United Nations Development Programme India

Strengthening Access to the Right to Information Via Using Rights-Based Programming Approaches Under a Demand-Supply Capacity Development Programming Strategy in the Access to Information Projects

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The views expressed in the case study do not necessarily reflect the views of UNDP India.
LIST OF ABBREVIATIONS USED:

BPL: Below the Poverty Line
CBO: Community-based Organization
CSOs: Civil Society Organizations
DGTFF: Democratic Governance Thematic Trust Fund
HRBAP: Human Rights-Based Approach to Programming
HRLN: Human Rights Law Network
ICCPR: International Covenant on Civil and Political Rights
MKSS: Mazdoor Kisan Shakti Sangathan
NGOs: Non-governmental Organizations
ICT: Information and Communication Technology
INGOs: International Non-governmental Organizations
MDGs: Millenium Development Goals
OHCHR: Office of the United Nations High Commissioner for Human Rights
PDS: Public Distribution System
PILs: Public Interest Litigations
PUCL: People’s Union For Civil Liberties
RTI: Right to Information
SCs: Scheduled Castes
STs: Scheduled Tribes
UDHR: Universal Declaration of Human Rights
UN: United Nations
UNDP: United Nations Development Programme
1. Background and Rationale:

Access to Information as an Internationally Recognised Human Right: ‘Freedom of information’ was recognized as a fundamental right by the United Nations (UN) way back in 1946 itself. In its very first session, the UN General Assembly adopted resolution 59(1) which stated: “Freedom of information is a fundamental human right and the touchstone of all the freedoms to which the UN is consecrated.”

In 1948, when the UN General Assembly adopted the Universal Declaration of Human Rights (UDHR), the right guaranteeing freedom of opinion and expression was stated in Article 19 as follows: “Everyone has the 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.”

Following from the above, the International Covenant on Civil and Political Rights (ICCPR) - a legally binding treaty - was adopted by the UN General Assembly in 1966. The corresponding provision in this treaty - Article 19 - guarantees the right to freedom of opinion and expression in very similar terms.

In ensuing international human rights instruments, freedom of information was not set out separately but as part of the fundamental right of freedom of expression, which includes the right to seek, receive and impart information.

The specific content of that right has been since elaborated by a number of authoritative sources, including the UN Special Rapporteur on Freedom of Opinion and Expression and the Council of Europe's Group of Specialists on Access to Official Information. Of fundamental importance are areas relating to the access to information to ensure democratic participation, accountability in Government and the prevention of corruption by public officials - these standards were endorsed by the UN Special Rapporteur in his 2000 Annual Report. In this Report, the UN Special Rapporteur elaborated in detail on the specific content of the Right to Information (RTI), including the obligation of public bodies to disclose information and the corresponding right of every citizen to receive information ("information" includes all records held by a public body, regardless of the form in which it is stored). The same Report lays out a number of provisions to enable access of this right by citizens.

It is therefore apparent that individuals worldwide do have a human right to freedom of information, including access to information held by public authorities. Many countries worldwide² have also incorporated this right as one that is enshrined in their Constitutions and supported by accompanying laws.

² Over 40 countries now have laws that require the disclosure of Government records and dozens more are considering to pass and implement related Acts. Many countries that have recently created or updated their Constitutions have specific rights to freedom of information in their Constitution. In other countries, the Courts have found and implicit right to freedom of information as an element of free speech. Source: http://www.usembassy-mexico.gov/bbf/bfdossier_FOIA.htm. For more information on the list of countries, please visit the website of Privacy International at http://www.privacyinternational.org.
**India and the Right to Information - Policy and Legal Framework:** India recently passed the RTI Bill on 11th May 2005 (see Box below). However, even before the Bill was passed, the Indian Constitution, though not explicitly granting a RTI, has upheld this right in many instances. The Supreme Court of India has held in several cases that the right is implicit in the constitutionally enshrined rights to freedom of speech and expression (Article 19 (1)(a) and right to life and liberty (Article 21).

**Box 1: The Right to Information Bill 2005: A Step in the Right Direction**

The Right to Information Bill 2005 was passed on 11th May 2005. This Bill lays down the architecture for accessing information, which, as stated by the Indian Prime Minister, Dr Manmohan Singh is “simple, easy, time-bound and inexpensive”. Dr. Singh further stressed that there “will be stringent penalties for failing to provide information or affecting its flow”. "In fact, it imposes obligations on agencies to disclose information *suo motu*, thus reducing the cost of access."

Dr. Singh emphasized that the Bill was more far-reaching and effective than the existing Freedom of Information Act and urged the State Governments to take the initiative to establish State Information Commissions. Under the provisions of the Bill, there will be no fees for people living below the poverty line (BPL).

The Bill represents a step in the right direction towards actualizing RTI for all citizens across the country and the challenge now will be to determine whether the State can perform its obligations and implement the provisions as laid down under the Bill. Active civil society involvement will thus be imperative to perform “watchdog” functions in this regard.

India is also signatory to a host of international Conventions and treaties that obligates it to fulfill its responsibilities to its citizens and these obligations complements the various freedom of expression, speech, life and liberty provisions of its Constitution. The first Supreme Court ruling on the RTI dates back to 1975. However, no attempt was made by either the Central or the State Governments to implement a simple and effective access to information regime until after the launching of campaigns for freedom of information by civil society in the early 1990s. The first and most well known RTI movement in India was spearheaded by a community-based organisation (CBO) - the Mazdoor Kisan Shakti Sangathan (MKSS) - which began its struggle to access this right in Rajasthan State. MKSS's struggle for access to village accounts

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3 There are some landmark cases where the Supreme Court has intervened in favour of the citizen’s accessing information. Mention may be made of the People’s Union For Civil Liberties (PUCL) And Another, Petitioner V. Union Of India And Another, With Lok Satta And Others, V. Union Of India 2003(001) SCW 2353 SC Case; Union Of India V. Association For Democratic Reforms And Another, With PUCL And Another, V. Union Of India And Another, 2002(005) SCC 0361SC Case; and, Union Of India And Others, V. Motion Picture Association And Others, 1999(006) Case, amongst others. For a complete list of cases, please refer to [http://www.humanrightsinitiative.org/programs/ai/rti/india/cases.pdf](http://www.humanrightsinitiative.org/programs/ai/rti/india/cases.pdf)

4 As stated by the Indian Prime Minister, Dr Manmohan Singh, in an article by K.V Prased entitled “Right to Information Bill passed”, *The Hindu*, 12th May 2005. Source: [http://www.hindu.com/2005/05/12/stories/2005051204340100.htm](http://www.hindu.com/2005/05/12/stories/2005051204340100.htm)
and transparency in administration, particularly as it pertains to public-related development works - is well documented in development literature worldwide as a rights-based movement that is widely credited with having sparked off the demand for the RTI across India.

