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Research Paper

Right to Information Regime in India

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Abstract:
This paper attempts to describe the genesis and evolution of the RTI regime in India, withinthe global and regional context. It describes the events leading up to the coalescing of the RTImovement in India. It goes on to list the challenges before the RTI movement, identifies its allies and opponents, and discusses the strategies adopted, and the resultant successes and failures. Based on all this, it attempts to draw out lessons that might be learnt from the Indian RTI movement. The paper ends with a summary of the findings of two nation-wide studies recently conducted to assess the implementation of the RTI Act in India and suggests an agenda for action, aimed at strengthening and deepening India's RTI regime.

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I. Evolution of the Idea of Transparency

Clearly, transparency is an idea whose time has come. Named word of the year by Webster'sDictionary in 2003, "transparency" might well prove to be the word of the last decade and a half. Consider that in the two hundred and twenty years from 1776, when the first transparency law was passed in Sweden, till 1995, less than

20 countries had such laws. Inthe fifteen years, from 1995 to 2010, nearly sixty additional countries have either passed transparency laws or set up some instrumentsto facilitate public access to institutional information.

In the South Asian Region, the state of Tamil Nadu, in India, was the first to pass a freedomof information law way back in 1997. Though the law was essentially weak and ineffective, itwas soon followed by somewhat more effective laws in many of the other states.

Meanwhile, at the national level, Pakistan was the first off the block and passed a transparency ordinance in 2002 However, there is some dispute whether this was finally converted into a legally sustainable law and whether it is still applicable[4]. India came next, with a national Freedom of Information Act, passed in 2002. However, this somewhat weak Indian law never came into effect and was finally replaced, in 2005, by a much stronger Rightto Information Act. Nepal followed, soon after, in 2007 and Bangladesh in 2009. Sri Lanka,Bhutan and the Maldives are stillat various stages in their quest for establishing a transparency regime.

Genesis of RTI Regimes

Globally, it has been argued that the major impetus to transparency has been the growth of democracy. Credit has also been given to multilateral donor agencies for "persuading" governments, especially in countries of the South, to set up transparency regimes, often as acondition attached to the sanction of loans and aid. In Europe, concerns about the environment have catalyzed efforts at transparent governance, especially with the Aahrus Convention. The environmental movement has been one of the initiators of the transparencymovement in many parts of the world, including India.[1]

Interestingly, in India, it was not so much the birth of democracy (in 1947) but its subsequent failures, especially as a representative democracy, that gave birth and impetus to the transparency regime. The RTI regime emerged essentially as a manifestation of the desire to move the democratic process progressively towards participatory democracy, while deepening democracy and making it more universally inclusive. However, the democratic nature of the state did, on the one hand, allow space for the growth of the RTI regime and, onthe other, respond to the voices of those (very many) people who increasingly demanded thefacilitation of a right to information. Perhaps without a democracy, the transparency regimewould never haveblossomed, but also without the failures of this democratic system,

the motivation among the people to formalize such a regime might not have been there[2].

The impetus for operationalising the right to information, a fundamental (human) right that isenshrined as such in the Indian constitution, arose primarily out of the failure of the government to prevent corruption and to ensure effective and empathetic governance. The role, if any, of international agencies was marginal. The Indian RTI Act of 2005 is widelyrecognized as being among the most powerful transparency laws in the world and promises far greater transparency than what is prescribed or required by most international organizations. Though the World Bank, for example, has recently revamped its disclosure policy and made it much stronger, it still lags

[1] Banisar, D. "Freedom of Information and Access to Government Records Around the World", posted onwww.ati.gov.jm/freedomofinformation.pdf

[2] Singh, Misha and Shekhar Singh, "Transparency and the Natural Environment", *Economic and PoliticalWeekly*,41:15, pp. 1440-1446, April 15, 2006

behind the Indian law, at least in coverage andintent.

