



Accessing 'public' information

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Summary

The ‘Accessing “Public” Information’ tool-kit consists of a set of tools that can be used to obtain and use information on various aspects related to the functioning of public agencies to improve governance. It can be effectively used to increase transparency and accountability in government agencies and thus directly benefit marginalised groups such as wage labourers, tribal cultivators and slum dwellers. This write-up describes the use of this tool-kit in the Indian context where it has been used for making the recently introduced Right to Information legislation effective.

What is the ‘Accessing “Public” Information’ tool-kit?

The ‘Accessing “Public” Information’ (API) tool-kit is a set of tools – approaches, methods, strategies, tactics and techniques – that can be used for accessing information held by public (government) agencies to improve governance. In India the use of various tools within the API context has been enabled to a great extent by the Freedom of Information (FOI) Act passed in 2002 and nine state Right to Information Acts (RTI) passed in the 1990s (please refer to Appendix 1 for further details).¹

In most countries key policy decisions, including those related to natural resource management, are taken by government agencies. These decisions directly affect many people, who usually have little or no say in these decisions and are also unaware of the process of decision making. This leads to poor governance and further marginalises socio-economically weaker sections of society.

While API is desirable, it is not always easy to achieve mainly due to the reluctance of officials to share information and lack of awareness among people. The API tool-kit is designed to help overcome these hurdles through various tools that have been used successfully by a number of NGOs and activists in India.²

While the API tool-kit has been developed in the Indian context, it is applicable in all contexts where lack of access to public information is a key constraint for good governance. The API tool-kit can help people to keep themselves informed of the activities of various government agencies. An informed community can then participate in decision making as well as monitor progress. In fact, API is a critical factor that is needed for moving from a representative to a participatory democracy, and in creating space for participation from groups hitherto excluded from the policy making processes. The API tool-kit can also be used to open government’s data to contestation (e.g. on traditional use of a forest patch) and, in some cases, changes. The need to provide information on a regular basis is also likely to catalyse the development of an efficient information collection and management system within government agencies. Thus, the API tool-kit is likely to improve the quality of decision-making and consequently natural resource management and livelihoods of the poor and marginalised.

The ways in which it can improve governance are through:

- Transparency – people know what government officials are doing
- Accountability – people can hold government officials responsible for their actions
- Participatory decision-making – people are involved in making decisions that affect them (see Figure 1).

¹ Henceforth, in this document while API refers to the broader approach, RTI refers to the legal framework such as state and national Acts.

² India passed its Right to Information law (called Freedom of Information Act) in 2002. In addition, nine states have state level laws on right to information. In addition, some states have issued executive orders to implement the policy of access to information.

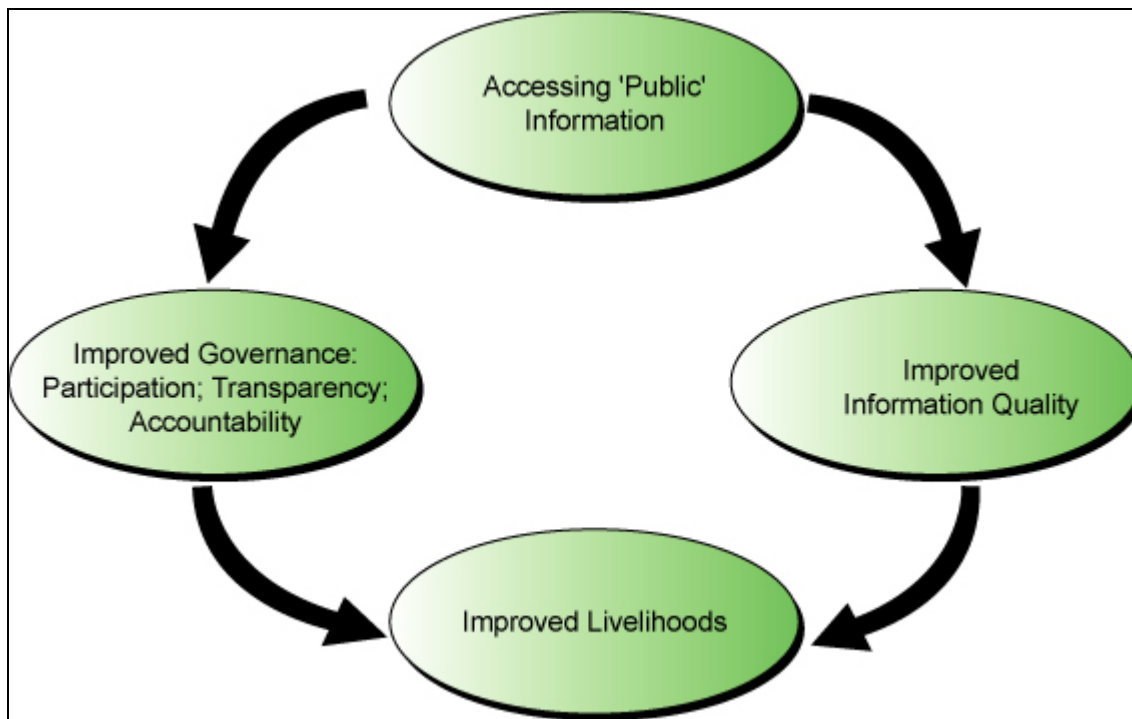


Figure 1: 'Accessing "Public" Information' framework

Who can use the API tool-kit?

The API tool-kit is mainly targeted at NGOs, activists and civil society groups that are working on natural resource management and decentralised governance as well as livelihood issues. It will also be useful for individuals and organisations working on human rights, justice and corruption issues. Community members (either individually or collectively) can also use this tool-kit.

This tool-kit will be particularly useful for NGOs and activists working in those countries/ areas where the RTI has been granted on paper but its implementation on the ground is poor. While the presence of an enabling environment in the form of a specific RTI law helps, the tool-kit can be also used effectively in areas/countries where there is no specific law on RTI. In such cases, other means of accessing information can be explored. Quite often, information from government agencies can be obtained using existing laws (such as those pertaining to environment, decentralised governance and consumer rights) even if there is no specific law on RTI.