The MKSS movement gained momentum and actively lobbied and pressurized the Central Government to finally enact the Indian Freedom of Information Act in 2002. The Act, though repealed now, represents an important step towards actualizing the RTI Act, which was passed in May 2005.

It is interesting to note that while the campaign for an acceptable national legislation on the RTI was ongoing, some significant breakthroughs were already being achieved at the State levels. Tamil Nadu was the first State to enact a RTI law in 1997, followed by Goa in the same year. To date, seven other Indian States have passed RTI legislations - Rajasthan (2000), Karnataka (2000), Delhi (2001), Maharashtra (2002), Assam (2002), Madhya Pradesh (2003) and Jammu and Kashmir (2003). Campaign efforts in other States have also met with some success - Uttar Pradesh framed an executive code on Access to Information in 2000 and draft bills have now been prepared by the Governments of Kerala and Orissa. With the new Bill now being passed, its provisions will apply to all the Indian States and Union Territories.

Access to Realising Human Rights under the Right to Information Framework: As noted above, it was only in the mid-1990s that the RTI movement in India was born, primarily due to the untiring and concerted efforts by Indian civil society – spearheaded by MKSS – who realized that Indians citizens practically had no access to any public information on issues like developmental projects and information on wages – information that they were entitled to access in the very first place. This was largely due to widespread illiteracy; an unresponsive media; and, constraints (coupled with lack of accountability) on the part of the duty-bearers in realizing their obligations. Lack of access to vital public information has a disempowering effect, particularly on poor, vulnerable and marginalized groups of people (like tribals, women and children) and places limitations on the realization of basic human rights entitlements like realising the right to food, the right to health or the right to education. Such a scenario also places the citizen as a passive recipient of developmental approaches (that are highly top-heavy and often un-participatory) rather than as an active partner in the developmental process. Finally, in a scenario where RTI is not realized, there are evidences which prove that corruption and unaccountability of the duty-bearer are rife and these have crippling impacts on the poor, who are often illiterate, unable to pay bribes to access services that they were entitled to or surviving the embezzlement of scarce public resources.

Thus, MKSS, with participation of civil society stakeholders lobbied for the passing of the Indian Freedom of Information Act in 2002. Operating under a very rights-based approach, MKSS initially used the RTI as a tool to draw attention to the underpayment of daily wage earners and farmers on Government projects, and more generally, to expose corruption in Government expenditure in Rajasthan State. Under

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5 http://www.humanrightsinitiative.org/programs/ai/rti/india/india.htm
the slogan 'Our Money-Our Accounts', MKSS enlisted the participation of the villagers conduct social audits that involved:

i) Lobbying, initially, the local administrators and then, the State Government, to obtain information such as muster rolls (employment and payment records) and bills and vouchers relating to purchase and transportation of materials.

ii) This information was then crosschecked at *Jan Sunwais* (public hearings) against actual testimonies of workers - the tool of using the platform of public hearings to reveal the results of social audits that were conducted by the villagers on the Government-run developmental works were incredibly successful in drawing public and media attention to corruption and exposing leakages in the system. They were particularly significant because of their use of hard documentary evidence (social audits) to support the claims of villagers. Though many villagers were illiterate, through face-to-face public hearings they could scrutinise complex and detailed accounts, question their representatives and make them answerable on the basis of hard evidence.  

As noted above, the general public, the media and subsequently, the State Government began paying increasing attention to the results of the hearings. Consequently, greater attention was focused on the importance of the RTI as a means for increasing transparency and accountability, as well as empowering poor people. Although MKSS was able to obtain some information on public-related works from the State Government during the early 1990s, such a process was fraught with hurdles. Such hurdles encountered by MKSS in trying to access information reinforced the importance of a comprehensive RTI law for Rajasthan (for instance, although the then Chief Minister of Rajasthan announced that his Government would be the first in the country to provide access to information to citizens on all local developmental works, no action was taken for months). This resulted in MKSS - with active participation of the villagers - embarking on a series of rights-based advocacy, campaign and lobbying strategies.

The Rajasthan RTI Act 2000 was eventually passed on 11 May 2000 and came into force on 26 January 2001. MKSS was actively involved in the drafting of the draft civil society RTI Bill and continues to use the RTI and conducts public hearings to empower local people to root out corruption and hold their Government representatives to account.

With the momentum now built towards making the country moving a step closer in actualizing the provisions of the newly passed nationwide RTI Act and (via the passing of some State-level RTI Acts, the benefits of which have already being witnessed), a scenario will hopefully be facilitated wherein observance of human

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7 Ibid. Refer to footnote above.

8 Please refer to the case study on “Accessing Primary Education – The Sankalp and Madhya Pradesh Educational Guarantee Scheme Models: Case Studies of Rights-Based Approaches to Designing an Educational System for Marginalized and Vulnerable Children in India” and the case study on “The Right to Food Campaign in India: A Case Study of Entitlement-Oriented Rights-Based Strategies Used to Reclaim the Right to Food for Vulnerable and Marginalized Groups” in this volume of case studies
rights and fundamental freedoms for all will be the norm than the exception. The passing of such an Act will enable a far greater degree of State accountability to its own citizens, (facilitated even further by the media - especially via the internet - and the inherent strength of the ever-expanding network of non-governmental organizations (NGOs), civil society organizations (CSOs) international non-governmental organizations (INGOs) and other interest groups who have come together to put forward various demands to enable citizens to access the RTI).

