

INDIA

THE INTERNET AND THE RIGHT TO INFORMATION IN INDIA



Digital Empowerment Foundation
Ritu Srivastava and Osama Manzar
defindia.net

Introduction

The right to information is a basic human right for every citizen, and the internet is an effective medium to access information. The internet is considered one of the most democratic forums, where the expression of one's views knows few barriers and borders. But this does not mean that the freedom of speech and expression on the internet is absolute and unrestricted.

Transparency International's 2010 Index rates Denmark, New Zealand and Singapore the highest when it comes to granting their citizens the right to information.¹ Finland became the first country in the world to make access to the internet a legal right for all citizens in 2010,² and now the Netherlands has followed suit.³ Although it is one of the world's largest democracies, India is also one of the few countries where most state information lies with governing bodies rather than being available publicly.

In India, 70% of the population lives in 638,365 villages,⁴ represented by 245,525 panchayat offices, mostly located in the remotest regions of the country. However, rural India is not able to access information due to a lack of infrastructure and means to do so. At the same time, many do not know that they have a right to access information. According to the 2011 census, the literacy rate in India is just 64.32% – with illiteracy most prevalent in rural areas. This is the case even though the government introduced the Right to Education Act in 2004, which promised free elementary and basic education to all children. Yet 35% of the population is still illiterate, and only 15% of Indian students reach high school. Because of this it becomes more

important to provide them a medium to access information in a way that they can understand.

Advocating the need for a citizen's basic right to demand information that affects their societal well-being and existence is a mandatory requirement of any democratic society. And it is a citizen's basic right in a democratic society to demand information which is held by governing bodies who are elected by the people to serve the people.

Because of this, movements like the National Campaign for People's Right to Information, Save the Right to Information and India Together have been advocating for the internet to be used to secure the right to information as a basic human right.

Birth of the "right to information" in India

It has been more than 60 years since India's independence – but it is only since 1996 that the government's stranglehold on freedom of information has been lessened. Prior to 1996, India was still burdened by the legacy of the Official Secrets Act 1923, put in place by the British government. This prohibited people from getting any information from government officials. The first step toward recognising the right to information as a basic human right came in 1996 through the establishment of the National Campaign for People's Right to Information (NCPRI),⁵ but it took almost a decade to conceptualise the Right to Information (RTI) Act and to bring it into effect.

The "right to information" campaign started as the Mazdoor Kisan Shakti Sangathan (MKSS) movement in the early 1990s, which campaigned against rampant corruption in the system. It was pushing for transparency in the implementation of minimum wages in the remotest part of Rajasthan, one of the largest states in India. The spirit of this movement inspired the citizens and administration in the country. The advocacy work done by MKSS gave rise to the NCPRI, which set out to advocate for the right to information at the national level in 1996. Eventually, in 1999, then Union Minister for Urban Development Ram Jethmalani⁶ issued an administrative order that enabled citizens to inspect and receive photocopies

1 www.transparency.org/policy_research/surveys_indices/cpi/2010/results

2 www.nytimes.com/2011/04/28/technology/28internet.html?_r=2&partner=rss&emc=rss

3 www.rijksoverheid.nl/nieuws/2011/05/24/verhagen-gaat-telecomwet-wijzigen-om-vrij-internet-te-garanderen.html

4 censusindia.gov.in/Data_Products/Library/Post_Enumeration_link/No_of_Villages_link/no_villages.html

5 righttoinformation.info

6 For more information on Ram Jethmalani see: en.wikipedia.org/wiki/Ram_Jethmalani

of files from his ministry. Disappointingly, the cabinet secretary at the time did not approve this order, which led to the campaign gaining momentum. The first national Freedom of Information Bill (2000) was introduced in Parliament in 2002. After a long struggle by the MKSS and NCPRI campaigns, the Right to Information Act formally came into force on 12 October 2005.

Through this Act, the Constitution of India has provided both the right to privacy and freedom of speech and expression as fundamental rights, but one right cannot override the other.

