

National Campaign for People's Right to Information

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STATEMENT

The National Campaign for the People's Right to Information (NCPRI) welcomes the commitment made by the Government in the Common Minimum Programme that: "The Right to Information Act will be made more progressive, participatory and meaningful".

Nine states in India have now enacted right to information legislation. Nationally, the *Freedom of Information Act 2002* was passed by Parliament in December 2002 and received Presidential assent in January 2003. The Act is still to be brought into force. In any case, the Act is deficient in a number of respects.

NCPRI strongly supports the Government's commitment to develop a more progressive right to information law. It is imperative that an amended law be notified within 3 months. It remains important however, that the law-making process is participatory and inclusive. At a minimum, the law should contain the following features:

- The right to information should be broadly defined, and should include the right to inspect government works, take samples of materials and access information in any Indian language;
- It must include provision for a non-court independent appeals mechanism which is quick and cheap. This appellate authority should have a comprehensive mandate, including the ability to compel release and impose sanctions for non-compliance. Complaints must also be allowed to the Courts;
- Strong penalty provisions should be mandated on officials for non-compliance with the Act. Penalties must be sufficiently large to act as a deterrent and should be able to be imposed on individual officers, including heads of department;
- Since the right to information is part of the Article 19(1)(a) of the Indian Constitution, it can be subject to only those restrictions which are permissible under Article 19(2). Therefore, any exemptions which extend beyond the scope of this Article, including blanket and class exemptions, are unconstitutional and should be deleted;
- A public interest override provision applicable to all exemptions should be included which requires that information subject to an exemption must still be released if the public interest in disclosure outweighs the public interest non-disclosure;
- The Act should be able to be used by any person;
- The Act should apply not only to all arms of government - executive, legislature and judiciary – but also to bodies which undertake public functions, including private bodies where access is necessary for the exercise or protection of any right;
- The *suo moto* disclosure provisions should be extended to require the proactive publication of a wider range of information of general relevance to the public and explicitly require that public bodies publish the required information to ensure maximum accessibility by the public;
- The Act should override all inconsistent laws, and the *Official Secrets Act* and other laws or civil services rules which entrench secrecy should be amended accordingly;

- Provisions should be included mandating a body to monitor implementation of the Act, to actively promote the concept of open governance and the right to information and to provide training and education to the bureaucracy and amongst the public;
- A provision should be included which provides for whistleblower protection;
- The Act should provide that If people identify prima facie corrupt or arbitrary acts by public servants, public authorities should be legally required to treat their report in the same way as any preliminary inquiry by a public servant.

The Central law should not impinge on the legislative prerogative of the States. Existing state laws should remain in force and all State legislatures should be encouraged to amend and/or pass right to information laws in accordance with the minimum standards detailed above. In the event of a conflict between the provisions of the State and Central laws, that provision should prevail which maximises the citizen's rights.

Rules made in support of any right to information law should be developed participatorily and should be designed to achieve the objectives of the Act.

Signed on behalf of the NCPRI by:

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