Bilateral and multilateral donors have also facilitated such a rights-based entitlement-oriented movement through support to civil society to demand for claims under the RTI via either direct funding:

i. To civil society (for holding awareness/capacity development workshops and supporting via campaign/lobbying/advocacy/research efforts); or,
ii. Of duty-bearers to respond to such claims on the RTI via developing capacities (through training, stakeholder consultations, etc).

This case documents one such effort by United Nations Development Programme (UNDP) India to support and demand capacities of two important stakeholders – the civil society and duty-bearers - using various programming approaches under a demand-supply capacity development approach to demand and fulfill obligations under the RTI. Such an approach is rooted in human rights-based approach to programming (HRBAP) principles that entails that developing capacities of both claim-holders and duty-bearers is a key component to achieve rights-based outcomes.

2. The Study of the United Nations Development Programme India’s Designing of a Rights-Based Programming Approaches to Developing Capacities to Access the Right to Information under the Access to Information Projects

Case Study/Project Context: As documented in the section above, despite RTI being a fundamental right as upheld by the Supreme Court in India (and as evidenced through the several State Acts passed on the subject), there have been severe hurdles that stand in the way of citizens accessing the right. Against such a backdrop, UNDP India realized that for citizens to adequately and knowledgeably access the RTI, a well-thought out strategy targeting the two important stakeholders is vital – one strategy relates to capacity development of important civil society partners (of the NGOs, CSOs and the media) and the other relates to developing capacities of duty-bearers to fulfill its obligations.

to get an in depth overview of how realizing the RTI is helping pave the way for the poor, vulnerable and marginalized for realizing other rights.
Box 2: Targeting Media a Key in Enabling Access to the Right to Information

Historically, the enabling role that the media can play in helping Indian citizens access the RTI has been marginal, primarily due to two reasons. Firstly, there has been very little reporting in media – print or electronic – about how people are using (either directly or through CSOs) this right for accessing information and for demanding greater accountability and transparency from public delivery mechanisms. There is thus the need to document people’s experiences and include such practices in the media to create awareness. Secondly, the Indian media has traditionally aligned with various political parties and reporting is often linked with such alignments/politics. Given the ownership pattern of newspapers and electronic media, the reports based on such information (sometimes unverified) may not be entirely of an independent or unbiased nature.

The passage of the various State-level RTI Acts have now opened opportunities for the media to access the RTI and document such people-centered experiences. However, given that many State Acts are relatively new and awareness relating to these Acts has not been widespread, the media has also not been using (or being capacitated to use) these Acts to obtain information from public authorities to report on developmental issues. There is thus need to develop the capacity of media – in partnership with CSOs - to access information by using these Acts. UNDP India has used this opportunity and entry point to build linkages with and develop capacities of the media to enable citizens access the RTI.

Thus, the various UNDP India-supported Access to Information Projects under its broader Decentralization and Participatory Planning Programme\textsuperscript{9} seeks to develop capacities using a demand-supply capacity development programming strategy that has various rights-based programming approaches inherent in it. Such a strategy will lead to the creation of a platform from which:

i) Citizens can make claims under the RTI and seek redressal; and,

ii) Duty-bearers are well capacitated to respond to such demands.

\textsuperscript{9} The Government of India’s Tenth Five Year Plan accordingly recognizes governance as a key factor for meeting development targets and identifies decentralization, civil service reform, civil society partnership and e-governance, among others, as priority areas of focus. UNDP’s Country Programme 2003-2007 focuses on efforts to reduce human poverty and support the Government in achieving its Tenth Plan goals and targets some of which are even more ambitious than the Millemium Development Goals (MDGs). The overall objective of UNDP’s initiatives under the present theme is to support capacity development of institutions of local governance for improved service delivery, enhance people’s participation, and ensure greater transparency and accountability. The key areas of support include capacity development of institutions of decentralized governance; capacity development of civil service at the cutting edge level; e-governance; and, participatory planning for promoting accountability and effectiveness of service delivery, enhancing transparency and participation, ensuring sustainability of development initiatives and ultimately empowering the poor and disadvantaged. UNDP also recognizes that access to information and a well-functioning justice system are prerequisites for poverty eradication. Therefore, these two areas run as crosscutting issues through all of UNDP’s projects in the area of Decentralization and Participatory Planning. Source: http://www.undp.org.in/programme/Snapshot_2003_2007.doc
**Stakeholders Involved:** In all the UNDP India initiated Access to Information Projects, the stakeholders include civil society partners (NGOs, CSOs and the media) and the Governments (both the Center and partner States).

**Objectives of the Project/s:** The various Access to Information initiatives/Projects aims at developing capacities of civil society (NGOs, CSOs and the media, especially of information and communication technology {ICT} systems). At the same time, it looks towards capacity development of public authorities for improving citizens' access to information for achieving transparency and accountability in governance at all levels.

The overall outcomes of these Projects would aim to contribute towards achieving the Goals of the UNDP India Country Programme that entail building the enhanced capacity of institutions of decentralised governance, civil service, and CSOs for planning and management of development activities including provisioning of public services.

**Monitoring to Ascertain Rights-Based Outcomes:** UNDP India uses a monitoring and evaluation strategy that relies on field visits by UNDP Project staff to the Project sites – such visits are used to gain first-hand information from the Project stakeholders, on for instance, how the citizens are able to access the information kiosks and the type of information provided in such kiosks; or, from those who participate in the public hearings and are able to dialogue with the duty-bearers; and, or the constraints faced while undertaking such dialogues. Such first-hand information is also used to decipher how effective the Project outcomes have been or what the constraints faced are in achieving the Project outcomes. These are also used for drawing out relevant lessons for various stakeholders, including development workers and policy makers at the Central and State levels.