Regarding the use of information and communications technologies (ICTs), the government states in the RTI Act:

Every public authority should provide as much information to the public through various means of communications so that the public has minimum need to use the Act to obtain information. The internet being one of the most effective means of communications, the information may be posted on a website.

Since independence, the RTI Act is probably one of the most influential laws that has been passed making access to information a basic human right. This Act enables citizens to demand information not only from the government and public authorities, but also gives power to citizens to access information from anywhere in the world using the internet as a tool to access the information.

Despite the fact that the spirit of freedom of expression is strong in India, it is still slow in making government information readily available, and government decisions transparent. It is also not easy for citizens to access information due to a lack of infrastructure or technological tools.

Because of this some have advocated for the internet to be used to ensure the right to information as a human right in India.

Using the internet to ensure the right to information in India

With more than 100 million internet users as of December 2010 (of whom 40 million use the internet via mobile phones), India boasts the third highest number of internet users in the world.⁷ The internet's presence is reaching into every aspect of people's lives in India: in education, learning, health and, in this case, in helping citizens exercise their right to information.

The internet revolution first made a substantial difference in the lives of citizens when peasants, farmers and landholders of Rajasthan raised their voices demanding the ability to access land records directly through the internet. They were campaigning against rampant corruption and the manipulation of records that goes unabated in rural areas marked by stark poverty and feudalism. In response, an initiative was launched by the Rajasthan state government aiming to bring more accountability and transparency into the system of land records. The initiative enabled farmers to access their land and revenue records online by selecting their tehsil⁸ name, account and serial numbers, and paying a fixed amount to the manager of the internet access point (such as a kiosk). Through this project, the state government helped 209 tehsils in the 32 districts of the state, and digitised the jama-bandis (land records) of 37,980 villages – as many as 95,490 have been released. This initiative also released the revenue records of the period before April 1996, resulting in around 62,000 pending cases being settled.

The spirit of this movement inspired the Karnataka state government to launch a project called Bhoomi in mid-1999, which aimed to digitise land and revenue records. The Bhoomi project digitised 20 million rural land records of 6.7 million landowners through 177 government-owned and internet-enabled kiosks in the state. Now, farmers and landowners are able to receive their records by providing data such as ownership, tenancy, loans, nature of title, irrigation details, crops grown, etc. This small initiative helped farmers in many ways, from documenting crop loans and legal actions, to securing scholarships for school children.

This project impacted on the whole country, leading the central government to initiate a national-level Digitisation of Land Records project. The state governments involved include Madhya Pradesh, Andhra Pradesh, Gujarat and Maharashtra. Under this initiative, landowners are able to access digitised copies of records of rights, along with property boundaries.

This initiative formed the foundation of a nationwide project aimed at allowing citizens to access information. The Common Services Centres (CSC) programme was launched in 2006 with the goal of setting up 100,000 centres in rural areas across the

7 www.trai.gov.in/WriteReadData/trai/upload/PressReleases/823/Press_Release_Mar-11.pdf

8 A tehsil consists of a city or town that serves as its headquarters, possibly additional towns, and a number of villages. As an entity of local government, it exercises certain fiscal and administrative power over the villages and municipalities within its jurisdiction. It is the ultimate executive agency for land records and related administrative matters. en.wikipedia.org/wiki/Tehsil

country. The project enabled rural citizens to access real-time information as well as various e-government services.

The right to information is included in the National e-Governance Plan (NeGP), which calls for the internet to be used so that “all information covering non-strategic areas [is placed] in the public domain to enable citizens to challenge the data and engage directly in governance reform.” The Plan also strengthens the right to information by providing for disclosure by governments in all non-strategic areas. All information should be digitally available as it is not possible to fulfil this requirement through traditional paper-based processes.