II. Limitations of a Representative Democracy

In India, as in most other democracies, functionaries of the government are answerable directly to institutions within the executive, including institutions designed to preventcorruption, monitor performance and redress public grievances. They are also answerable incourts of law if they violate a law or the constitution, or (in a somewhat uniquely Indian practice) if they do not meet with the expectations of the judiciary[3]. The Government, as a collective, is answerable to the legislature, though with the party whip system[13] prevalent in India it is arguable whether the government in power can actually be taken to task by the Parliament or the Legislative Assembly. Finally, it is indirectly answerable every five years,whenit attempts to get re-elected, to the citizen's of India, or at least to those among them who are eligible to vote,.

Inevitably, institutions of the government have proved to be ineffective watch dogs. Being within the system and manned by civil servants, they are easily co-opted by those they are supposed to monitor and regulate. The resultant institutional loyalty, and the closing of ranksespecially when faced with public criticism, often leads to the ignoring or covering up of misdeeds. Even the honest within them have to struggle with the burden of not letting one'sside down, not exposing the system to attack by "unreasonable and impractical" activists and by a media looking to "sensationalize" all news. Added to this, they have to work within thecontext of verylow standards of performance that the bureaucracy sets for itself and the rhetoric that India is a poor country and that the government is doing the best it can under thecircumstances.

Many other institutions are blatantly corrupt, with civil servants competing fiercely (and out-bidding each other) in order to occupy what are generally considered to be "lucrative" posts.

Those that, even in part, survive these pitfalls, are often marginalized, with successive governments ignoring them and their findings. The Auditor and Comptroller General of India, and the Central Vigilance Commission, are two

[3]Copy of the World Bank disclosure policy available at http://siteresources.worldbank.org/EXTINFODISCLOSURE/Resources/R2009-0259-2.pdf?&resourceurlname=R2009-0259-2.pdf

among many such institutions that often speak out in vain.

Other institutions are overwhelmed by the sheer volume of work, and starved of resources to tackle the workload in even a minimally acceptable time frame or manner. The judiciary, forexample, apart from often being corrupt or co-opted, has by one estimate a back log of over30 million cases that, at current levels of supportand staffing, will take a whopping 320 years to clear[4] Apart from the intolerable delays, for most of the poorer citizens of the country, whose need for justice is most pressing, access to the courts of law is beyond their financialmeans.

Ultimately, in a democracy the responsibility for ensuring proper governance rests with the elected members of the national Parliament and the state legislative assemblies. However, inthe sort of representative democracy we have in India, our elected representatives have not proved to be effective guardians of social justice and human rights. There are many reasonsfor this.

Essentially parliamentary (and assembly) constituencies are too large and too varied. Addedto this, the weakest segments of society are by definition not organized into politically significant lobbies. Elections are held once in five years and issues before the voters are many. Besides, voting is not influenced only by the past performanceof elected representatives but by many other considerations, including caste, religious and partyloyalties, and how socially accessibly the elected representative is.

However, in the final analysis, there are no real options before the voter. Usually, there isn'tmuch difference between the various candidates who offer themselves for elections. Even where there is a progressive candidate, the chances of that candidate winning without a major party affiliation are slim. And even if some progressive candidates win, there is little that theycan do if they are not a part of the major party structures. Besides, the process and content ofigovernance has become very complex and most of our elected representatives are neither trained nor otherwise equipped to effectively deal with such complexities.

Most major political parties in India do not have genuine inner party democracy, and the scope for dissent and criticism is limited. This situation is aggravated by the anti defection law and the binding nature of the party whip (described earlier),

4 **"**Indian judiciary would take 320 years to clear the backlog of 31.28 million cases pending in various courts including High courts in the country, Andhra Pradesh High Court judge Justice V V Rao said". (*Courts will take 320 years to clear backlog cases: Justice Rao* (Press Trust of India, Mar 6, 2010, as posted on fttp://timesofindia.indiatimes.com/india/Courts- will-take-320-years-to-clear-backlog-cases-Justice-Rao/articleshow/5651782.cms).

making it virtually impossible for legislators to challenge the party leadership. On the other hand, where the party leadership is enlightened, as is sometimes the case,it finds it difficult to challenge or discipline its own cadres, or the bureaucracy, on fundamental issues like corruption or apathetic and ineffective governance, for fear of alienating them.