**3. Process:**

**Addressing Power Equations – Rights-Based Programming Approaches to be Used:** As mentioned elsewhere in this paper, UNDP India has built up a programming strategy under a demand-supply mechanism that involves developing capacities of two important stakeholders. While UNDP India did not develop this programme under a rights-focused lens, the programming approaches used has rights-based principles inherent in it. Such a strategy has been buttressed by the same democratic governance principles that UNDP worldwide actively pursues. Of special interest to this paper are two of the programming approaches that are rooted in rights-based principles:

i) Facilitating the use of media, primarily of ICT as an enabling tool for efficiency and effectiveness by supporting e-Government and e-governance processes thereby improving citizen– Government interface for better governance; and,

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10 Overall, UNDP supported 69 projects and initiatives related to Access to Information in various countries around the world in 2002/03. Such support reflects the importance UNDP is paying to this particular issue, especially since such access is also an indicator of the principles of promoting good governance – a sector UNDP is very intimately involved with in most of the countries that it works in.
ii) Supporting capacity development of civil service to improve governance at the district levels through innovative, participatory training programmes; strengthening citizens’ access to information; and, enhancing their legal empowerment. These two approaches are evident in the developing of capacities via various activities that UNDP India has initiated under its Access to Information Projects.

Developing capacities of the media, is a key approach, as building of such capacities provides an enabling environment for citizens to access information at low cost and with speed and, in many cases, overcoming language and literacy barriers. In tune with the overall demand-supply capacity development programming strategy, linkages and capacity development of ICT will also use a demand-supply approach. On the supply side, such capacity development entails facilitating and strengthening ICT systems for efficient information management and dissemination. At the same time, ICT-based initiatives will be used to strengthen the demand side of information (training of citizens to access public information through use of ICT; through mass media awareness campaigns; via networking of decentralized institutions and so on) that is pertinent to a broad array of services that citizens expect of Government departments, including performance of poverty reduction programmes.

Some such Access to Information initiatives are documented below:

i) Improve Citizens’ Access to Information: This Project was created to promote a more open regime with freer access to information. It aims to empower citizens, make the administration more participatory, ensure greater transparency, and deter the arbitrary exercise of official power.

Programming strategies used: The above is to be achieved through sensitising, re-orientation and capacity development of public officials; increasing the awareness of citizens, and development their capacity to make reasonable demands for information; and, via re-engineering of existing systems. More importantly, six separate locations have been chosen for piloting ICT-based Access to Information initiatives, where citizens can access information about Government laws and public services. Through interactive technology, citizens can transact with the Government, for example, by filing grievances over the Internet.

ii) Enable Access to Information: This Project adopts a multi-pronged strategy to ensure peoples’ RTI.

Programming strategies used: The strategy is to sensitize and build the responsive capacity of civil servants; develop citizens’ ability to make reasonable demands for information; and provide support to an enabling legal and institutional environment. Activities include framing of model rules under the official State Information Acts; developing capacities of public officials by means of exposure visits to grass roots initiatives on access to information; developing a module on the subject for training of civil servants; piloting to demonstrate the use of information as a tool to bring about a

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11 Ibid. Refer to footnote above.
qualitative improvement in the life of the urban poor; piloting to establish a budget information service on local Government; supporting a study of the impact and awareness of RTI Acts in the seven (out of the nine) Indian States where the State-level RTI Acts have been passed; and, establishment of ICT-based information kiosks to bring Government services closer to the people in “remote, difficult terrains”.

iii) Enable Media and Citizens’ Access to Information: This Project aims to develop the capacity of professionals working with print and electronic media and CSOs to promote citizens’ awareness of, and ability to make better use of the right to official information. Via this Project, UNDP is encouraging the media to report on how people are using recently recognized rights to information to demand greater accountability from Government. Specific outputs include documentation of the success (and failure) stories of how citizens are using a legislated right to official information in the States where such Acts have been passed; extensive media reports on such stories and coverage on legal and implementation related issues; media reports on the use of ICT in promoting citizens’ access to information in different parts of the country; strengthened interface (through workshops and seminars) between the media and CSOs that are working to promote RTI; and, the resultant and regular use of the RTI Acts by the media for seeking information for reporting on development matters.

Programming strategies used: UNDP India is helping to develop capacity of the media to utilize State-level RTI Acts to gain information on development matters and report these as such to the public; this also involves building capacities to report on legal and implementation aspects of the RTI Acts and to report on people’s experience with using these acts for getting information.

iv) Give Support to Rural Development Using Community Radio: Implemented at the grassroots and as part of a wider rural development programme, UNDP is supporting a community radio initiative (‘Kunjal Panje Kutchji’) to raise awareness and participation in rural development issues. The Project also seeks to improve the portrayal of women in the media by promoting greater involvement of women in developing the programme content.

Programming strategies used: The Project combines innovative programme content, which uses a participatory technique, combining interactive dialogue between the community and the radio characters. Various means are used to deliver this dialogue – narratives, drama, songs, news from the field and interviews with invited experts and public officials. A feedback exercise ensures that the listeners decide what issues are taken up, hence influencing the script of the dramatized serial.

Changing Power Equations – Using the Rights-Based Approach: As noted elsewhere, UNDP India has used some important rights-based programming approaches, targeting the two very important stakeholders under the demand-supply capacity development programming strategy that has been initiated. While the demand side works primarily with civil society stakeholders to augment their capacities to demand and claim rights through the use of various rights-based
approaches, the supply side targets duty-bearers and assists in building their capacities, again through a variety of rights-based approaches.

