongly urge that an unequivocal decision be taken to not amend the RTI Act.

**Signed by former Chief Justice J.S. Verma of the Supreme Court; former Justice P.B. Sawant of the Supreme Court; Aruna Roy of MKSS and more than 100 others.**

# THE RTI BATTLE OF THE NRIS

Krishnadas Rajagopal

**T**he NRIs in the US have been leading a campaign for their right to use the Right to Information Act from abroad even as the government admits their “issue” is complex” and may need an amendment in the law.

Take the case of 73 young NRIs across the US who, on November 15, 2007, jointly wrote to the Indian Embassy at Washington DC for information through RTI on the Nandigram violence. They wanted to know the death toll and access the correspondence between the state government and the Ministries of Home and External Affairs. Five days later, the Embassy sent a non-committal reply: “The information is not available with us”.

“We tried to explain about the spirit of the Act and our difficult situation of not being able to file an RTI without the Embassy’s assistance, but to no avail,” recounts Somasundaram Kumaresamuthusamy, one of the applicants.

Or the case of Arun Gopalan, based in Montgomery Village in Maryland, who was asked to re-direct his RTI application on the annual water accounts of Narmada Basin to the “Public Information Officer concerned”.

“I filed an RTI application with the Home Department, Government of Maharashtra. The application required a court fee of Rs 10, which I could not procure here in the US. My friend did not put the stamp on the appeal and as a result my appeal was not processed. Thus the lack of mechanism to pay fee from the US is a major hindrance to my ability to seek information,” Los Angeles resident Vishal Kudchadkar informs Minister of Overseas Affairs Vayalar Ravi in a letter dated June 22.

NRIs, with meager help from overseas public authorities, remain largely clueless on basic information required for filing an RTI application – from paying the Rs 10 fee to keeping abreast of the different payment modes varying from state to state.

An RTI application filed with the Indian Embassy in the US by Commodore (retd) Lokesh Batra shows the downslide with only 44 application filed in 2007, 27 in 2008 and none till January 2009. The number of appeals filed with the Embassy is five in 2007, four in 2008 and none till January 2009.

An October 6, 2009 response by Debraj Pradhan, Central Public Information Officer and Joint Secretary, Ministry of External Affairs to Kudchadkar says, “The Ministry of Overseas Indian Affairs informed that they did not have any information, the Department of Personnel and Training responded stating that ‘no policy, rules, regulations and procedures exist under the RTI Act, 2005, to facilitate NRIs to file RTI applications to public authorities in India from abroad’.”

Central Information Commissioner Wajahat Habibullah says NRIs can better participate in RTI if an amendment is made in the rules to name the “Ministry of Overseas Affairs as the nodal authority to monitor RTI applications from NRIs”. The applicants currently can file the application fee in the currency of the nations in which they reside. The applications can be submitted with the respective embassies, but a proper mechanism through the amendments has to be worked out for processing the requests. I found the MEA no the right authority to entertain applications,” Habibullah says. But Vishal disagrees with Habibullah, and feels a “simple gazette notification” would do. “Under Section 26 (3)(h)(i) of the Act, the government is empowered to update guidelines on the manner in which requests for access to information shall be made to a Public Information Officer, the notices for fees to be paid and for any additional regulations or circulars. Hence the concerns of the NRIs can be addressed by a simple gazette notification,” his email to Pradhan on October 7 says. The DoPT now also says that the RTI Act would need an amendment for NRIs.

# MIXED RESPONSES FROM CONVENTION SURVEY

CMS conducted a survey among participants at the fourth annual convention. The respondents included almost equally representatives of Information Commissions and civil society, including a few from the media. They were from 12 States. Nearly half had not attended any of the three earlier annual conventions. The findings of this feedback survey suggested that the participants took a positive view that RTI Act is helping being down corruption. Expectations from it continue to be high. But there were also apprehensions about the working of Commissions, objectivity of the Commissioners and support of the Government.

Little over half of the respondents were not satisfied with the functioning of their respective Information Commissions. Only 25 percent of respondents outside the Commissions and Government were satisfied about implementation of the Act against 68 percent in the Commissions who were satisfied.

Two-thirds of the respondents were not satisfied with the judgments of the Commissions. In fact, only one-fourth of those outside the Commissions and Government, were satisfied with the judgments. Interestingly, only 58 per cent of respondents who are part of Commissions, were satisfied with the judgments.

As many as 58 percent did not think that Information Commissioners of their respective State were “independent and nonpartisan” as they are expected to be to retain confidence in the implementation of the RTI Act. That perhaps explained why only 28 percent regarded their respective State Government as enthusiastic in implementing the RTI Act. In fact, among those in the civil society, activists and media who responded, only 13 percent of thought that their State Government

were serious about implementation . This is a serious finding of this survey.

The survey brings out that we have a long way to go before the Act becomes is universally implemented and a new information regime is established in the country.