When to use the API tool-kit?

The API tool-kit can be used in many situations. Some of these are listed below:

- *Getting fair wages* – The API tool-kit can be used to ensure that full wages are paid to labourers who work on government projects such as forestry plantations, watershed development works, etc. In fact, the campaign for API in India started from the issue of payment of full and fair wages to such workers.

- *Securing land rights* – In cases where the land titles are unclear, many communities, such as tribals living in forests, face the threat of eviction despite living in the area for generations. The API tool-kit can be used to challenge their eviction by accessing and examining records related to the status of land ownership, and forest rights regimes.
- *Safeguarding health of the poor* – Marginalised and poor people often lack access to safe drinking water and sanitation, though a large sum of money is often earmarked by the government for this purpose. The API tool-kit can be used to collect information on various on-going government schemes to improve the actual field situation. The tool-kit can also be used to collect information on proposed/ existing projects and the nature and extent of their impacts. This information can be used to protect local communities from adverse impacts from pollution and hazardous wastes.
- *Safeguarding environment* – Information can be sought by concerned citizens regarding various environment related issues such as pollution, resource degradation etc. This information can be used by communities to preserve or improve their natural environment.
- *Fair compensation and rehabilitation* – The API tool-kit can be used to ensure fair compensation and rehabilitation of people affected by large infrastructural and industrial projects such as dams and mines. It may also be used for getting justice to victims of industrial accidents and disasters.
- *Food security* – The API tool-kit can be used to ensure efficient working of the Public Distribution System and proper implementation of food security schemes run by various government agencies.
- *Agricultural security* – The API tool-kit can be used to ensure agricultural security in a scenario where seed and fertilizer production has been completely de-linked from the farmer community. Information on quality of seeds, insecticides and pesticides, genetically modified crops etc. can be obtained from relevant authorities.
- *Addressing corruption in public works* - The API tool-kit can be used to reduce corruption in public works. This can result in better utilisation of the public money, plug leakages and bring about greater accountability of agencies involved in executing public works.

The above list is only indicative and is not exhaustive. It is certainly not restrictive and the tool-kit can be used in many other situations, depending on the local context, for improving governance and livelihoods of the poor.

What steps are involved?

The use of API approach involves a series of steps that may be broadly classified into two phases: the preparatory phase and the implementation phase (see Figure 2).

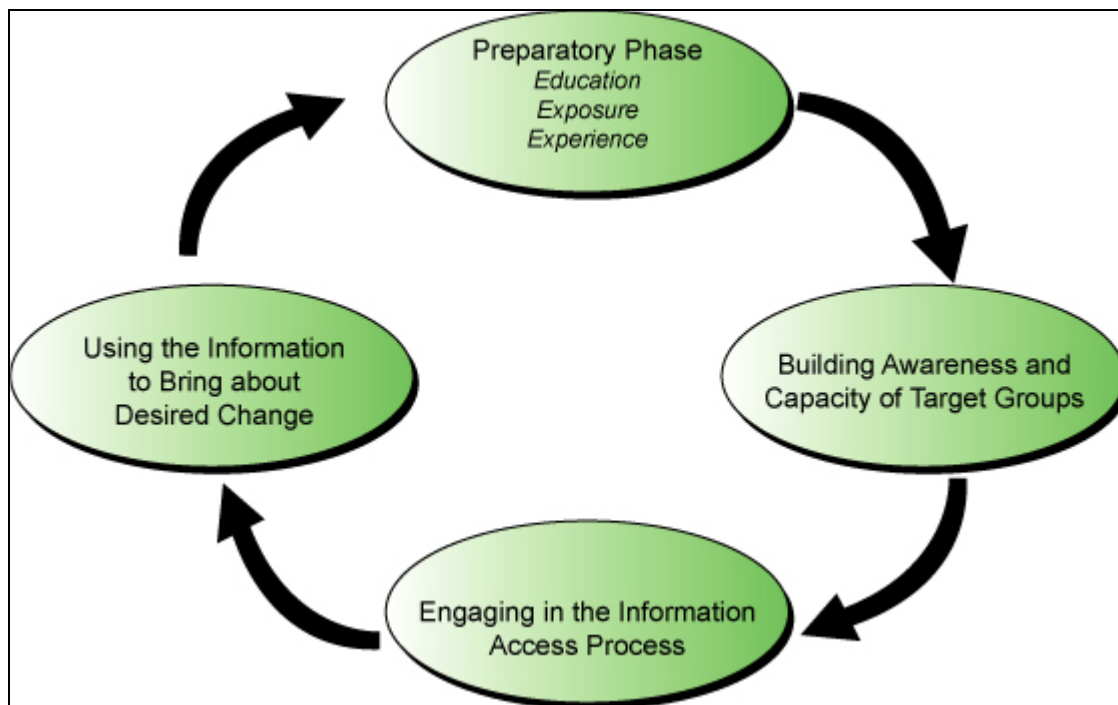


Figure 2: Steps involved in accessing and using public information

Preparatory Phase

In order to effectively use the API tool-kit, it is important to understand the local legal and policy context under which information is to be accessed from government agencies. It is better to spend some time understanding the local (state, country, etc.) legal framework in this regard – its scope as well as the extent of its implementation. This involves Education, Exposure and Experience and can be termed the *3-E Model*.³

Education

Education involves study of relevant laws such as RTI law, other pertinent laws, constitutional provisions, administrative orders and procedures as well as their judicial interpretations. It may be useful to develop an ‘API Matrix’ listing the type of information needed, sources of information, prescribed processes for obtaining information, appellate authorities, etc. (See Appendix 2.) It is also important to find out what information is already in the public domain through official gazettes and newsletters, departmental websites, annual reports, project documents, press reports, etc.

Exposure

Exposure involves finding out about other organisations and individuals working on similar issues. The exposure can be gained by making visits to other organisations, telephonic and email interactions, by becoming members of relevant e-groups and fora, reading relevant documents and reports and by participating in meetings, workshops and seminars. This exposure will help in learning about strategies and tactics of other organisations and individuals as well as networking with them for support.