Figure: The demand-supply capacity development programming strategy using rights-based programming approaches

**Building up the demand side:**

Developing capacities to use ICT for accessing the Right to Information: UNDP India has facilitated the setting up of IT-based information kiosks to enable access to information of poor, vulnerable and marginalized people, especially in the remote interior areas where access of such kind is virtually not available. Under some of the UNDP India Access to Information Projects (implemented in partnership with the Indian Government) that looked at building capacities as the key to enable citizens access to RTI – more importantly, access to Government information and documents – a supply-side system of information provision was initiated - creating a management information system, software, virtual spaces and access points through the setting up IT kiosks. In partnership with the Department of Personnel and Training under the Central Government, UNDP has supported the setting up of such IT kiosks in Jhalawar (a poor rural district in Rajasthan State), Mandya (an urban district in Karnataka State), Bhopal (the capital city of Madhya Pradesh State), Jorhat (a district in the Northeastern State of Assam and home to the world’s largest riverine island, Majuli), Kalahandi and Bolangir (poor tribal districts in Orissa State), and Kutch and Panchmahal districts (in Gujarat State, the former heavily devastated during the 2001 earthquake) (Sharma, 2004). 13

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12 By Upala Devi Banerjee
To facilitate the demand-side interventions, the IT kiosk initiative starts with the needs assessment information survey of the area where the kiosks are to be set up. Tapping into the decentralized system of Government that the Government has initiated across the country, implementation of the Project at the village or block (cluster of villages) level is generally undertaken through the locally elected Panchayat or village council structures.

Using a participatory approach which involves local people as partners in the developmental process, UNDP India either: i) trains volunteers from within the villages, who are then paid to run the kiosks and fulfill outreach, training and marketing roles; or, ii) gives franchises to local literate but unemployed youths to run the kiosks. These youth provide computer services to citizens (printing of Government documents etc. when asked for by the villagers); teach computer classes to enable villagers to use the kiosks (at a nominal fee); and, visit the villages to promote the services available at the kiosks. In those villages where the volunteers receive salaries to run the kiosks, revenues generated from the kiosks are passed on to the Panchayat and used to pay for cartridges, paper and other equipment. The Panchayat can also choose to increase the volunteer's salary. For the delivery of cartridges and spare parts, the kiosks depend on UNDP staff. UNDP Staff also scan new Government documents and other materials, save them on CD-ROM or floppy disks and pass them on to the volunteers at the kiosks for system updates.14

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**Box 3: Using IT Kiosks to Access the Right to Information**

At the IT kiosks that UNDP India has helped set up in collaboration with the Department of Personnel and Training under the Central Government, users can access (these can vary from kiosk to kiosk) the following types of information:

* Information about Government schemes and benefits that the citizens are entitled to access;
* Application forms to apply for such benefits;
* The list of community members receiving (or are entitled to receive) Government pensions, BPL benefits, etc; and,
* Some information pertaining to agricultural and livestock.

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While there have been shortcomings of the Project (as documented in Section 5), it is a step in the right direction in enabling villagers to be capacitated in accessing their RTI.

- **Developing Capacities via the tool of public hearings:** As public hearings in India have proved enormously successful in making duty-bearers fulfill their obligations and in ensuring public accountability and transparency, UNDP India utilized this tool to facilitate dialogue between duty-bearers and claim-holders. By sponsoring Government officials to participate in public hearings, UNDP India has helped build capacities of such officials (by enabling them to not only listen first-hand to testimonies of claim-holders and learning about the problems they face but also in dialoguing and solving problems in collaboration with the claim-holders). For instance, in the wake of the Delhi hearing, local public officials pledged greater transparency in construction projects. The capacities of the citizens have also been enhanced as they got the opportunity to interact and dialogue with the officials on a common platform – as a result of the Delhi hearing, a residents’ association to monitor neighbourhood construction has been formed. Such outcomes would not have been witnessed had officials and the citizens not had the opportunity to participate and interface in hearings of this kind.

- **Developing civil society capacity via advocacy/campaigns/lobbying support:** Realizing the impact Indian CSOs can have on building pressure on officials to respond to demands made, UNDP India has actively assisted such organisations in their advocacy/campaign and lobbying activities. An instance of such support is the CARE International India-supported RTI Campaign carried out in slum settlements in Delhi State, the objective being to develop capacities of such poor and vulnerable communities to seek information for improved access to civic services and Government schemes and to use such information to improve their quality of life. This was done with the help of two NGOs already working in these areas - creating a pool of trainers; identification of change agents from within the communities; linking communities to other groups similarly working in this field; and, sensitizing Government functionaries to people’s need for information and procedures under the law formed part of the activities the NGOs undertook. Two information fairs were also organized by CARE with the collaboration of Government agencies, NGOs and community members, the objective being to inform people about their entitlements, including information on departmental norms for various civic facilities, the structure and functioning of departments they have to frequently interact with, and names of concerned offices / officials they should approach for any related information or problems. Women also turned out in large numbers in these fairs. It has been seen that these processes of capacity development of such marginalized communities has led to their increased confidence and self-esteem

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15 “Lessons Learned From Access to Information Initiatives in India: Case Study Write-Up on Access to Justice by the Poor and Disadvantaged in India”, Pradeep Sharma (UNDP, India), Peter Lee (India) (unpublished).
16 Ibid. Refer to footnote No 13.
Building media capacities: As outlined elsewhere in this paper, UNDP India has realised the potential media can have in enabling citizens to access the RTI. Thus, UNDP India has started augmenting media capacities via intensive workshops held with local language media, print and TV, the objective being to sensitize them to related development issues including decentralized governance, ICTs for development (including the role of community radio), concerns of the marginalized groups (for instance, women and HIV positive persons), and the RTI. In particular, media persons were encouraged to go on field trips to give feedback on the working of the RTI and to document people’s experiences in accessing information. These workshops were instrumental in revealing critical capacity gaps in media, including the inadequacy of media’s capacity to work on and access high quality technical reports. These capacity-development workshops culminated in a multi-stakeholder consultation titled “Access to Information, ICTs and Cross-media Partnerships”.17