## Implementation of the Act.

Only 41 percent of respondents to this survey thought that the Government /departments/ officers were “more responsive and forthcoming” in giving information to citizens now than before the Act has come into force. Only 28 percent of those from civil society, media and activists thought that the Act was having the desired effect.

Only one-sixth of respondents confirmed that suo-moto provisions of the Act were being implemented by the departments. Another one-third thought they are being implemented “partially”.

Information Commissions are supposed to submit their annual report to their respective State Assembly or Parliament for consideration. But about half of respondents did not know of any such discussion in the last four years. During this period the State legislatures and Parliament should have received three annual reports. But only 16 percent responded were aware of them. Surprisingly, while 31 percent of those respondents who are in the Commissions said that their respective Assembly/ Parliament discussed the reports, only 8 percent of those from outside the Commissions and Government, knew of any such discussion about functioning of Information Commission.

Little over half of respondents could not name any department or service which in their experience is implementing the RTI Act relatively better. In fact,

| Who is getting benefited more? |      |      |                             |                                   |
|--------------------------------|------|------|-----------------------------|-----------------------------------|
| Between                        | Both | None | Rural/Men/<br>Rich/ officer | Urban/<br>Women/<br>Poor/ citizen |
|                                |      |      |                             | <i>Percent</i>                    |
| Rural & Urban                  | 48   | 2    | 10                          | 40                                |
| Men & women                    | 45   | 5    | 48                          | 2                                 |
| Rich & poor                    | 49   | 11   | 16                          | 25                                |
| Govt officers & citizens       | 52   | 10   | 10                          | 27                                |

one-fourth said none was. Rural development, NREGS, district Collectorate, police department, PWD were some departments mentioned by at least one respondent which the thought was doing better.

All respondents were asked, irrespective of their response to other questions, what in their view was “missing in the implementation of RTI Act”. 12 percent could not mention any reason but all others mentioned one or other factor. The two factors mentioned by a quarter or more each are “awareness about the Act” and “implementation of section 4”. Other factors mentioned by about 10 percent of respondents include “training of PIOs”, “working of the Commission”, and “Government’s response”.

A more encouraging finding was that a quarter of the respondents thought that “corruption involving citizens is coming down because of RTI Act and its implementation” in the last four years. Another 40 percent said that corruption was coming down “to some extent”. A quarter of the respondents were “not sure” that corruption was coming down because of RTI Act.

Since most of those who attended the national convention are activists in one way or other, they were enquired whether they had ever “complained about any aspect of implementation of the Act to any”. A quarter had said they did complain. To whom did they complain?. 40 per cent of them did so with CIC or SIC. One had even said that he complained to the President of India at the first national convention. What did they complain about?. They complained about section 6,4 and 18 or for refusal or non furnishing of information or non-cooperation of PIO or non compliance of Commission’s Order or lack of training or about media’s propagation about Commission.

### **Who is benefiting from RTI?**

All respondents to the feedback survey were asked whether in their knowledge anyone has been adversely affected by implementation of RTI Act. Two-thirds said no one was adversely affected. Seven percent , said Government servants were adversely affected.

All respondents were specifically asked who in their opinion is getting benefited relatively more from the implementation of the Act.

Over all, nearly half of respondents who attended the 4th national convention thought that both rural – urban, men-women, rich – poor and officers – citizens are getting benefited from the implementation of the Act. However, significantly more respondents think

that it was urbanites more than rural and significantly more men than women who are getting benefited. But, relatively more respondents think that it was poor more than the rich, and citizens more than Government officers who were benefiting from the RTI Act.

### **Who is promoting RTI Act more?**

All those who responded to this feedback survey at the 4th convention were asked a series of questions as to who in their opinion is promoting RTI Act more. Although the number of respondents who respond belonging to Commissions /Government and civil society, including media, are almost equal; 43 percent acknowledged that it was the civil society and 24 percent said that it was the media who has contributed more in promoting the RTI Act. Only 10 percent mentioned the Government. 14 percent said that the Government, media and civil society have all been promoting the Act.

All the respondents were specifically asked who between newspaper, TV and radio, gave relatively better coverage for RTI. Little over half of respondents thought newspapers were giving relatively better coverage against only 7 percent who thought so about television. About 20 percent said all were. 10 percent said none were covering RTI.

What kind of coverage they were giving?. All respondents were enquired. 45 percent said that media coverage was appreciative of implementation of RTI Act. 30 percent thought that it was both critical and appreciative. Only 12 percent felt that media was critical more about implementation of RTI Act.

Which particular newspaper or the channel stands out for its “good coverage of RTI”?. All were asked.

Most participants at the Convention being from Delhi and neighborhood obviously they would mention the names of those media which are there. Times of India was mentioned by 32 percent against 14 percent who mentioned Hindustan Times. Prabhat Khabar and the Hindu were mentioned by 5 percent each. The other newspapers mentioned included Jan Satta, Indian Express, Eenadu, Nagaland Press, Eastern Mirror, Asian Age,etc.

