

Day 3 – Wednesday, 28 November 2007
Plenary Session 9.00am-10.30am

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Position: Director

Organisation: Commonwealth Human Rights Initiative

Presentation Title: The Fundamental Right to Information: A Potent Survival Tool for the Most Vulnerable

We view Access to information primarily as a fundamental right vital to the survival of the poorest and not so much as a tool to enhance already strong governance in richer countries or as a right primarily of relevance to the media. All too frequently the poor majority only experience governance as oppression and exclusion, as unaccountable power, as unfettered discretion that has the ability to make or break their lives.

Poverty is accentuated by poverty of information - in the age of information over 1.6 billion people are poor in information in the Commonwealth. Lack of access to information is stealing opportunity and benefit from the majority poor. Conversely, the very poorest people suffering through corruption and exploitation increasingly see access to information as a practical means to get about their daily dues.

India is a case in point with plenty of learning for other developing countries. In India, the Right to Information Act is regarded by its civil society advocates as a 'people's law' – it started as a grass roots movement; the main concern for the advocates for the Indian law was to create a law and procedures which would allow the law to be used by the most vulnerable, whose fundamental elements would be maximum access and limited exemptions; civil society has expertly utilized initial political will to get a strong legislation in place (proactive disclosure, burden of proof on the authority wanting to withhold information, public interest override on exemptions, penalties for withholding information maliciously or giving wrong information) and forcefully resisted attempts at rollback, trains government officials charged with implementation, monitors implementation with hawkish vigilance, promotes optimal utilization of the law by the people as the only sure short way of safeguarding the law in the long run.

Some loopholes in the Indian law include: frailties of information commissions; no consequences for refusal to publish under the proactive disclosure sections. Implementation challenges from the Indian experience include: Governments (central and state governments) disobey their own laws; everyone wants out (President, Prime Minister, Higher Judiciary & Army); roll back attempts within a year of coming into force, as well as broadening the scope of exemptions through incorrect interpretation

Questions:

Can the right provisions and safeguards in the RTI law ensure that the lives of the most vulnerable experience fundamental change for the better?

Has civil society been effective in tackling implementation challenges and pressures in developing country contexts?