³ The term 3-E Model was used by Mr. Bijoy Panda of the Adivasi Mukti Sangathan during an interview with the project team.

Experience

Lessons learnt from past experience as well as ongoing processes can provide valuable learning regarding the scope and limitations of this approach. Past judgements, experience of other organisations, and success stories as well as failures can provide valuable insights regarding effective use of the API tool-kit.

Implementation Phase

There are three broad steps in this process: building awareness and capacity of target groups; engaging in the information access process; and using the information to bring about desired change.

Building awareness and capacity

The API tool-kit can be used effectively only if the people are aware of their rights and start exercising them. Therefore, it is essential that NGOs and activists build awareness about the power of the API approach among their target groups.

A number of strategies have been used by civil society organisations in India to generate awareness about their rights among people. Establishment of Information Centres (ICs) is one such strategy. ICs, as the name implies, are places where people can access information on the provisions of the law as well as guidance on use for addressing their problems. These ICs are usually in the form of kiosks or stalls, where resource persons are available to guide interested members of the public. The role of these ICs is, however, not restricted to providing information about the RTI law but these are also used to generate awareness about people's rights in general.

A variety of aids can be used to generate awareness. While aids such as pamphlets, posters and charts are effective in areas with literate population, in areas where a large number of people are illiterate, meetings, songs, street plays and puppet shows are more effective (see Box 1).

After awareness generation, the focus has to shift to capacity building. This may be done through one-to-one interaction, training programmes, workshops, and seminars. In the context of marginalised people as well as the illiterate and semi-literate groups, considerable hand-holding may be required before they can confidently use API on their own.

➤ *Tip: To maximise effectiveness, adapt the communication content to the local context.*

Engaging in the information access process

Once awareness has been generated, the next step in the implementation phase is engaging in the process for accessing information. This stage involves:

- Identification of exact information needed

Box 1: Songs for reaching out to the masses

In the state of Rajasthan, songs have proven to be an effective tool for awareness generation as well as community mobilization. The *HeLa* group from Sawai Madhopur district, for instance, moves from village to village singing songs about the corruption in the Government, people's rights, accessing information through the Right to Information Act, and examples of how it has been used in other villages. Since the group is a 'local' group that sings in the local language about issues that people face in their day-to-day life, it has been able to spark interest among the community and set the stage for collective action.

- Identification of the source of the information as well the contact details
- Drafting questions to obtain the required information. Since vague or general requests are less effective, it is important to be specific when requesting information.

It is also important to follow the procedures laid down for application and appeal. Where there is no prescribed procedure, *written* applications may be submitted to the appropriate official (see Figure 3).

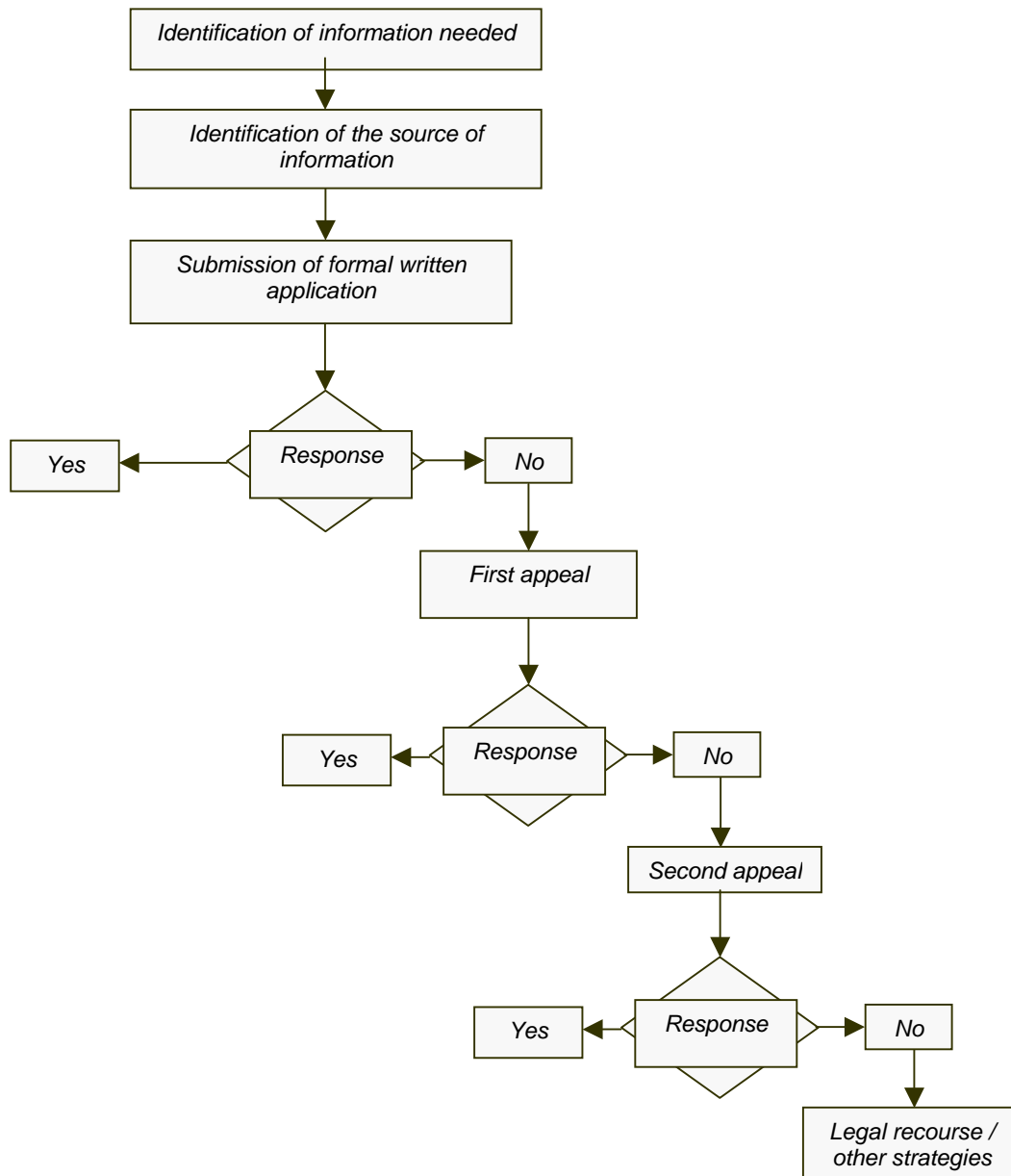


Figure 3: Information access process

In case of delay in supply of information, appeal should be made to the designated authority. At the same time, tactics such as exerting pressure by intimating higher officials, highlighting the issue in local media or getting a public representative to ask a question in the legislature may also be used. Another tactic that has been successfully used is that of mass applications (see Box 2).

