

POINTS FOR THE SECOND UNIVERSAL PERIODIC REVIEW OF INDIA

Digital Empowerment Foundation (DEF) and the Association for Progressive Communication have jointly submitted their submission for the Universal Periodic Review (UPR) India Human Rights Council. DEF is majorly concerned with the human rights, internet rights and making the internet an effective tool to access right to information in India. DEF believes that the internet plays a major role in accessing information and thus a tool for social and economic development. This submission outlines India's progress and specific areas of concern: information technology (IT) law and policies, the right to information and internet access and internet governance. Four recommendations are made for follow-up and implementation in the UPR cycle.

With a reference to our jointly submission of UPR review, and aligning with the points of government's second Universal Periodic Review, we (DEF & APC) note that the draft Government of India report has serious and significant gaps in relation internet related human rights issues. The absence of any mention of the internet in relation to the right to information weakens the Government's report. We strongly recommend the report address internet related human rights issues as follow up in this second UPR cycle and that the following points to be included under:

Transparency in Governance

Right to Information

The RTI Act is probably one of the most influential laws 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. And internet plays an important role in bringing in transparency and accountability in services. However, regarding the use of information and communications technologies (ICTs), the RTI Act provides:

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.

1. By January 2011 over 87,000 Common Service Centres (public "e-Kiosks") have been established in collaboration with the private sector as part of the National E-Governance

Plan 2006¹ that comprises of 27 Mission Mode Project (MMPs).² Under its MMPs, the Government is also providing connectivity facilities to all 236,000 panchayats in the country across 31 states and Union Territories. However, the Special Rapporteur notes that the majority of the country's population still remains without internet access. Thus, we **recommend** these CSCs and panchayat offices to be used RTI application centres.

2. In order to promote the right to information and access to the internet we **recommend** that CSCs be used as RTI filing centres, are internet enabled and converted to Public Citizen Offices (PCOs) where citizens can easily file RTI requests and check their RTI applications.
3. Uniform implementation of the RTI Act will bring transparency to governing bodies and authorities, which is vital for the functioning of a vibrant democracy, creating 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. We **recommend** implementing the RTI Act uniformly across the country.

Citizen Charter

4. Transparency, accountability and responsiveness of the administration are three major pillars of any good government. The basic objective of citizen charter is to empower the citizen in relation to public service delivery. According to the information available at goicharters.nic.in, an official citizen charter website of the government of India, at least 729 Citizen's Charters had been formulated by 24 states and Union Territories by January this year. The maximum of these were in Gujarat (293), followed by Haryana (89), Delhi (75), Goa and Rajasthan (63) each, Tamil Nadu (57), and Uttar Pradesh (41). Besides, 131 Citizen's Charters existed in various union ministries, public sector banks, boards, institutes and hospitals.³ However, the charters have been formulated but they are not uniform and usually include details of the functioning of the issuing department or organisation, the names, addresses, salary of officers and responsibilities assigned to them; the time duration allocated for response on various applications, charges for various procedures. Despite bringing organisational information, setting up uniform standards of services, providing open and full information engaging citizens are also important to make citizen charter thriving. This could only be possible by bringing citizen charter on the web and use internet as a basic information accessing tool.
5. In India 70% of the population lives in 638,365 villages, represented by 245,525 panchayat offices, mostly located in the remotest regions of the country.⁴ However, rural India is not able to access information due to a lack of infrastructure and means to do

¹ "ICT Ministers meet tomorrow for Speeding-up Delivery of e-Services," Press Information Bureau, Government of India, 26 October 2009; and "E-Governance Initiatives-Changing Lives for the better," Press Information Bureau, Government of India, 24 January 2011, <http://pib.nic.in/newsite/erelease.aspx?relid=69324>.