Among TV channels, NDTV was mentioned by 29 percent. Its crusade with case examples and awards approach apparently is recognized. Doordarshan was mentioned by 7 percent and CNN-IBN by 5 percent. 57 percent could not mention any TV channel against 31 percent who could not mention any particular newspaper.



# RIGHT TO EDUCATION

## RIGHT TO EDUCATION STILL ELUSIVE

Chitragada Choudhury

**W**hen launching the country's flagship education programme in 2001, the government promised to bring every Indian child to school by 2005. Four years on, 80 lakh (eight million) children — more than the population of Switzerland — are still out of school.

An independent survey commissioned by the government, conducted as a new law makes school education a fundamental right, found that this figure includes 1.3 lakh children just in Delhi, one of India's wealthiest cities.

The Indian Market Research Bureau conducted the survey in 2009. The bureau conducted a similar study in 2005 for the government and found that 1.3 crore children were not going to school.

Investigators defined an out-of-school child as any child who had not attended school for the past two months.

The market research entity visited every district across India this year, choosing 40 per cent of the households covered by the National Sample Survey Organisation's 64th round of survey in 2007.

The survey results are at wide variance with the estimate of 28 lakh out-of-school children by the Sarva Shiksha Abhiyan, raising questions about the credibility of the government's own reporting mechanism.

A senior official in the Human Resource Development Ministry, speaking on condition of

anonymity because the study has not been made public yet, said, "We have to discuss these findings. How to reconcile them with the figures reported to us by each state is a challenge for us."

Officials reckon that the mid-day meal scheme — a cooked lunch meant to retain children in school — could be having the unintended effect of inflated enrolment numbers. "In order to get the meal grants and supplies, schools might be reporting students whose presence is limited to school registers," said the official.

Educationists are also worried that India's metropolitan cities continue to report high numbers

of out-of-school children from the urban poor, who are often migrants from rural India.

In Delhi, 1.38 lakh children are out of school in 2009, up from 84,424 in 2005. In Maharashtra, the state education secretary flatly refused to conduct a survey of such

children, saying Mumbai's teeming slums were too difficult to conduct such an exercise.

An educationist, who was associated with reviewing the Sarva Shiksha Abhiyan coverage this August, said, "The children of the urban poor ... are emerging as a disadvantaged category in themselves. They need special policies that identify who they are, their problems, and ensure learning and retention, with a better school infrastructure."

**Four years after promising education for all, India has 80 lakh children out of school The Big Cities in India continue to report a high numbers of out-of-school children from the urban poor**

# SECONDARY EDUCATION IN INDIA

## NEGLECTED: WB REPORT

Even as the government has been announcing huge investments in the education sector, the latest World Bank report on secondary education in India is hardly flattering. While there has been adequate focus on primary education, the report states, secondary education hardly gets the attention it deserves and remains highly inequitable across states.

“Evidence from around the world suggests secondary education is critical to breaking the inter-generational transmission of poverty — it enables youth to break out of the poverty trap. Fortunately, the government’s new ambitious schemes for secondary education will, over the next ten years, provide young people with the knowledge and skills they need to succeed in the 21st century and help India catch up with other countries,” said Sam Carlson, Lead Education Specialist, World Bank at the release of the report.

India’s gross enrollment rate (GER) at the secondary level of 40 per cent is far inferior to the GERs of East Asia (average 70 per cent) and Latin America (average 82 per cent). Even countries such as Vietnam and Bangladesh, which have lower per capita incomes than India, have higher GER, the report says.

Projections made in the report suggests an increase in absolute demand for secondary education between 2007-08 and 2017-18, with total enrollment growing from 40 to 57 million students. However, an increasing share of these students will come from rural and lower income quintile groups, who will be less able to afford private unaided secondary education.

The report, Secondary Education in India: Universalizing Opportunity, says that access to secondary education is today highly inequitable across income groups, gender, social groups, geography and states. Secondary enrollment rates also vary greatly across states — from 22 per cent in Bihar to 92 per cent in Kerala and from 4 per cent in Jharkhand to 44 per cent in Tamil Nadu. In some states such as Rajasthan, Uttar Pradesh and Madhya Pradesh, enrollment of the general population at the secondary level is 80 per cent higher than that of SCs, STs and Muslims.

In fact, 27 per cent of India’s districts have less than one secondary school for every 1,000 youths aged 15-19 years, the report points out.

Asking the Indian government to dramatically improve access, equity and quality of secondary education, the report’s suggestions include increased investments in

additional classrooms and teachers, improved curriculum and textbook development, more effective teacher education and training, introduction of new educational technologies, improved teacher management and accountability systems, PPP-based systems and examination reforms that will improve access, quality and equity of secondary education.

Amongst the key constraints the report lists are insufficient and uneven distribution of school infrastructure, lack of trained teachers and inefficient teacher deployment, sub-optimal use of private sector to expand enrollment capacity and poor schooling opportunities.

**“Evidence from around the world suggests secondary education is critical to breaking the inter-generational transmission of poverty it enables youth to break out of the poverty trap**

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