Using research and documentation: Research and documentation plays a key role in augmenting capacities by providing resources/tools for campaign and advocacy purposes. Thus, the training modules prepared for civil servants, illustrated booklets and pamphlets in local language, user manuals for the community mobilizers and volunteers, audio-visual documentation of the capacity development workshops (of the media and of public officials), and films on the public hearings— all capacity development products that have been developed under the rights-based programming approaches used by the various Access to Information Projects have proved useful materials that can be built upon for UNDP’s future work in this area. This is in addition to the survey on citizens’ awareness and perception about RTI Acts across States conducted by an NGO and supported by UNDP-India; documentation on international RTI laws by the National Law School based in Bangalore, Karnataka State; and, a comprehensive paper on RTI in Rajasthan State. A CD-ROM, under preparation, is expected to be a powerful multi-media rights-based tool, which can be used for capacity development of diverse audiences.18

Capacity/Role of Duty-bearers (including the Judiciary/Related Frameworks) in Addressing Demands – Assisting the Supply Side: The strategy to develop capacities of duty-bearers as a part of the demand-supply capacity development programming strategy was first initiated as a result of the 1998 report on “Operationalization of the Right to Information” that the Department of Administrative Reforms and Public Grievances under the Government of India brought out in collaboration with UNDP India. This report examines the international experiences pertaining to access to RTI and cautions that “unless continuous vigil is exercised in its implementation, feedback of users sought, and independent assessment of the efficacy of the legislation done from reputed agencies and individuals from time to time, the proposed legislation will not serve its laudable purpose”.19 Since then, UNDP has realised that enabling citizens’ access to information will not be successful without correspondingly developing capacities of duty-bearers to respond to demands made.

17 Ibid. Refer to footnote above.
18 Ibid.
19 Ibid.
Moreover, workshops with local public officials revealed that less than 5 percent of them were aware of the RTI Act. Several officials had, in fact, focused their attention on the Act’s secrecy exemptions as providing a potential excuse for not supplying requested information. This is not conducive to the realization of rights and reflected the need for institutional and cultural changes within Government departments in order for the legislation to operate effectively.  

Thus, some of the various rights-based approaches used to build such capacities include multi-level stakeholder consultations (bringing together public officials, media, NGOs, academia, lawyers and students); workshops; working with the Department of Personnel and Training (which is responsible, among others, for the training of civil servants in the Centre and the States through Central and State training institutes and in setting up the IT kiosks in various locations); and, supporting public officials to participate in public hearings. UNDP is also supporting preparation of training materials to be used in the various Central and State training institutes - such materials can also be used for advocacy purposes.

By strengthening training of civil servants and sensitizing them about the citizens' RTI, UNDP India aims at enhancing the current knowledge-base about required concomitant changes in procedures; Government perceptions about grassroots initiatives and the pro-active information disclosure initiatives of Central and State Governments and how public officials can use these initiatives. Such capacity development will enable duty-bearers to better respond to demands made by the citizens in their interfaces with them.

4. Outcome (Results):

Changes that have occurred as the Result of Application of using the Rights-Based Approach:

The various Access to Information initiatives undertaken addresses both the demand and supply side mechanisms, and include a dual capacity development strategy – that of the claim-holders and duty-bearers - that is rights-based. Some of the outcomes include:

- Empowering and capacitating poor and vulnerable people to access Right to Information: The various initiatives that UNDP India has facilitated to build capacities of citizens -through the setting up of and training local volunteers/giving franchises to run IT kiosks; training villagers to access information in the kiosks, thereby leading to enhanced use of Government redressal systems; awareness raising through the media/campaigns, etc; and, through the platform of public hearings to access RTI have led to their empowerment in more ways than one.

Ghunsar village - one of the poorest areas in Bolangir District in the State of Orissa - has most of the population living in dire poverty circumstances; they are thus entitled to BPL-benefits (like Government food ration cards that enable them to receive food at highly subsidized rates). Of the 6000 inhabitants registered under the village

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20 Ibid. Refer to footnote No. 15.
21 http://www.persmin.nic.in/otraining/cainfo.html
Panchayat system, 50 per cent are registered as Scheduled Tribes (STs), and 30 per cent are Scheduled Castes (SCs) – these people are often classified as belonging to the lowest strata of society under the Indian caste system. Only an estimated 25 per cent know how to read and write. UNDP India set up an IT kiosk in the village, equipped with a computer and a printer, located next to the Gram Panchayat office. According to UNDP staff, an average of 15 to 20 users has visited the kiosk per month since it was established in December 2001. This number rises considerably on special occasions. For example, when the Government recently declared a drought emergency, 150 people came to the kiosk to apply for crop insurance. The Panchayat then forwarded the applications to the appropriate governing body. The volunteer who mans the kiosk estimated that 70 per cent of customers who come to collect forms and information knew how to read and write. All of the 30 to 35 young people who attend computer courses are literate.

Analogous is the case in the remote parts of Jhalawar, the border district of Rajasthan State. Home to a highly poor population, the setting up of 28 such kiosks under one of the UNDP India Access to Information Projects now means that services such as certificates for land records, the availability of on-line grievance redressal systems and on-line application forms means that villagers can now not only access but also question discrepancies and avail of benefits under the numerous poverty-alleviation schemes that they earlier did not even know existed. There have been several examples from villages in this remote district where people’s complaints with such Government services as power supply, pensions and land dispute resolution were attended to speedily. Plans are now afoot to set up more kiosks in this area.

Similar IT-related initiatives that enable citizens to access information and to put pressure on duty-bearers to undertake governance in a transparent and accountable manner are ongoing in the States of Karnataka, Madhya Pradesh and Assam.

Finally, as stated elsewhere in this paper, the vehicle of public hearings have provided an opportunity to enhance citizens’ empowerment and enabled them to interface with the officials on a common platform and redress their grievances under the RTI.

