

A STUDY ON LIFE AND DEATH

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Introduction

Food, shelter, livelihood and education, the most important aspects of a person's life, are provided in most rural areas through numerous „schemes“ run by the central or State government. Food, for example, is distributed through the notoriously corrupt „Public Distribution System“ – a network of „ration shops“ which distribute subsidised grains and other essentials. Stock registers are poorly maintained and are not available for inspection by the public. Corrupt practices include the replacement of grains with poor quality stocks or even non-distribution on the pretext of „unavailability“. The fulfillment of the right to education can be assessed using the 4 as framework, which asserts that for education to be a meaningful right it must be available, accessible, acceptable and adaptable. The 4 As framework was developed by the former UN Special Rapporteur on the Right to Education, Katrina Tomasevski, but is not necessarily the standard used in every international human rights and hence not a generic guide to how the right to education is treated under national law. The 4 As framework proposes that governments, as the prime duty-bearers, have to respect, protect and fulfill the right to education by making education available, accessible, acceptable and adaptable. The framework also places duties on other stakeholders in the education process: the child, which as the privileged subject of the right to education has the duty to comply with compulsory education requirements, the parents as the „first educators“, and professional educators, namely teachers.

The 4 as have been Further Elaborated as Follows:

Availability – funded by governments, education is universal, free and compulsory. There should be proper infrastructure and facilities in place with adequate books and materials for students. Buildings should meet both safety and sanitation standards, such as having clean drinking water. Active recruitment, proper training and appropriate retention methods should ensure that enough qualified staff is available at each school.

Accessibility – all children should have equal access to school services regardless of gender, race, religion, ethnicity or socio-economic status. Efforts should be made to ensure the inclusion of marginalized groups including children of refugees, the homeless or those

with disabilities in short there should be universal access to education i.e. access to all. There should be no forms of segregation or denial of access to any students. This includes ensuring that proper laws are in place against any child labour or exploitation to prevent children from obtaining primary or secondary education. Schools must be within a reasonable distance for children within the community, otherwise transportation should be provided to students, particularly those that might live in rural areas, to ensure ways to school are safe and convenient. Education should be affordable to all, with textbooks, supplies and uniforms provided to students at no additional costs.

Acceptability – the quality of education provided should be free of discrimination, relevant and culturally appropriate for all students. Students should not be expected to conform to any specific religious or ideological views. Methods of teaching should be objective and unbiased and material available should reflect a wide array of ideas and beliefs. Health and safety should be emphasized within schools including the elimination of any forms of corporal punishment. Professionalism of staff and teachers should be maintained.

Adaptability – educational programs should be flexible and able to adjust according to societal changes and the needs of the community. Observance of religious or cultural holidays should be respected by schools in order to accommodate students, along with providing adequate care to those students with disabilities. A number of international NGOs and charities work to realise the right to education using a rights-based approach to development. International law does not protect the right to pre-primary education and international documents generally omit references to education at this level. The Universal Declaration of Human Rights states that everyone has the right to education, hence the right applies to all individuals, although children are understood as the main beneficiaries.

The Rights to Education are Separated in to Three Levels:

Primary (Elemental or Fundamental) Education. This shall be compulsory and free for any child regardless of their nationality, gender, place of birth, or any other discrimination. Upon ratifying the International Covenant on Economic, Social and Cultural Rights

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States must provide free primary education within two years. Secondary (or Elementary, Technical and Professional in the UDHR) Education must be generally available and accessible.

Higher Education (at the University Level) should be provided according to capacity. That is, anyone who meets the necessary education standards should be able to go to university. Both secondary and higher education shall be made accessible “by every appropriate means, and in particular by the progressive introduction of free education. There are also schemes for providing housing, employment and education. Funds for these schemes are routed through the network of bureaucrats from the central or the state government down to the village. Although meant for the poorest of the poor in the rural areas, these funds have been routinely misappropriated and/or misused on a scale which, even on a rough calculation, would amount to many times that of the better-known large-scale corruption scandals. In most cases, people do not know about the existence of these schemes, or at least salient details, such as their entitlements under the scheme, paving the way for them to be tricked into accepting less than their allocation through forgery. Furthermore, records are often tampered with, a relatively simple practice because no one outside the tight-knit governmental circle has access to them. For example, many records list fictitious beneficiaries of the schemes.

Land

Land and lack of information about land entitlements and records is a major problem, especially since nearly two-thirds of the population is dependent on agriculture. A regular complaint with rural people is the inability to access their own land records. To get a copy of their *patta* is difficult. Not only are there delays and repeated time-consuming visits to various offices, but they also routinely have to pay bribes to the *patwari*, the *tehsildar* or the Block Development Officer (BDO). Lack of access to land records and knowledge about land laws have led to frequent instances of „land grabbing“ by powerful people. Here again, a common problem is the manipulation of records, especially where the beneficiary is a widow or an indigenous person.

Health

Health schemes are rarely advertised sufficiently to enable people to benefit from them. The anti-polio campaign is a case in point. The polio immunisation programme has received large amounts of government and international funding and yet many

people are left out, due to ignorance about the scheme. This is compounded by an inability to monitor whether or not the vaccines have been administered properly, in part because information is not publicly available. In one incident in Uttar Pradesh, an epidemic of Japanese encephalitis broke out. Local health organisations were told that the preventive vaccine was not being manufactured at the responsible institute whereas in fact the government had simply failed to requisition the medicine. This only came to light long after the epidemic had broken out.

Environmental

Environmental issues like contamination of groundwater have a direct effect on people’s lives and yet very little information on these problems is available. This means that people continue to suffer the ill-effects until it is too late to take action, often with disastrous consequences. The public must be aware in order to be able to make informed choices. A high government priority will be to educate citizens about environmental risks, the economic and health dangers of resource degradation and the real cost of natural resources. Information about the environment will be published periodically. Access to information to enable public monitoring of environmental concerns will be provided for.