Box 2: An example of mass applications

On 29 August 2003, over 150 citizens filed applications seeking information about Public Distribution System ration records in Delhi. This exerted considerable pressure on the Food and Civil Supplies Department. The mass application filing acted as a deterrent against corruption and brought about considerable attitudinal change in the officials as they came to know that people have started acting as watchdogs.

Source: www.parivartan.com

Non-violent *Gheraos* (blockade) of government officials and elected representatives, *Dharnas* (continuous sit-in by protesters until their demands are fulfilled) and *Morchas* (protest rallies) are some other tactics that may also be used. Innovative and forceful *slogans* like '*jawab do, hisab do*' (Give us answers, give us an account), or '*poora kaam, poora daam*' (full pay for full work) when used during the rallies and blockades attract attention, especially of the media, and help in widening the support base for the API effort.

Finally, if no response is forthcoming from the officials, recourse to court may be an alternative. However, since this alternative is usually resource and time intensive, it should be used as a last resort.

- *Tip: Knowledge of the law, perseverance and persistence are necessary for combating bureaucracy's resistance to sharing information.*

Using the information to bring about desired change

Once information has been collected, the next step is its verification by interacting with concerned individuals or communities. Government information can be verified through means such as social audits⁴, parallel attendance registers⁵ and other records maintained by individuals and communities, testimonies, and on-site inspections.

After the government records have been analysed and feedback obtained from concerned members of the community, the information should be used to bring about desired change. One effective strategy for bringing about change in the attitude and behaviour of government officials is a 'public hearing' (called *Jan Sunwai* in Hindi). (see Box 3).

⁴ In this write-up, the term social audit is used for monitoring of public works by members of local community.

⁵ Attendance records maintained by community members themselves e.g. for manual labour days spent on public works.

Box 3: Public hearing

The objective of a public hearing is to provide a platform for people to voice their concerns and seek accountability from the government. Depending on the location and scale of the issue being addressed, the public hearing may witness participation of bureaucrats, elected representatives, aggrieved persons, NGO representatives, media persons, and academics. It is presided over by a panel of eminent persons whose credibility is well established. This panel is typically chosen by the NGO(s) or activist(s) facilitating the API process.

While the purpose of the public hearing is to fix accountability, the method is non-confrontational. During the hearing, the facilitator reads out the documents, the people provide verbal testimony, and the public authorities are allowed to clarify and defend themselves. While all participants are permitted to give testimonies and evidence, they are expected to use restrained language and limit themselves to the issue at hand, as well as exercise restraint even in the face of provocation. At the end of the hearing, the panel gives its conclusions based on the proceedings of the hearing. In the case of tangible works like construction of roads and installation of hand-pumps, the panel may also undertake visits to selected sites. Finally, recommendations are made to the relevant authorities to improve transparency and accountability. In the face of public disclosure of malpractice, the government officials usually make commitments for remedial action, further inquiry and implementation of the recommendations of the panel.

Another way of exerting pressure for bringing about desired change is through launching a signature campaign against defaulting officials. Setting up of volunteer groups (sometimes termed 'vigilance groups') to track a particular issue is another strategy employed by some groups.

If all this fails, then recourse to courts is an option that may be exercised. In India, many organisations have successfully used 'Public Interest Litigation' (PIL) to bring about accountability and initiate action against defaulting officials.⁶

What are the strategies for enhancing the effectiveness of the 'Accessing Public Information' approach?

There are several strategies through which the effectiveness of the API approach can be enhanced. Some of the key strategies are discussed in this section.

Networks

Interested individuals and groups can form networks for sharing developments, experiences and lessons learnt on a regular basis. These networks may be formal or informal, and based on electronic or face-to-face interaction. Further, networks can also facilitate constructive debates on the 'way ahead' and guide members. These can also act as 'policy watch groups' for tracking developments in the law, and identifying opportunities for intervening in the policy process (see Box 4).

⁶ Public Interest Litigation (PIL) means litigation filed in a court of law, for protection of the 'public interest' e.g. pollution control, road safety, etc.

Box 4: Some examples of networks working on right to information issues in India

1. The *National Campaign for People's Right to Information (NCPRI)* was launched in 1996 as an umbrella network facilitating and advocating the people's right to information. It seeks to ensure that institutions and agencies in India, whether within or outside the government, function transparently. Towards this end, it seeks to mobilise popular support for demanding people's statutory right to information. To achieve its objectives it has been organising seminars, conventions and national level public hearings from time to time. Three members from the NCPRI are also on the National Advisory Council that advises the central government on various policy and reform issues. NCPRI has been advocating stronger national level legislation for the right to information.

Source: <http://www.righttoinformation.info/index.htm>

2. *KRIA-Katte* is a forum of groups and individuals involved in spreading awareness regarding use of the RTI Act in Karnataka. In addition to providing a platform for sharing experiences and spreading awareness about the right to information in Karnataka, the forum serves as a 'united front' for legal advocacy on this issue.

Source: Public Affairs Center, Bangalore

3. The *Mahadhikar Group* (recently renamed as "Hum Janenge") is an apolitical, web-based forum for facilitating interaction among civil society members interested in the use of the RTI law in India. The group has over 180 members from across the world but focuses its interaction primarily on developments in India and particularly in the state of Maharashtra. It is not only a forum for discussion but also provides guidance and technical support to organisations trying to follow the API approach.