² <http://www.mit.gov.in/content/mission-mode-projects>

³ <http://goicharters.nic.in/chartermain.htm>

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

so. At the same time, many of them do not know that they have right to access information. These panchayat offices are primary gateway for bringing transparency at the ground level. Thus, it becomes more important to remove the constraints on accessing information, and push for universal access to ICT infrastructure and the availability of information on the internet. Aligning with the objective of Citizen Charter's, thus, we strongly **recommend** these Panchayat Offices to be used as Citizen Charter centres to receive information about their government officials and government departments.

E-Governance

6. Thus the right to information became a prominent pillar of National e-Governance Plan (NeGP) that 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."*⁵As internet is a prominent tool to bring Governance services at the doorstep of citizens. Thus, we **recommend** that internet to be used as medium of providing governance services by each and every government departments and agencies.

Civil & Political Rights

The government is making efforts towards ensuring transparency and accountability through policies such as the Right to Education, Right to Information and Access to e-Governance Services. On the other hand, new regulatory proposals aim to limit freedom of expression and suppress the right to information. We **recommend** the following points:

7. The Government to review these laws, in consultation with civil society and multi-stakeholder groups, and take steps to ensure limitations on freedom of expression comply with the recommendations of the 2011 annual report of the Special Rapporteur on Freedom of Expression.
8. Remove the constraints on accessing information and to push for universal access to ICT infrastructure and the availability of information on the internet.
9. Review the "Intermediary Due Diligence" rules and the Information Technology Act, in consultation with civil society and multi-stakeholder groups, and take steps to ensure limitations on freedom of expression comply with the recommendations of the 2011 annual report of the Special Rapporteur on Freedom of Expression.
10. Right to internet as a medium for freedom of expression and speech and affirm its commitment to promoting and protecting human rights and multi-stakeholder processes in relation to all internet related policy and regulatory activities as well as internet governance matters.
11. Adopt a rights based approach to a review of the Information Technology Act.

⁵http://www.nisg.org/knowledgecenter_docs/A01000001.pdf

Women

12. Women's use of the internet shows that internet content is regulated by four factors: access and infrastructure, law and policy, markets and economic forces and culture and social norms.⁶ Research on female use of the internet in India reveals that these four factors also affect women's access to and use of the internet and that the internet has significant implications for women's communication rights and sexuality rights in India.⁷ Restrictions on access to the internet in public places, including cyber cafés, have particularly negative impacts on diverse groups of women.⁸ There are examples in India that internet has given power to raise their voices and make them self-sustainable. For example, Vimochana, Bangalore based women forum, is fighting against domestic violence and raising its voices using internet as a medium.⁹ On other hand, Self-Employed Women's Association (SEWA), Gujarat based organisation has done extensive work to assist women in the informal sector and has established an ICT programme aiming to increase efficiency of rural micro enterprise activities and making them self-sustainable.¹⁰ Thus, we **recommend** that the government should adopt a rights based approach to a review of the Information Technology Act.

Economic, Social and Cultural Right

13. The government is making efforts towards ensuring transparency and accountability through policies such as the Right to Education, Right to Information and Access to e-Governance Services. Thus, right to access internet is one of the socio-economic rights in digital inclusion time of India. As it is not medium to access information, but also a medium to provide information in an ease way.

⁶JacsmKee "Emerging threads and common gaps: A synthesis" in *EROTICS: Sex, Rights and the Internet* (Association for Progressive Communications 2010) at page 15

⁷ManhimaBhattacharjya and Maya Indira Ganesh "Negotiating intimacy and harm: Female internet users in India" in *EROTICS: Sex, Rights and the Internet* (Association for Progressive Communications 2010) <http://www.apc.org/en/system/files/EROTICS.pdf>, at page 107.

⁸ManhimaBhattacharjya and Maya Indira Ganesh "Negotiating intimacy and harm: Female internet users in India" in *EROTICS: Sex, Rights and the Internet* (Association for Progressive Communications 2010) <http://www.apc.org/en/system/files/EROTICS.pdf>.

⁹<http://www.vimochana.in/>

¹⁰<http://www.sewa.org/>