Enhancing livelihood security issues: Livelihood security issues have been enhanced, to an extent, through the use of some of the rights-based initiatives. For instance, UNDP has trained local village youth - generally educated but unemployed youth with some knowledge of computers and Internet – to run the kiosks. While in some sites, these youths receive a salary to run the kiosks, there are some others that receive franchises to run the kiosks. Quite a few of these entrepreneurs conduct private business from these kiosks (such as providing photocopying facilities or

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22 According to the Sarpanch (the elected people’s representative of the village Panchayat). Ibid. Refer to footnote No. 14. 
23 Ibid. Refer to footnote above. 
25 Ibid. Refer to footnote above.
internet surfing), thereby augmenting their income. Hence, many who have taken up the franchises recover their initial investment in a short period of time. ²⁶

- **Ensuring public transparency and accountability:** The multi-pronged rights-based approaches used have facilitated public accountability and transparency to a large extent in the locations under the Access to Information Projects. In the case of Jhalawar district in Rajasthan State, the use of the IT kiosks, complemented with the Rajasthan State Government’s efforts to take governance closer to the people through initiatives like sub-district development fairs and grievance redressal fora (like social audits and public hearings) for an on-the-spot amelioration of people’s problems with Government-related services, has not only tapped and augmented local capacities (as highlighted in the previous paragraphs) but has also ensured public accountability and transparency. Such an outcome marks a huge leap forward in making citizens the empowered users of the RTI. ²⁷

Similarly, the participation of public officials in the public hearings helped facilitate the process of public accountability on various people-oriented development schemes. These public hearing experiences, in fact, helped not just the citizens from one geographical location but also helped in addressing rights/entitlement issues in other locations. For instance, organisers of the public hearing in Rajasthan - which was centered around food security issues - invited officials from Karnataka State (and other States) to attend as observers. Karnataka officials responded to complaints of Rajasthan citizens by streamlining the public distribution system (PDS) ²⁸ in their own State, including raising the margins for food traders so that inadequacy of margins could not be used as an excuse for malpractice. ²⁹

5. The Value Added of Using Rights-Based Tools:

While comprehensive evaluations of the various UNDP India Access to Information Projects have not been undertaken, there are some important process lessons learnt (both positive and the challenges involved) whilst implementing the HRBAP strategies in the Projects. Quite a few of these lessons have been documented in the in-house UNDP paper that was undertaken as a part of documentation of lessons learned exercise from various Asia Pacific Rights and Justice Initiatives Programme. ³⁰

**Positive Lessons Learned:**

- **Tapping into the enabling policy environment:** A rights-based strategy works best in a scenario where there are enabling policy frameworks in place. The passage of a national RTI (and the various related State Acts that were passed) has created a framework wherein access to information is now a justiciable right. Even before the national-level RTI Bill was passed, UNDP India tapped into the enabling legal policy

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²⁶ Ibid. Refer to footnote No. 13.
²⁷ Ibid. Refer to footnote above.
²⁸ The PDS is a Government-run food distribution network that enables the poor to access limited quantities of food at subsidized prices.
²⁹ Ibid. Refer to footnote No. 15.
³⁰ Ibid.
framework that existed via the passing of the 2002 Freedom of Information Act and the 9 State-level RTI Acts, and facilitated a process to define its implementing rules. Academics, policy experts and civil society representatives drafted a set of model rules, which were presented to the Government. While the extent to which these model rules informed the actual rules is uncertain, they represented a critical input at a critical time. Moreover, it was found that mobilising local communities was much easier if a State had already passed the State-level RTI Act. Without such a pre-existing legal environment, many citizens had difficulty conceptualising access to information as a right to which they were entitled.

Similarly, UNDP India tapped into the decentralization legislative framework - wherein power is devolved to the lowest levels of Government – to make optimal use of its rights-based strategies, especially those pertaining to the use of IT in enabling access to information. For instance, in some of the sites where the IT-kiosks have been situated, the local Panchayat has been used to forward downloaded and filled-in applications of the people to the local appropriate governing body. Various policy legislations on IT that were passed - more importantly, the New Telecom Policy of 1999, Information Technology Act 2000 and the State-level IT policies - also facilitated this process.

- **Training public sector officials a key to achieve outcomes:** One of the most important strategies used involved developing capacities of duty-bearers to help enable citizens to access the RTI and the duty-bearers to deliver on their obligations. Developing such capacities, under a demand-supply capacity development programming strategy that used a HRBAP strategy, was key and not only helped build duty-bearers’ legal knowledge regarding the RTI but also assisted them in overcoming resistance to new duties/obligations they are now obliged to fulfill under the RTI provisions and in addressing resource deficiencies.

- **Enlisting participation of public officials essential:** The IT kiosk initiative was successful, in part, because it was a collaborative exercise with a related Government department – more importantly, the Department of Personnel and Training under the Central Government. Such collaboration follows a highly participatory and rights-based framework wherein multi-stakeholder collaboration – especially when it relates to setting up infrastructural citizens’-centered goods (like schools, water and sanitation facilities, public toilets) - is imperative to first initiate and then help facilitate the public authorities for sustained upkeep, use and replication on scale of such goods. The responsibility of provisioning of such services is the responsibility of the State and UNDP India - helped by the enabling policy framework in relation to the State and National IT-related laws - collaborated in building these facilities and in training and developing capacities of the citizens to use such facilities, with the expectation that such initiatives will be replicated on scale and sustained by the State.

- **Tapping into highly sophisticated civil society capital imperative:** UNDP India was largely complemented in its efforts to take the RTI Campaign to the masses

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31 Ibid. Refer to footnote above.
32 Ibid.
33 Ibid.
due to the presence of a very highly sophisticated civil society capital that exists in the country (and which is an important corollary to achieve rights-based outcomes). For instance, during the UNDP-commissioned CARE International (India) RTI Campaign, disseminating information was a significant challenge, given that residents were often illiterate, poor and politically marginalized. But, the social (and at times, informal) networks and relationships that many of the CSOs have built up, led to, in the end, for instance, using such networks (like savings groups that existed in the community) to aid in educating and mobilising the community. Savings groups, in which neighbourhood residents contributed to and drew from a communal fund, represented established informal networks. The high levels of trust and familiarity associated with such groups then made an ideal entry point for larger community mobilisation. Furthermore, because women traditionally play a strong role in the groups, such a strategy ensured their active participation.  