Source: mahadhikar and Hum Janenge e-groups (yahoo)

The use of the API tool-kit often results in a confrontation with powerful vested interests. Activists, whistle blowers and information seekers are sometimes intimidated and even physically assaulted by those who stand to lose most by free flow of information. Networks can also help in providing a safety net and cushion against potential threats (see Box 5).

Box 5: MITRA – Movement against Intimidation, Threats and Revenge against Activists

MITRA (Movement against Intimidation, Threats and Revenge against Activists) is a network that has been formed recently in India to counter the threat of violence against activists and to press for justice in such cases. The network acts as a deterrent against victimisation of activists fighting corruption and other such sensitive issues and provides them support in time of need. (*Pers. Comm.* Sumaira Abdulali, Mumbai.)

Effective use of the media

The media has the potential to contribute substantially to raising awareness regarding API issues. Newspaper articles, for example, can go a long way in generating awareness of the law and its implementation. The potential role of media can be illustrated through the example of the *Indian Express*, which has undertaken a concerted campaign on the use of RTI Acts in some states (see Box 6).

Box 6: The *Indian Express* initiative on right to information

The *Indian Express*, a national newspaper, has been guiding people in exercising their right to information. It has been doing this through a regular column – “Express Initiatives” - in which recent developments in this area are mentioned along with people’s experiences. It has not only reported cases of success and failure in use of the Right to Information Act but also published sample ‘questions’ to assist citizens in the framing of ‘well drafted’ questions.

In addition to this column, the *Indian Express* has organized awareness camps and training workshops in association with other institutions to guide people in accessing information. They also have an interactive web-site to address queries and to provide suggestions.

To view the columns visit <http://expressindia.com/initiatives/rti/>

Policy Implementation Audit

The Policy Implementation Audit (PIA) is a strategy to assess the extent of implementation of a stated government policy. PIA can help to generate citizen feedback regarding implementation of a particular policy, constraints and difficulties faced by the public and suggestions for improvement. The Public Affairs Center, Bangalore, used this strategy to assess the implementation of the Karnataka Right to Information Act in the city of Bangalore (see Box 7).

Box 7: Policy Implementation Audit of Karnataka Right to Information Act

The Public Affairs Centre identified and engaged about 35 volunteers and held an orientation workshop in November 2002 to:

- educate the volunteers on the provisions of the Karnataka Right to Information Act, 2002;
- identify issues and public authorities from whom information would be sought; and
- develop a field observation schedule to record observations and experience.

From November 2002 to April 2003, 100 applications for information were filed with 20 public authorities. The volunteers met once a month to share experience and to decide on future strategy as well as revising the approach of the audit, wherever such a need was felt. At the end of six months, in April 2003, the results and observations were compiled and the public authorities were ‘graded’ on a scale ranging from very responsive to not at all responsive.

In May 2003, a public hearing was organised to present the citizen-generated feedback, to allow the administration to respond and to identify means to strengthen implementation. Key persons from the public authorities including NGOs, members of Resident Welfare Associations and the media participated in this hearing. The hearing also comprised an interactive session wherein the officials responded by sharing their constraints with respect to the provisions of the Act. This process resulted in better implementation of the Karnataka Right to Information Act in the city of Bangalore.

Source: Public Affairs Center, Bangalore

- *Tip: Look out for and effectively use ‘policy windows’ for proactive participation in the law making process.*

The tool-kit in action

In recent years, several organisations and individuals in India have used the API approach to address various problems including those related to natural resource management and rights and livelihoods of the poor and marginalised sections of the society. The enactment of specific laws related to RTI has strengthened the efforts of civil society to improve governance.

Since there is limited documentation available, it is difficult to ascertain the spread of the movement. In this section, we present a few illustrative case studies to highlight the range of issues being addressed through different API tools.

1. Getting rural poor their due ⁷

The movement for API in India emerged from a grassroots struggle to secure livelihood and justice for the rural poor in southern Rajasthan. The movement there was led by the Mazdoor Kisan Shakti Sangathan (MKSS), a group of three social activists who had come together to work for the poor. During the course of their association with the local people's struggle against unfair wages and loss of land rights, MKSS not only built a strong cadre drawn from marginal peasants and landless workers but also gained recognition for its uncompromising but non-violent resistance against injustice and for its integrity.

In its movement for API, MKSS conducted a series of social audits from December 1994 to April 1995, through which they were able to expose corruption in public works and irregularities in payment of wages to workers. Thereafter, the MKSS put forth two demands:

1. Citizens from any village should have the right to make photocopies of all bills, vouchers and muster rolls (on payment) of any work done by government in their village.
2. The funds embezzled and misappropriated should be recovered from the corrupt officials and politicians. Property and other assets of such individuals should be auctioned and money collected should be spent back in that same village.

In April 1995, the state's Chief Minister assured the state legislature that all citizens can access public information including details of expenditure on public works carried out in their villages and all relevant documents could be photocopied. However, no government orders were issued to give effect to this assurance. Hence, API could not be operationalised in the state. In April 1996, MKSS declared that it would go on an indefinite *Dharna* (sit-in) at Beawar until the orders for giving effect to the Chief Minister's assurance were issued. The sit-in by MKSS received phenomenal support not only from the local populace but also from political parties, journalists and social activists from across the country. Finally, the government accepted these demands and issued orders for giving effect to the assurance made.

More recently (2003-04), the Adivasi Mukti Sangathan has used the API approach to ensure fair wages for workers in Dongliapani village of Sendwa Tehsil (sub-district) in Madhya Pradesh.

⁷ Source: MKSS case study: Mandar H and Joshi AS (1999). *The Movement for Right to Information in India: Peoples Power for the Control of Corruption*. CHRI. New Delhi.

Dongliapani case study: Personal Communication, Mr. Bijoy Panda, Adivasi Mukti Sangathan, Sendwa.

