

Executive Summary: FOIP Field Trip to India - March/April 2009

The following is a summary of the reports put together on SAHA's field trip to India in 2009. The Executive summary has been structured so as to address each of the objectives set out prior to departure (see *Aims of Trip*). For further information please contact Charlotte Young, Project Manager, Freedom of Information Programme.

1. Learn about the Right to Information Movement in India:

Organizations and activists mobilize people with little resources to access their Right to Information. Individuals have taken hold of their right by submitting their own RTI Application rather than becoming dependent on external organisations to submit their application on their behalf. This has been a very conscious intention of civil society actors and each person I spoke to felt strongly that RTI allows ordinary citizens to access information by submitting their own application; this right should not be affected by whether the application is submitted by an ordinary citizen or an expert. Awareness raising and training is conducted both centrally (in Mumbai, for example) as well as onsite in urban and rural communities. An effective technique is to present a 'teaser' to a community; an introduction that is not boring and strikes up an interest. This technique has been used by PCGT in Mumbai who work with local volunteers to produce a short simple play that is then performed by community members to their neighbours and friends. The short play introduces the importance of having access to information in order to solve basic problems such as access to clean water and education. Those who are interested ask "how do we find out more?" and are then invited to a public meeting/workshop the following day. During this workshop PCGT then introduces RTI and holds discussions to bring out important issues that are affecting the community. A number of RTI applications are then written with the community during these workshops and then submitted to the relevant government body.

MAGP in Ahmadabad, Gujarat, use a similar technique with their 'RTI on Wheels' van. They have a wide selection of DVDs featuring case studies of how different RTI Applications have been submitted in order to access information and realise other human rights and, in some cases, expose and eradicate corruption. MAGP have a great relationship with local and national media including TV and newspapers and are often featured in the news. This assists with awareness-raising without MAGP having to invest particular resources. A Government television channel has also assisted by providing film crews to follow RTI applicants and then put together a short film demonstrating the effectiveness or challenges of RTI. A local couple have also produced a DVD featuring songs they have composed concerning the right to information. These audio-visual tools are then screened from the multi-media equipment in the 'RTI on Wheels' van to prompt interest in RTI amongst urban and rural communities. Leaflets are handed out free of charge, a copy of the Act and an 'Easy-to-Use' guide on how to use the Act are distributed for a small fee (Rs20 and Rs5 respectively), and discussions are held with local residents who are either new to the Act or have some experience. A State television channel reported on the first anniversary of the 'RTI on Wheels' bus the day that I was there and Pankti Jog, an MAGP employee commented that State and National media often document and report on the process. Individuals will then contact MAGP requesting a workshop to be held in their community to teach them how to submit an RTI Application. In some instances, MAGP will arrive in a community where one or two people have submitted an RTI Application and sit back whilst a community meeting is held with the RTI Applicants holding a discussion concerning their experience and what other issues in the community may be assisted by RTI.



Every organisation I met with had a firm conviction that RTI can and should be used by ordinary citizens; that their role is merely to raise awareness and offer assistance when necessary. Unlike submitting a PAIA Request in South Africa, an RTI Application is very simple; there is no complicated form to complete. This means that, in the majority of cases, ordinary citizens will submit an RTI Application after (or during) attending one public meeting/workshop and will only require more specialised assistance if and when their request for information is refused. A number of facilities are provided for this purpose including drop-in clinics, an RTI Helpline, RTI Community Radio (talk show) and a TV programme where viewers phone in and have live discussions with panellists. In some cases government officers will make use of these services as well. In Gujarat, government officers are trained on the Right to Information Act as part of their core training by a government owned training agency, the Sardar Patel Institute of Public Administration (SPIPA).

2. Learn about how the National Coalition of People for the Right to Information (NCPRI) Operates.

The National Coalition of People for the Right to Information (NCPRI) was founded in the 1990s and was instrumental in pushing for a law recognising the people's right to access information. Its membership grew from a handful of activists in Delhi and Rajasthan to include representatives working in RTI from civil society throughout the country. It does not, however, claim to or actually represent the views of all RTI activists. Some individuals identified a number of problems with the way it operates and its inability to conduct a comprehensive consultation process. The NCPRI shares information with its network concerning the RTI Act, provides submissions to government on important issues affecting RTI (NCPRI played an important role ensuring 'file notings' are disclosed in terms of RTI), publishes important information on its website, holds public meetings where politicians are invited to speak publicly about issues concerning RTI, conducts research and organises an annual national convention.

The NCPRI Annual National Convention is held in a different part of the country each year over three days where activists, information commissioners, government representatives and ordinary citizens meet to discuss and construct solutions to issues concerning the RTI Act. Workshops are also held to provide training on important issues related to RTI. Discussions are facilitated in a constructive format so that individuals share their positive and negative experiences, government has the opportunity to present their views and organisers facilitate a constructive resolution. Funding for these and other NCPRI activities comes from personal and group donations. Membership and membership fees (Rs50 per year or Rs500 for lifetime membership) for the NCPRI are voluntary. Office space is provided free of charge to NCPRI by the RTI Analysis Assessment Group (RAAG) in Delhi. There is a working committee of thirty people consisting of equitable geographic representation. Six committee meetings are held in Delhi every year with a fixed agenda and travel costs are assisted for those most in need. Volunteers provide support for the main work of the NCPRI and Ankita Anand, secretary of the NCPRI, is currently funded through a scholarship with the Indian Friends Association. The NCPRI does not provide a Shadow Report on the implementation of RTI however it does issue statements and submit newspaper articles and opinion pieces if government does something against the objects of the Act or in relation to an amendment or new Act that threatens the people's right to information.