Another good example aimed at building transparency between government and citizens is the NREGA (Mahatma Gandhi National Rural Employment Guarantee Act) programme in the state of Andhra Pradesh. This enables hundreds of labourers to receive real-time information, including transactional information such as work done, wages paid, and assets acquired. All this information is publicly shared through the programme’s website. They are able to receive this information through the internet or with the help of community-based organisations that provide the information over telephones.

There is now widespread awareness that accessing information is a basic human right and that the internet can help in securing this right. Many activists have taken the cause to the next level and use the power of social networking websites like Facebook and Twitter to spread awareness about the right to information.

One example was highlighted recently when veteran social activist Anna Hazare began a hunger strike, demanding the enactment of the Jan Lokpal Bill⁹ that gives wider powers to the Ombudsman to keep corruption in check. The protest began on 5 April 2011. For four days Hazare’s fight against corruption spread like wildfire across the internet and he became the most “searched” person on the Google India page. This was largely because of social media websites like Facebook, Twitter and YouTube that played an important part in stitching a nation of concerned citizens together. The 72-year-old activist became a worldwide celebrity on Twitter with tweets that were pouring in every minute and with more than 70,000 “likes” on Facebook. Thousands of youth joined the campaign and supported it in a non-violent way on Facebook and Twitter. Facebook pages such as “Mahatma Gandhi 2.0” and

“India Against Corruption” reached over 145,000 “likes” within a day. Within four days, Hazare’s non-violent social movement impacted on the central government, which accepted all the demands of the movement.

Another example is the CIC Online project, a key initiative of the Central Information Commission (CIC) and National Informatics Centre (NIC), under the aegis of the NeGP. Now we are also able to file complaints online,¹⁰ and check the status of appeals when the right to information is denied. Effectively, CIC Online has institutionalised the convergence of ICTs with the Right to Information Act 2005.

Although these particular examples have shown the impact of the internet in realising the right to information as a basic human right in India, India has also failed in many ways due to a lack of infrastructure, or when citizens have been unable to utilise or access CSCs. The right to information could be successfully implemented if it could be directly correlated with a level of commitment within the state and central governments of both the political and administrative bureaucrats. It is essential that immediate and wide-scale dissemination of the content of the RTI Act as well as assistance in implementing the Act is provided to all concerned. The Act has also set down obligations on the state and central governments for its implementation and for setting up monitoring mechanisms.

There is a requirement to implement the Act uniformly across the country. No doubt, uniform implementation of the Act will bring transparency to governing bodies and authorities, which will be vital for the functioning of a vibrant democracy. It will create an environment of minimal corruption where governments are accountable to the people. This can be possible only when governing bodies and authorities allow citizens to access their information from anywhere and anytime. Because of this, it becomes necessary to make internet access a basic human right.

Action steps

In developing societies like India, ICTs play an important role in bringing disparate activist groups together. Some of the actions that could be taken include:

- In order to remove the constraints on accessing information, it is important to push for universal access to ICT infrastructure and the availability of information on the internet.

⁹ www.indiaagainstcorruption.org

¹⁰ rti.india.gov.in/index.php

- In an era of Web 2.0, it is important to have free and open models of knowledge creation that ensure protection against undue commercial influence over the free flow of information and knowledge.
- Panchayat Offices can be used as RTI filing centres or can be internet-enabled and converted to Public Citizen Offices (PCOs) where citizens can file RTI applications. The RTI fee could either be based on the rate of a call or decided by a PCO officer.
- In a country where the literacy rate is just 64%, and most are not able to use the internet, there should also be a way to utilise the power of mobile technology for the filing of RTI applications (for instance, using SMS).
- There is a need to properly catalogue, index, and digitise government policies, applications, schemes, papers, announcements, etc. so that these records can be easily accessed.
- Given globalisation, there is a trend towards developing worldwide restrictive intellectual property laws and practices and the coercive implementation of laws, often through technical restrictions. These need to be opposed.
- Civil society needs to identify political contours in the struggle for rights, democracy, equity and social justice, and in a way that enables them to campaign effectively for people's rights. ■