Using public hearings as a rights-based tool: The tool of public hearings, as have been documented elsewhere in the India-focused case studies in these volume of case studies, proved once again that they are an effective rights-based tool that can be used for demanding public accountability. They also proved instrumental in empowering poor, vulnerable and marginalized citizens as these hearings enabled them to interface and dialogue with officials on a common platform. Power equations were thus challenged and addressed, to a large extent, through these hearings.

Tapping into the appropriate funding sources imperative: A very important corollary to achieving rights-based outcomes that can prove sustainable and viable in the long run is to find appropriate funding sources/donors who are willing to invest and learn in the process of these shared initiatives. In this case, UNDP India could tap into the funds of the Democratic Governance Thematic Trust Fund (DGTTF) – for instance, in the case of public hearings, access to information was used as a tool to address issues relating to food distribution and development projects - these funds were extremely helpful, flexible and useful for the multidimensional nature of the various Access to Information initiatives.

Challenges in Implementing the Rights-Based Strategies: Process Lessons Learned

Mobilization around community-levels far more challenging than mobilization centered on individual-levels: In a rights framework, it is often a challenge to mobilize a rights unaware community around an issue that can then be taken up by the community at the community level. In the case of the RTI, the importance of accessing information that directly affects an individual’s or a business’ well being is fairly easy to communicate as there are direct benefits involved (and hence, it is not difficult to conceptualise access to that information as a right to be asserted). More challenging, but potentially more powerful, is convincing individuals of the importance of community-level information, since community members may be reluctant to assert their right to this information because communal projects “do not belong to me”. Mobilizing on this issue at the community-level via raising

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34 Ibid.
35 Ibid.
36 Ibid.
Future access to information initiatives should be more demand-driven and address obstacles facing marginalized sub-groups: While the setting up of IT kiosks were effective in enabling citizens to access the RTI, the setting up of such kiosks was largely a supply-driven initiative - with the components of the participatory needs assessments, training of volunteers to run the kiosks, training of citizens to use the kiosks and the enhancing of livelihood security through the giving out of franchises to the locals being the capacity development empowerment-related aspects that were incorporated. And it was the developing of such capacities that led to some rights-based outcomes. It has to be acknowledged that for a project to be pro-poor, or to serve the needs of the poorest and most marginalized, careful attention needs to be paid to the complex and multi-layered power relations (relating to caste, traditions, patriarchy, etc) within a target community or group. To access that community through the most visible, the most literate or the vociferous, is often likely to result in strengthening existing power structures that underpin poverty and inequality in a community or region (in the case of the kiosks, it was found that often, even in spite of awareness conducted on the benefits of using the kiosks or training of villagers to access the kiosks, only the literate few in the villages could access the kiosks or had the technical wherewithal to do so.37 There is thus a need to undertake widespread surveys to ascertain specific informational needs of citizens – such a process would shift through the layers of power structures inherent in communities (where the literate or those who are members of local Governments represent the local elite) and ensure a more demand-driven approach and greater participation of the marginalized and vulnerable groups.38

Gender considerations not addressed to a large extent: Following from the above, it was seen that the existing power structures in the rural and interior areas led to men using the kiosks to a far greater extent than women. This is totally in violation of a rights-based approach wherein the participation and empowerment of women – who are often the most vulnerable and marginalized – are key to achieve sustainable rights-based outcomes. To overcome this, certain IT kiosks could be earmarked solely for women or special timings adopted when only women could use the equipment. Furthermore, ICT initiatives could be further adapted to better accommodate individuals of limited literacy, through the use of graphic and audio interfaces. Future sites also could incorporate design elements to encourage access by people with disabilities. In addition, while ICT proved a promising intervention, an ideal strategy may include a combination of ICT and more traditional means of accessing information, such as via the medium of community radio, plays and so on.39

38 Ibid. Refer to footnote above.
39 Ibid. Refer to footnote No. 15.
Use of some rights-based tools are time and resource intensive: Preparations for using rights-based tools like the vehicle of public hearings are both time and resource intensive and at times, even gave rise to conflict. This is reflected in UNDP India’s experience with the public hearings that reveals that intensive preparation and pre-hearing community awareness campaigns were critical to achieve the desired outcomes. For instance, UNDP India found that the period for preparing the community and public officials for such an exercise could take upward of eight months. Furthermore, these hearings can demand a high level of technical expertise, as was demonstrated in the Delhi hearing, where engineering experts were called in to scrutinize Government contracts to determine the exact specifications for Government-constructed roads, pumps and waterworks.40

Use of some rights-based tools can be conflict-inducive: UNDP-India experienced that the use of some tools that are used to further rights that can be potentially conflict-inducive. An instance of this was the use of unruly political speech and, in some cases, small skirmishes that frequently interrupted one public hearing - these incidents could prove to be a challenge in achieving the desired outcomes. In a rights-based framework, conflict is not to be suppressed or avoided, but managed toward productive ends. Measures must be taken to ensure healthy dialogue while maintaining decorum and public safety and in defusing any antagonism that may alienate the public officials whom the community would like to be more sympathetic to local concerns.41

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40 Ibid. Refer to footnote above.
41 Ibid.
SELECT BIBLIOGRAPHY:

Beardon, Hannah., Paper on “From Rhetoric to Reality: Ownership and Participation”, Action Aid UK. Source:

http://www.humanrightsinitiative.org - the official website of the Commonwealth Human Rights Initiative, New Delhi, India.

http://www.persmin.nic.in/otraining/cainfo.html

http://www.privacyinternational.org


http://www.usembassy-mexico.gov/bbf/bfdossier_FOIA.htm


Sharma, Pradeep., and Lee, Peter., Paper on “India Case Study Write-Up on Access to Justice by the Poor and Disadvantaged in India: Lessons Learned From Access to Information Initiatives in India”, UNDP India (unpublished).