3. Share knowledge of the PAIA Movement in South Africa and set up Networks for SAHA and South Africa with India.



I presented the freedom movement in South Africa during many of my interactions with civil society and government, distributing leaflets detailing the work done by SAHA, as well as explaining the evolution of PAIA and which organisations and individuals have been key actors. A number of case studies from South Africa were used to illustrate experiences of the strengths and weaknesses of PAIA. This included a discussion with information commissioners, journalists and civil society activists about the importance of having an independent Information Commissioner. I met with over thirty people working in RTI including representatives from Mahati Adhika Gujarat Pahal (MAGP), Mazdoor Kisan Shakti Sangathan (MKSS), Public Concern for Government Trust (PCGT), RTI Analysis Assessment Group (RAAG), Commonwealth Human Rights Initiative (CHRI), Gujarat State Information Commission, India National Information Commission, Karnataka State Information Commission, Times of India, DNA Newspaper, Kabir, Janpath, National Campaign for People's Right to Information (NCPRI), Parivartan. A write up and/or transcripts of meetings with each of these bodies is available by downloading the relevant report from SAHA's website or contacting the FOIP team directly. Resources and information leaflets about most of these bodies, including DVDs and 'easy to use' guides, is also available from SAHA's archives. Please contact archives@saha.org.za for further details.

4. Information Commissioner

Information Commissions were created at the national and state level at the time of enacting the RTI Act. Sections 12 – 20 of RTI set out the provisions for the Central Information Commission (national), State Information Commission and detail the powers and functions of the ICs including appeals penalties.

The IC plays an independent role and makes decisions on internal appeals (first appeal and second appeal). If an RTI application reaches the second appeal process the Information Commissioner will hold a tribunal, inviting the applicant and the relevant PIO to a public hearing at the central IC office. The PIO is welcomed to submit a response in writing to the second appeal however the IC does not read this response prior to the hearing. Each IC I spoke with was dealing with a huge backlog of appeals and some activists are very critical about the failure of some IC's to deal timeously with important appeals. Some activists believe the position of Information Commission is viewed by senior bureaucrats as a well-paid form of retirement however each of the IC's I spoke with disputed this claim. Currently there are two former journalists and one former activist holding the position of Information Commission in India; every other Information Commissioner at both the national and state level is a former bureaucrat. The recruitment of Information Commissioners is a further topic of contention. This is not a transparent process and it is not clear how any of the IC's were recruited. Most activists and some commissioners that I spoke with agree that this is a huge flaw in the ability of the Information Commission to play a strong, respected and independent role in bringing greater openness and accountability to India.

Nonetheless, every person I spoke with believes the existence of the Information Commission at state and national level plays a crucial role in implementing the RTI Act. RTI hearings are informal and give both applicants and PIOs the opportunity to present their case in a public space. Whilst there is a claim that some ICs are biased and too lenient on government officials, they do have the power to make a ruling concerning fines as well as ordering the disclosure of records within a certain timeframe. The State Information Commissioner of Gujarat, Mr Narayan Das, then holds follow-up hearings to ask the PIO and the applicant if his ruling has been enacted. For example, a PIO will be ordered to provide the records to the applicant within 14 days. A hearing will then be held in 14 days



time and the PIO will be asked if he/she has provided the records as instructed. This has proved to be an effective technique however this follow-up hearing is not mandated. Whilst fines and judgements concerning disclosure of information are provided for by RTI there are still problems in terms of enforcement.

I spoke with a man from a rural and remote community in Gujarat after his hearing at the State Information Commission. Despite having waited over two years for his opportunity to have his case heard by the State Information Commissioner he was very pleased with the process. RTI is still a new Act in India and the idea that ordinary citizens, in this case an individual from a poor and excluded community, can ask questions to power – and be given answers – is a new one. This individual commented that he found the hearing to be open and he felt comfortable with approaching the Information Commissioner. In this case, the PIO was ordered to provide the applicant with the records requested within 14 days. A transcript of each of the interviews conducted with Information Commissioners from both the national and state level is available from SAHA's website as well as by contacting SAHA's FOIP team directly.

5. Write Reports to bring back to South Africa

There are many lessons for South Africa to learn from the Indian experience. An explanation of some of the models used for effective implementation of RTI in India has been detailed briefly above. Further detail is provided in the document entitled *Models for effective implementation of RTI in India and their potential for adaptability and use in South Africa*. This document is available to download from SAHA's website or directly from SAHA by contacting the FOIP team directly. A short film documenting this field trip will be available shortly.