2. Combating corruption in public works⁸

Through public hearing

In August 2002, information regarding civil works carried out in two poor neighbourhoods in Delhi (Sundernagari and New Seemapuri) in the previous two financial years was obtained using the Delhi Right to Information Act. These works were then audited by Parivartan - a citizens' rights group - through discussions with the local people. Calculation for misappropriation was done for 64 works worth Rs. 13 million. It turned out that in reality, out of Rs. 13 million, Rs. 7 million had been embezzled by corrupt contractors and officials.⁹

On 14 December 2002, a public hearing was organised by Parivartan along with the NCPRI and MKSS of Rajasthan to discuss its findings. The public hearing was attended by almost 1,000 people including local residents of the area, journalists and eminent personalities associated with the RTI Act. The officials of the municipal corporation and the state government were also present.

The public hearing made people aware of the extent of corruption and also of their rights, which had a positive impact on the implementation of public works and workers' wages payment.

Through social audit

In some areas such as Sundernagari colony in Delhi, local residents have formed Local Area Committees (called *Mohalla Samitis*) to monitor quality of government works (social audit). They do not allow any work to take place until the contents of the specific contract are made public, and then they closely monitor these works to ensure that all contractual conditions are fulfilled.

Illustrative examples

A road was to be re-laid in F-1 block of Sundernagari in January 2003. The people stopped the work and demanded to know the details of the contract. Next day, the Assistant Engineer visited the area and read out the contents of contract to the people. People were informed that 58 drums of bitumen, two truckloads of red sand and two truckloads of stone aggregate were supposed to be used. People ensured that the stipulated quantity of material was actually used. The quality of this road is far better than most other roads in the area.

A street was being made in E-57 block. The people saw that ordinary sand was being used instead of red coarse sand prescribed in the contract. The cement was supposed to be put in the ratio of 1:2 (one part cement, two parts red coarse sand). However, it was being put in the ratio 1:20. The people immediately stopped the work. Subsequently, the entire material was replaced and the work took place under the supervision of the people.

The work of laying of sewers was being done in M Block of Sundernagari. However, the people saw that substandard material was being used. They stopped the work and demanded a copy of the contract, so that the work could take place under their supervision.

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⁸ Source: Parivartan, Delhi.

⁹ 1 US \$ = Rs. 44 approximately (December 2004 rate)

3. Protecting tribals against eviction from forests¹⁰

In Halidikund Panchayat¹¹ of Koraput district in Orissa, the API approach¹² has been used to challenge the attempts of the Forest Department to evict 11 villages from forest areas in 2004 on account of their being labelled as 'encroachers'.

The people of these villages have been protesting against the plan to evict them. They claim that they had been living in the area for centuries and have traditional rights to the land. Further, many of them also possess identity papers such as 'Below Poverty Line' cards and Voters Identity Cards that establish them as long term residents of the area. Several persons have also got bank loans sanctioned on the basis of land-holdings, even though they don't have land in their name.

Mr. Ajit Sharma, an activist who had been working in the area, took up this issue and his investigation revealed that while 35,000 acres of forest in the area had been deemed as 'reserved', the process prescribed in the Indian Forest Act, 1927 had not been completed. Hence, he decided to use API to challenge the classification of these villages as 'encroachments'. The following information was demanded from the Divisional Forest Office:

- Details (number and names) of forest lands that were declared as 'reserved';
- Compartment numbers and the forest names where the villages were located;
- History of encroachments – dates, areas, persons; and
- The 'Primary Offence Report' filed against the villagers for having encroached on forest land.

The information is yet to be received but on the basis of the anticipated 'evidence' that the information will provide, Mr. Sharma plans to engage in advocacy efforts at the district, state and national level so that villagers are not evicted from the area and their rights are protected.

4. Facilitating environmental conservation¹³

Mr. Shivaji Raut, a school teacher, has effectively used the Right to Information Act for conserving a medicinal herb in the Satara district of Maharashtra. Since the mid-1990s, Mr. Raut noticed a steady decline in the availability of *Narkya* herb in the forests of Satara, especially the Koyana Wildlife Sanctuary.

When he investigated the reasons for this decline, he learned that the recent discovery of the cancer fighting properties of the herb had made it a valuable export commodity. Hence traders from Mumbai and Pune had been illegally procuring large quantities of the herb from the forests. While local collectors were paid only Rs. 2/kg, traders were selling the herb at Rs. 800/kg.

After this initial investigation, Mr. Raut submitted an application to the Divisional Forest Officer in 2000 and demanded the details of the permits granted by the Forest Department for the transportation of *Narkya*. When he was declined this information, he appealed to the senior officials of the Forest Department and finally got the information.

The official records revealed that only five farmers had been given permission for transport and that too only for the herb harvested from their private farms. On further investigation, Mr. Raut discovered that there was no herb on the farms mentioned in the official records. The herb transported on these

10 Source: Personal Communication, Mr. Ajit Sharma.

11 Panchayat is the lowest unit of local self government in India.

12 Orissa does not have legislation for operationalising the right to information. The efforts however, draw legitimacy from recognition of RTI as a fundamental right of all citizens.

13 Source: Personal Communication, Mr. Shivaji Raut.

permits had actually been harvested from the government reserved forests as well as the wildlife sanctuary.

On the basis of his findings, Mr. Raut wrote articles in the local newspaper and sent copies of the same to the Forest Department senior officials, and to the Chief Secretary of the state as well as environmental groups. The fear of punitive action resulted in considerable decrease in the illegal harvesting of the herb from the area.

5. Ensuring food security¹⁴

The API approach has been successfully used by Parivartan and Satark Nagrik Sangathan to ensure food supply through the Public Distribution System for poor people. Poor people often depend on government ration shops for purchasing food at subsidised prices. However, due to rampant corruption, food meant for the poor is often sold at higher rates in the open market by making false entries in the record books.

Parivartan obtained the sales and stock registers of some ration dealers in the Welcome Colony area of Delhi for the month of June 2003 using their right to obtain government information. This information was cross-checked with 182 families residing in the area. Out of a total of 4,650 kg of wheat supposed to have been distributed to the people, only 595 kg (13%) had actually been supplied to them. The remaining 87% found its way to the black market. Out of a total of 1,820 kg of rice supposed to have been distributed as per daily sales registers, only 110 kg (6%) was supplied to the people. The balance of 94% was siphoned off. All the while, the ration dealers had been maintaining that they were not receiving stocks from the government. After the details of sales and stock registers were made public, the food supply through the fair price shops improved significantly.