The party leadership recognizes its dependence on its party workers and functionaries, especially during election time. It also recognizes the ability of the permanent bureaucracy to sabotage government programs and schemes and, consequently, its chances of re-election. Therefore, it wants to alienate neither. All this makes it very difficult for the common personto get justice or relief.

Demands for Transparency

In post independence India there were sporadic demands for transparency in government, especially around specific events or issues. Tragic disasters like train accidents invariably inspired demands from the public and often from people's representatives in Parliament and in the state legislative assemblies, to make publicthe findings of enquiry committee's whichwere inevitably set up. Similarly, when there were police actions like *lathi* (cane/baton) charges, or firing on members ofthe public, or the use of tear gas, there would be public demand for full transparency.

Perhaps the humiliating war with China, in 1962, more than any other single event, marked the end of the public's honeymoon with the Indian Government. The poor performance of theIndian army in the face of Chinese attacks, and the rapid loss of territory to China, shook public confidence in the government like nothing had done before. The euphoria of the freedom movement and independence had finally faded.

People started questioning government action and inaction like never before and suddenly there were more persistent and strident demands for information and justification.

However, it took anotherten years or so for the Supreme Court of India to take cognizance of public demand for accessto information and rule that the right to information was a fundamental (human) right. In 1975 the Supreme Court, in State of UP vs Raj Narain, ruled that: "In a government of responsibility like ours where the agents of the public must be responsible for their conduct there can be buta few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings."

Subsequently, in 1982 the Supreme Court of India, hearing a matter relating to the transfer of judges, held that the rightto information was a fundamental right under the Indian Constitution. The judges stated that:"The concept of an open Government is the direct emanation from the right to know which seems implicit in the right of free speech and expression guaranteed under Article 19(1) (a).

Therefore, disclosures of information in regard to the functioning of Government must be therule, and secrecy an exception justified only where the strictest requirement of public interest so demands. The approach of the Court must be to attenuate the area of secrecy as much aspossible

consistently with the requirement of public interest, bearing in mind all the time that disclosure also serves an important aspect of public interest" (SP Gupta & others vs The President of India and others, 1982, AIR (SC) 149, p. 234).

However, despite all this, there was little effort by the government to institutionalize the rightto information and to set up a legal regime which could facilitate its exercise bythe common citizen. Though in 1985, following the disastrous gas leak in the Union Carbide Corporation plant in Bhopal, various environmental groups petitioned the Supreme Court asking for transparency in environmental matters; especially where storage of hazardous materials wasconcerned, specific relief in this matter did not result in there being any systemic change.

In 1989, there was a change of government at the national level, the ruling Congressparty losing the elections[5]. There were promises by the new ruling coalition to quickly bring in a right to information law, but the early collapse of this government and reported resistance bythe bureaucracy resulted in a status quo.

It was only in the mid-1990s, with the coming together of various people's movements, that there was concerted and sustained pressure towards such institutionalization. It was only then that the state began to respond and work towards an appropriate legislation.

[5] Shekhar Singh, "India: Grassroots Initiatives" , in Ann Florini (Ed.) *The Right to Know: Transparency for an Open World*, Columbia University Press, New York, 2007.

Birth of the RTI Movement in India

The 1990s saw the emergence of a right to information movement which primarily comprised three kinds of stakeholders. First, there were people's movements working on ensuring basic economic rights and access to government schemes for the rural poor. The relevance and importance of transparency was brought home to them whenthey found that the landless workers in rural areas were often cheated and not paid their full wages. Yet, the workers could not challenge their paymasters, who claimed that they had worked for less days then they actually had, as these workers were denied access to the attendance register inwhich they had affixed their thumb prints every day they worked, because these were "government records".