An Indian Scientist has Commented on the Need for the Government to Share Information on Nuclear Radiation:

If the government claims that nuclear plants are necessary, then it ... has to inform the public about the sacrifices involved. The BARC should disclose how much of the highly radioactive waste generated from the plutonium processing plant is stored there and in what forms. The use of the Official Secrets Act in preventing public access to data relating to their health is an artifact of British imperialism and should be abandoned. Moreover, there is no reason to keep health and environment data secret.

Consumer information is another area where it is important to have proactive dissemination of information, and consumer groups are fighting for stricter labeling laws on domestic as well as foreign products, especially food and medicines. Mandatory labeling of non vegetarian products has recently been approved by the government under the Prevention of Food Adulteration Act.

Participation

Participation in political and economic processes and the ability to make informed choices is restricted to

small elite in India. Consultation on important policy matters, even when they directly concern the people, is rare. Even where „consultation“ is mandatory, for example under the Environment Protection Act, information-sharing is limited, undermining the whole „consultative process“. Furthermore, reports pertaining to these consultations are difficult to access. The impact on local people of globalisation, and the „economic reforms“ it has brought, is often made far more severe because of the non participatory way in which these reforms were developed and the lack of information about them. For example, small dairy farmers were not informed about the opening up of the Indian market to imports of milk products under World Trade Organisation rules. As a result, they failed to prepare for this change and many of them have been forced out of the market. A Full Bench of the Commission comprising Chief Information Commissioner Satyananda Mishra and Information Commissioner ML Sharma and Annapurna Dixit held six parties – Congress, BJP, CPI-M, CPI, NCP and BSP – to whom RTI queries were directed, fulfill the criteria of being public authorities under the Right to Information Act. “The Presidents, General Secretaries of these parties are hereby directed to designate CPIOs and Appellate Authorities at their headquarters in six weeks. The CPIOs so appointed will respond to the RTI applications extracted in this order in four weeks time,” the Bench directed. The Bench also directed them to comply with the provisions of mandatory proactive disclosures clauses given under the RTI Act and put those details on their websites. Speaking to Tehelka, Mishra said, “once a law applies to an organisation, it is applied to the whole hog and so they (political parties) will be treated as any other government organisation.” The RTI Act has various categories under which an organisation may be considered a public authority. Among those, the CIC in its 54-page judgment held that the mentioned political parties “have been substantially financed by the Central Government under section 2(h)(ii) of the RTI Act.” It further stated that “the criticality of the role being played by these political parties in our democratic set up and the nature of duties performed by them also point towards their public character, bringing them in the ambit of section 2(h). The constitutional and legal provisions discussed herein above also point towards their character as public authorities.” The respondents in the case, Delhi-based RTI Activist Subhash Chandra Aggarwal and National Coordinator of the Association for Democratic Reforms (ADR) Anil Bairwal, had sought to know the finances of, voluntary financial contributions received by these six parties and the

names and addresses of the donors besides other details which were refused as the political parties claimed they do not come under the RTI Act. During the hearing, Bairwal raised three principal points justifying his arguments that parties were under the RTI Act–indirect substantial financing by the central government, performance of public duty and Constitutional and legal provisions vesting them with rights and liabilities. Bairwal, who has been pursuing his application since October 2010, said that one of the key achievements of this judgment will be that the public will be able to know the sources of funding of the political parties. “They get funds in hundreds of crores but since the Representation of People’s Act only requires them to state donations of Rs 20,000 or more. For example, they would have Rs 400 crore in their funds but they could get away with saying that no individual, corporate or company gave them a donation of more than Rs 20,000. Those parties, who were so resistant to change, will now have to declare all their sources whereas they show barely 10-12% of their funding at the moment.” Similarly, Aggarwal lauded the decision saying that “the CIC has done well to include government allotted land as substantial funding.” The CIC in its judgment said, “Large tracts of land in prime areas of Delhi have been placed at the disposal of the political parties in question at exceptionally low rates. Besides, huge government accommodations have been placed at the disposal of political parties at hugely cheap rates thereby bestowing financial benefits on them”. “We will get information on almost everything now, including correspondence among coalitions. But we have to be careful of Section 7(9) so they don’t refuse information on the grounds of disproportionate diversion of resources,” Bairwal said. Another key impact of this ruling, according to Bairwal, will be transparency in the functioning of political parties. “Apart from activists, party workers themselves can now start asking questions if someone is arbitrarily given tickets to contest polls because of good connections,” he added. Former Chief Election Commissioner Wajahat Habibullah welcomed the step as a positive one, saying that this judgment will be an extension of how RTI is – all pervasive. However, he also said that the “extent and the ramifications of the law as it stands are not properly understood and therefore that needs to be worked on more to truly empower RTI.” The political parties, which have raised various objections in coming under RTI, including its misuse by opposition parties, are yet to take a stand on this judgment. The need for more openness as an aspect of democratic and effective governance has been accepted not only by international organization like the World Bank (which is presently conducting a

widespread consultation on how best to strengthen its Disclosure Policy), but also by private enterprise.

A Recent Industry Report on Infrastructure Development Made a Strong Case for Greater Transparency:

From the viewpoint of infrastructural development, information regarding state and local bodies when regularly and routinely available to the people, should do much to reform governments, especially in their enterprise and regulatory dimension. Nothing could be better for commercial provisioning and for good governance which engenders local (and general) development. Summary of Proceedings of Brainstorming Session with Civil Societies, Date:31.03.2010, Venue: Civil Services Officers Institute, Kasturba Gandhi Marg, New Delhi.

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