6. Safeguarding health¹⁵

The API approach has been used successfully to safeguard the health of the poor by ensuring safe drinking water and sanitation.

Safe drinking water

In some areas of Patparganj in Delhi, drinking water was getting contaminated with sewer water resulting in illness of a number of residents. Complaints were made to the Delhi Jal Board (water supply agency) but nothing happened. Subsequently, an application was filed under the Right to Information Act seeking the status of the complaints and the names of the officials responsible for dereliction of duty. The necessary repairs were carried out within two days of filing the application. The Delhi Jal Board even carried out testing of the drinking water at different points in this area and submitted the test reports as part of the reply to the application.

Similarly, a recently replaced water pipeline in the Pandav Nagar area of Delhi started leaking soon after its installation. The residents made several complaints but nothing happened. Ultimately, the residents filed an application under the Right to Information Act seeking the following details:

- Status of complaints filed earlier and names of officials who should have attended to their complaints and have not done so.
- Copy of contract of the pipeline laid.
- Copy of completion certificate issued for the said pipeline and copy of the bill.
- Names of officials who issued the completion certificate.

14 Source: Parivartan and Satark Nagrik Sangathan, Delhi.

15 Source: Parivartan and Satark Nagrik Sangathan, Delhi.

Within three days of filing this application, the pipeline was repaired.

Sanitation

A garbage collection area was repaired by the Municipal Corporation of Delhi (MCD) in Patparganj in the month of June 2002. The residents noted that only the floor of the garbage collection area was made and no other work was carried out. The residents sought the copy of contract using their right to obtain government information. The contract revealed that an iron door was to be installed and the walls were supposed to be plastered. These works were not carried out even though payment for the same had been made to the contractor. Before the residents could take any further steps, they found that the contractor started making the necessary additions to the garbage collection area. The mere seeking of a copy of the contract had resulted in immediate remedial measures, as the contractor feared punitive action after contract details became public.

In another case, the operator of a public toilet was charging one rupee per use from all residents of the slum cluster of Jagdamba Camp in Delhi. However, when a copy of contract was obtained from the MCD using people's right to seek information, people came to know that the operator was supposed to allow free usage for children below the age of 12 years as well as handicapped persons. This information was used for the benefit of these two categories of persons.

7. Improving governance in police ¹⁶

The API approach has been successfully used to expose the extent of political interference in the transfer of police officials in Mumbai. On 12 September 2003, a concerned citizen (Mr. Shailesh Gandhi) filed an application asking for information on the number of police personnel transferred at the request of politicians. He did not immediately get a response but he got a letter stating that while there have been recommendations, these were not taken into account. He subsequently requested information on the date of each recommendation, the name of the officer recommended for transfer, the name of the politician requesting transfer and the actual date of transfer of the officer. When his application was rejected, he appealed against it and further cited a rule (No. 413)¹⁷ from the Police Manual and demanded information on action taken against officials for whom recommendations had been received.

After several rejections and appeals, he was finally able to force the Police Commissioner's office to start disciplinary action against erring officials. Two circulars were also issued stating that violation of rule 413 will be strictly dealt with.

Strengths and Weaknesses of the tool-kit

Strengths

The tool-kit comprises a wide range of tools that have been tried and tested in various parts of India and can be adapted to different local, regional, and national contexts. Moreover, individuals as well as groups can use the tool-kit to empower marginalised sections of the society in rural as well as urban areas. A wide range of tools makes it easy for the people to pick and choose from them. The mere use

¹⁶ Source: Personal Communication, Mr. Shailesh Gandhi, Mumbai.

¹⁷ Rule 413 of the Mumbai Police Manual: 'Government servants are forbidden to approach officials of other departments or non-official gentlemen for support in pressing individual claims or obtaining redress of grievances, or to approach members of the Legislature with a view of having their individual grievances made the subjects of the interpellations of the Legislature. They will be liable for disciplinary action if members of the Legislature or non-official persons approach the government on their behalf unless they can prove that such approach was made without their knowledge.'

of this tool-kit is often enough to send a strong signal that the people are watching and this itself results in corrective action in many cases.

Weaknesses

A basic knowledge of the law is a prerequisite to the exercise of people's right to public information. In the case of marginalised communities therefore, hand-holding by civil society institutions is necessary. The 'motive' for demands for information by these institutions may, however, be questioned by the government agencies involved. At the same time, tools that are commonly used are time and resource intensive. In instances where information disclosure is likely to adversely affect the powerful, attempts to access information may lead to retaliation including violence.

Adaptation to other countries

In several countries of the world, the State exercises considerable control over the lives of the people. However, there is often poor governance due to lack of transparency, accountability, and people's participation in making decisions that affect their lives.

The API tool-kit can be used effectively by NGOs and activists to improve governance in these countries. Various tools included in the kit offer flexibility to be used innovatively across different socio-political contexts. Since the API tool-kit draws on the strengths of collective action and advocacy rather than only legal provisions, it can be effectively used even in those countries where there is no separate law on RTI.

It is also pertinent to mention that there is an explicit international mandate on access to information in the form of the 'Universal Declaration of Human Rights' and the 'International Covenant on Civil and Political Rights'.¹⁸

18 The Universal Declaration of Human Rights, 1948, has affirmed that "Everyone has a right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Article 19 of the International Covenant on Civil and Political Rights, 1976, also affirms this mandate.

Brief Overview of National and State Laws on Right to Information in India

India is a federal country, which implies that the central and the state governments *each* have a domain of legislative competence, which is clearly stated in the Constitution of India.¹⁹ In addition, there are certain subjects on which *both* the central and the state governments can legislate.²⁰ In this case however, the laws at the state level cannot be contrary to those at the central level. In case of a conflict between the two, the central laws prevail.