The second group of activists who joined hands in the fight for transparency were those fighting for the human rights of various individuals and groups, especially in conflict proneareas of India. They found that their efforts to prevent human rights abuses and illegal detentions and disappearances were frustrated because they were denied access to the relevant information.

The third group of supporters were environmentalists who were concerned about the rapid destruction and degradation of the environment. They were spurred on by the success, though limited, of an earlier petition to the Supreme Court demanding transparency aboutenvironmental matters.

Along with these movements, central to the fight for transparency were various professionals, especially journalists, lawyers, academics, and some retired and serving civil servants.

Towards a National RTI Legislation

From the early 1990s, the Mazdoor Kisan Shakti Sangathan (MKSS) had started a grassroots movement in the rural areas of the state of Rajasthan, demanding access to government information on behalf of the wage workers and small farmers who were often deprived of their rightful wages or their just benefits under government schemes. The MKSS transformedthe RTI movement. What was till then mainly an urban movement pushed by a few activists and academics metamorphosed into a mass movement that quickly spread not only across the state of Rajasthan but to most of the country. It was mainly as a result of this rapid spread of the demand for transparency that the need to have a national body that coordinated and oversaw the formulation of a national RTI legislation began to be felt.

Such a need was the focus of discussion in a meeting held in October 1995, at the Lal Bahadur Shastri National Academy for Administration (LBSNAA), Mussoorie[6]. This meeting, attended by activists, professionals and administrators alike, took forward the agenda of setting up an appropriate national body.

In August, 1996, a meeting was convened, appropriately at the Gandhi Peace Foundation, in New Delhi where the National Campaign for People's Right to Information (NCPRI) was born. It had, among its founding members, activists, journalists, lawyers, retired civil servants and academics. This campaign, after detailed discussions, decided that the best way to ensure that the fundamental right to information could be universally exercised was to get an appropriate law enacted, which covered the whole country. Consequently, one of the first tasks that the NCPRI addressed itself to was to draft a

right to information law that could form the basis of the proposed national act.

Once drafted, this draft bill was sent to the Press Council of India, which was headedby a sympathetic chairperson, Justice S.B. Sawant, who was a retired judge of the Supreme Courtof India. The press Council examined the draft bill and suggested a few additions and modifications. The revised bill was then presented at a large conference, organised in Delhi,which had among its participants representatives of mostof the important political parties ofiIndia. The draft bill was discussed in detail and was enthusiastically endorsed by the participants, including those from political parties. The NCPRI then sent this much debated and widely supported bill to the Government of India, with a request that the government consider urgently convertingit into a law. This wasin 1996!

In response, the Government of India set up a committee, known as the Shourie Committee, after its chair, Mr. H.D. Shourie. The Shourie committee was given the responsibility of examining the draft right to information bill and making recommendations that would help the government to institutionalise transparency. The committee worked fast and presented its report to the government within a few months of being set up, though it did succeed in significantly diluting the draft RTI bill drafted by civil society groups.

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[6] This is a government institute that trains civil servants on their entry into service.

Once again, the government was confronted with the prospect of introducing a right to information bill in Parliament. Clearly the dominant mood in the government was against any such move, but it was never politically expedient to openly oppose transparency. That would make the government seem unwilling to be accountable, almost as if it had somethingto hide. Therefore, inevitably, the draft bill, based on the recommendations of the Shourie committee, was referred to another committee: this time a Parliamentary committee.

Government committees serve various purposes. Primarily they examine proposals in detail,sometime consult other stakeholders, consider diverse opinions, examine facts and statistics, and then to come to reasoned findings or recommendations. However, committees can also be a means of delaying decisions or action, and for taking unpopular, or even indefensible, decisions. The tyranny of a committee is far worse than the tyranny of an individual. Whereas an individual can be challenged and discredited, it is much more difficult to pinpoint responsibility in a committee, especially if it has many honourable members, and it becomesdifficult to figure out who said what and who supported what.

The Sleeping Giant Stirs: Response of the Government

Inevitably, around this time various sections of the government started becoming alarmedat the growing demand for transparency. This also marked the beginnings of organized opposition to the proposed bill and to the right to information. Interestingly, the armed forces, which in many other countries are reportedly at the centre of opposition to transparency, were not a significant part of the opposition at this stage. This might perhaps have been because they assumed, wrongly as it turned out, that any transparency law would not be applicable to them. More likely, it was the outcome of the tradition in India, wisely nurtured by the national political leadership, which discourages the armed forces from meddling in legislative or policy issues apart from those relating to defence and security.

Characteristically, the Indian State was a divided and somewhat confused house. There were many bureaucrats and politicians who were enthused about the possibility of a right to information law and did all that they could to facilitate its passage.However, many others were alarmed at the prospect of there being a citizen's right to information that was enforceable. Undoubtedly, some of these individuals were corrupt and saw the right to information act as a threat to their rent-seeking activities. Yet, many others opposed transparency as they felt that this would be detrimental to good governance. Some of them felt that opening up the government would result in officers becoming increasingly cautious.

Already, there was a tendency in the government to play safe and not take decisions that might be controversial. It was felt that opening up files and papers to public scrutiny wouldjust aggravate this tendency and reinforce in the minds of civil servants the adage that they can only be punished for sins of commission, never for sins of omission.

Another group of bureaucrats and politicians feared that the opening up of government processes to public scrutiny would result in the death of discretion. The government would become too rigid and rule-bound as no officer would like to exercise discretion which couldlater be questioned. In

the same spirit it was also thought that the public would not appreciate the fact that many administrative decisions have to be taken in the heat of the moment, without full information, and under various pressures including those of time. There were apprehensions that manysuch decisions would be criticized with hindsight and the competence, sincerity and even integrity of the officers involved would be questioned. There were also those who felt that too much transparency in the process of governance would result in officials playing to the gallery and becoming disinclined to take unpopular decisions.

Some elements in the government feared that transparency laws would be misused by vested interests to harass and even blackmail civil servants. Others felt outraged that the general public, especially the riffraff among them, would be given the right to question their integrityand credentials. There were also those who felt that the Indian public was not yet ready to be given this right, reminiscent of the British on the eve of Indian independence who seemed convinced that Indians were not capable of governing themselves. There were even those who objected on principle, arguing that secrecy was the bedrock of governance!

As was inevitable, these internal contradictions within and among different levels of the government had to, sooner or later, come to a head. They did, in 1999, with a cabinet minister unilaterally ordering that all the files in his ministry henceforth be open to public scrutiny[7]. This, of course, rang alarm bells among the bureaucracy and

[7] In 1999 Mr Ram Jethmalani, then Union Minister for Urban Development, issued an administrative order enabling citizens to inspect and receive photocopies of files in his Ministry.

among many of his cabinet colleagues. Though the minister's order was quickly reversed by the Prime Minister,it gave an opening for activists and lawyers to file a petition in the Supreme Court of Indiaquestioning the right of the Prime Minister to reverse a minister's order, especially when the order was in keeping with various Supreme Court judgments declaring the right to information to be a fundamental right.

By now it seemed clear that a large segment of the bureaucracy and political leaders were noteager to allow the passage of a right to information act. On the other hand,the judiciary had more than once held that the right to information was a fundamental right and at least hinted that the government should ensure that the public could effectively exercise this right.

The third wing of the government, the Legislature, had not yet joined the fray as no bill had yet been presented to Parliament. However, in certain states of India, notably Tamil Nadu, Goa, Madhya Pradesh, Maharashtra, Karnataka, Rajasthan, Assam, Jammu and Kashmir, and even Delhi, the legislature proved to be sympathetic by passing state RTI acts (albeit, mostly weak ones) much before the national act was finally passed by Parliament.