India has both central as well as state level laws on the right to information. The central law is called the Freedom of Information Act, 2002 and is currently undergoing further amendments.²¹ Nine states have their own state level laws on right to information.²² In these nine states where a state law on RTI exists, it is applicable to the state government agencies whereas the central law is applicable to the central government agencies. In those states where there is no state law, the central law is applicable to both state and central government agencies. Some states have implemented a policy of access to information through executive orders, codes of conduct, and citizens' charters.

However, the right to information in India is not an absolute right. All the laws in this regard have a set of 'exemptions'. Typically, these exemptions include the information exchanged between the state and central governments, cabinet papers, minutes or records of advice including legal advice, opinion or recommendations made by any officer during the decision making process prior to the executive decision or policy formulation, as well as trade or commercial secrets that affect the legitimate economic and commercial interests or competitive position of a public authority or provide unfair gain or loss to any person that has been exempted from the purview of these laws.

¹⁹ Subjects that fall within the Centre's exclusive domain are listed in the Central List and those on which the States can legislate are listed in the State List.

²⁰ These are mentioned in the Concurrent List.

²¹ Amendments for strengthening this Act have been tabled before the Parliament in December 2004.

²² The nine state laws are: Madhya Pradesh Jankari ki Swatantrata Adhinyam 2002; Delhi Right to Information Act 2001; Maharashtra Right to Information Act, 2003; Karnataka Right to Information Act 2000; Tamil Nadu Right to Information Act, 1997; Goa Right to Information Act, 1997; Jammu and Kashmir Right to Information Act, 2004; Rajasthan Right to Information Act, 2000, Assam Right to Information Act 2002

Salient Features of the Central and State Right to Information Acts in India

States	Scope	Fee	Time limit ²³ / urgent request	Appeal	Penalty clauses	Suo moto disclosure	Communication	Monitoring and regulatory body
Freedom of Information Act (2002) – India	Government agencies	Not prescribed	30 working days	2 internal appeals Jurisdiction of courts barred	No provision	Organization structure, duties and functioning (including rules, regulations, the details of the public information officers in the organization), all important facts that affect the public while announcing executive decisions and policies and information about projects prior to their initiation	No provision	No provision
Goa (1997)	Government agencies/Private bodies executing works on behalf of Government	Application Fee Rs. 100/- + photocopy charges	30 working days Urgent request - 48 hrs	One appeal to administrative tribunal	By disciplinary authorities, personal liabilities, discretionary fine of Rs. 100/day	No provision	No provision	State Council
Tamil Nadu (1997)	Government agencies	No provision	30 days	One internal appeal	No provision	No provision	No provision	No provision
Maharashtra (2002)	Government agencies, any body which gets aid- directly or indirectly- from the Government	Application fee Rs 10+ 50p per page photocopy	15 working days for accepting/refusing + 15 more days for furnishing information Urgent request -24hrs	First appeal- internal appellate authority Second appeal- <i>Lok Ayukt</i> Jurisdiction of courts barred	Rs 259/day up to Rs 2000+ disciplinary action under service rules	Organization structure, duties and functioning (including rules, regulations, the details of the public information officers in the organization), all important facts that affect the public while announcing executive decisions and policies and information	Information in the form and language as maintained by the public authority	State Council

²³ This time limit refers to period for accepting or refusal for granting of information.

States	Scope	Fee	Time limit ²³ / urgent request	Appeal	Penalty clauses	Suo moto disclosure	Communication	Monitoring and regulatory body
						about projects prior to their initiation		
Karnataka (2000)	Government agencies	Photocopy fee: Rs 5/page(A4 size) Rs 100/floppy	30 working days	First-internal appeal Second appeal to Karnataka appellate tribunal	Up to Rs 2000 fine +disciplinary action	Limited obligation restricted to organizational structure	No provision	No provision
Delhi (2000)	Government agencies	Not exceeding costs of processing and making available information	15 days and maximum 30 days	One appeal to independent body, public grievances commission	Disciplinary action and monetary penalty of Rs. 50 per day for the delayed period beyond 30 days subject to a maximum of Rs. 500 per application	Same as Maharashtra	No provision	State council
Rajasthan (2000)	Government agencies	Application Fee Rs.5/- + Rs. 2/- per page photocopy	30 days	One internal appeal, second appeal to district vigilance commission/civil service tribunal Jurisdiction of courts barred	Disciplinary actions	Discretion for <i>suo - moto</i> disclosure of information in public interest	No provision	No provision
Madhya Pradesh (2002)	Offices of the state Government +local authorities and statutory authorities constituted under any state act+ companies, corporations and cooperative societies in which	Not prescribed	30 days	State Government or authority prescribed by state Government	Maximum Rs 2000	No provision	No provision	Head of every public body

States	Scope	Fee	Time limit ²³ / urgent request	Appeal	Penalty clauses	Suo moto disclosure	Communication	Monitoring and regulatory body
	state Government holds at least 51% paid up share capital							
Jammu and Kashmir (2004)	Only Government agencies companies, corporations in which state Government holds at least 51% paid up share capital and society, cooperative society directly controlled or funded by the Government and any other body which receives financial assistance from the Government	Not prescribed	Within 30 working days	To controlling officer Second appeal- to the Government	Disciplinary action under service rules	Same as Maharashtra	No provision	No provision
Assam (2002)	Government agencies	Not prescribed	Within 30 days from date of receipt of the application	1 st appeal to Controlling Officer 2 nd appeal to Assam Administrative Tribunal. Jurisdiction of courts barred.	Disciplinary action under service rules	No provision	No provision	No provision

Access to Public Information matrix

Type of Information	Source of Information	Process 1	Appellate Authority	Process 2
Development plans and estimates Pollution load from Industry Muster roll details Supply of food-grains to the Public Distribution Shops				

Selected web resources on access to information in India

www.righttoinformation.info

www.freedominfo.org

www.indiatogether.org

www.humanrightsinitiative.org

www.parivartan.com

www.prajanet.org

www.geocities.com/mahadhikar

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snsindia@snsindia.com

<http://groups.yahoo.com/group/mahadhikar>

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