Perhaps the happenings in India around that time very starkly illustrate the contradictions present within governments in relationship to the question of transparency. As was done in India, even elsewhere such contradictions can be used to weaken and divide the opposition totransparency laws and regimes, and to drive a wedge in what might initially appear to be bureaucratic unity in opposition to transparency.

Passing the Freedom of Information Act 2002

Meanwhile, as mentioned earlier, a case had been filed in the Supreme Courtquestioning the unwillingness of the government to facilitate the exercise of the fundamental right to information. This case continued from 2000 to 2002 with the government using all its resources to postpone any decision. However, finally, the court lost patience and gave an ultimatum to the government. Consequently, the government enacted the Freedom of Information Act, 2002, perhaps in order to avoid specific directions about the exercise of the right to information from the Supreme Court. It seemed that the will of the people, supportedby the might of the Supreme Court of India, had finally prevailed and the representatives of the people had enacted the required law, even if it was a very watered-down version of the original bill drafted by the people. Unfortunately, this was not really so.

The Freedom of Information Act, as passed by Parliament in 2002, had the provisionthat it would come into effect from the date notified. Interestingly, despite being passed by both houses of Parliament and having received presidential assent, this act was never notified andtherefore never became effective. The bureaucracy had, in fact, had the last laugh!

Change in Government, and a Change in Fortunes

In May, 2004, the United Progressive Alliance (UPA), led by the Congress Party, came to power at the national level; displacing the BJP led National Democratic Alliance government. The UPA government brought out a Common Minimum Programme (CMP) which promised,among other things, "to provide a government that is corruption-free, transparent and accountable at all times…" and to make the Right to Information Act "more progressive, participatory and meaningful". The UPA government also set up a National Advisory Council (NAC)[28], to monitor the implementation of the CMP. This council had leaders of various people's movements, including the right to information movement, as members.

This was recognised by the NCPRI and its partners as a rare opportunity and it was decided to quickly finalise and submit for the NAC's consideration, a revamped and strengthened draft bill that recognized people's access to information as a right. As a matter of strategy, it was decided to submit this revised bill as a series of amendments to the existing (but non-operative) Freedom of Information Act, rather than an altogether new act.

Accordingly, in August 2004, the National Campaign for People's Right to Information (NCPRI), formulated a set of suggested amendments to the 2002 Freedom of Information Act[8], These amendments, designed to strengthen and make more effective the 2002 Act, were based on extensive discussions with civil society

[8] The first of these amendments was the renaming of the Act from "Freedom of Information" to "Right to Information". The RTI Act was among the first of the laws unveiling the rights based approach public entitlement –subsequent ones include the National Rural Employment Guarantee Act and the Right to Education Act. The rights based approach, apart from empowering the people, also does
away with the prevailing system of benign dispensation of entitlements, leading to state patronage and corruption. It allows even the
poorest of the poor to demand with dignity what is their due, rather than to beg for it and humiliate themselves, while being at the mercy of insensitive, partisan or corrupt civil bureaucrats.

groups working on transparency and other related issues. These suggested amendments were forwarded to the NAC, which endorsed most of them and forwarded them to the Prime Minister of India for further action.

The Empire Strikes back

Reportedly, the receipt of the NAC letter and recommended amendments was treated with dismay within certain sections of the government bureaucracy. A system, that was not willing to operationalise a much weaker Freedom of Information Act, was suddenly confronted with the prospect of having to stand by and watch a much stronger transparency bill become law. Therefore, damage control measures were set into motion and, soon after, a notice appearedin some of the national newspapers announcing the government's intention to finally (after two and a half years) notify the Freedom of Information Act, 2002. It sought from members of the public suggestions on the rules related to the FoIA. This, of course, alerted the activists that all was not well, and sympathizers within the system confirmed that the government had decided that the best way of neutralizing the NAC recommendations was to resuscitate the old FoIA and suggest that amendments can be thought of, if necessary, in this act, after a few years experience!

The next three or four months saw a flurry of activity from RTI activists, with the PrimeMinister and other political leaders being met and appealed to, the media being regularlybriefed and support being gathered from all and sundry, especially retired senior civil servants (who better to reassure the government that the RTI Act did not signify the end ofigovernance, as we knew it), and other prominent citizens.

This intense lobbying paid off and after a tense and pivotal meeting with the Prime Minister (arranged by a former Prime Minister, who was also present and supportive), in the middle ofiDecember 2004, the Government agreed to introduce in Parliament a fresh RTI Bill along thelines recommended by the NAC.

Consequently, the Government of India introduced a revised Right to Information Bill in Parliament on 22 December 2004, just a day or two before its winter recess. Unfortunately, though this RTI Bill was a vast improvement over the 2002 Act, some of the critical clauses recommended by the NCPRI and endorsed by the NAC had been deleted or amended. Mostsignificantly, the 2004 Bill was

applicable only to the central (federal) government, and not to the states. This omission was particularly significant as most of the information that was of relevance to the common person, especially the rural and urban poor, was with state governments and not with the Government of India.

"Strengthening" by Weakening: Threats to the RTI Act

Less than a year after the RTI Act came into force, there were rumours that the Government of India was intending to amend it, ostensibly to make it "moreeffective". Sympathisers within the government confirmed that a bill to amend the RTI Act had been approved by theCabinet and was ready for introduction in Parliament in the coming session. A copy of thedraft amendment bill also became available, though legally it would not be publicly accessible till it was presented in Parliament.

A perusal of the draft bill revealed that the main thrust of the amendments was to effectivelyremove "file notings" from under the purview of the RTI Act. The genesis of this demand of the government lay in the drafting of the RTI Act itself. When people's movements were drafting the RTI Act, they had under the definition of information specifically added "including file notings". The government, while finalizing the bill for introduction in Parliament had deleted this phrase. However, asit turned out, even without this phrase thedefinition of information in the act was wide and generic enough to unambiguously include file notings.

III. Conclusion

As soon as the RTI Act became operative, the nodal department of the Government of India(Department of Personnel and Training) stated on its web site that file notings need not be disclosed under the RTI Act. This was challenged by citizens, who appealed to the central, and various state information commissions. Despite government efforts, these various information commissions held that, as per the definition of information in the RTI Act, file notings could not, as a class of records,be excluded. This forced the government to try and amend the RTI Act itself.

Unfortunately, the government tried to perpetuate the myth that, in amending the RTIAct, they were actually trying to strengthen rather than weaken the act. In a letter addressed to the noted RTI activist Anna Hazare, the Prime Minster states: "File notings were never covered in the definition of 'information' in the RTI Act passed by Parliament. In fact, the amendments being currently proposed expand the scope of the Act to specifically include filenotings relating to development and social issues. The overall effort is to promote even greater transparency and accountability in our decision making process".[35] Fortunately, the public didn't buy the argument, especially as more than one information commission had held that the RTI Act, inits present form, did include file notings. People's organisations reacted strongly to this attempt to weaken the RTI Act and restrict its scope and coverage. They organized a nation-wide campaign, including a *dharna* (sit-down protest) near the Parliament. Political parties were lobbied, the media was contacted[36], and influential groups and individuals were drawn into the struggle. A point by point answer to allthe issues raised by the government, in favour of this and other proposed amendments, was prepared by RTI activists and publicly conveyed to the government, with the challenge that the government should publicly debate the issues.

The government beat a hasty retreat in front of this onslaught and the amendment bill, as approved by the cabinet, was never introduced in Parliament. One would have expected that by now the government would have learnt to leave the RTI Act alone,but that was too muchto hope for.

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