

Right to Information Seminar for NGOs from Bangladesh and Nepal

**March 18-21, 2007
Kathmandu, Nepal**

Workshop Report

**Public Affairs Centre
Transparency International Nepal**

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Executive Summary

From March 18th to March 21st, 2007, the Public Affairs Centre in co-operation with Transparency International Nepal held a four-day workshop exploring the right to information as a tool to promote good governance and human rights. The workshop was held at the Godavari Village Resort, located nearby Kathmandu. Participants were drawn from a variety of Nepali and Bangladeshi NGOs working in the field of anti-corruption, good governance, human rights and media advocacy.

The training had several primary objectives. First of all, workshop organizers aimed to raise awareness regarding best practices in Right to Information standards and procedures, and its' use as a tool to promote democracy, human rights and good governance. They also sought to impart practical skills and enable participants' to undertake advocacy work and strategic litigation in the field of Right to Information. Furthermore, they hoped to facilitate networking and coalition building among NGO activists in Nepal and Bangladesh surrounding Right to Information issues.

Over the course of several days, the workshops covered a wide variety of topics. While the first day provided a brief introduction to training objectives and participating organizations, while also giving participants an opportunity to introduce themselves and get to know one another. The second day began with a session facilitated by Sabine Benzing-Balzer of the Public Affairs Centre, aiming to provide a brief review of international law and the role of the right to information in the international human rights system. Senior journalist and Transparency International Nepal member R.K Regmee then proceeded to examine the role of the right to information in preventing corruption and promoting good governance. Two videos were then screened to put this information into perspective and to illustrate the way in which the right to information may be used to unveil corruption and empower marginalized people. Venkatesh Nayak of the Commonwealth Human Rights Initiative also discussed best practices in Right to Information law, outlining a comprehensive system involving maximum disclosure, minimum exemptions, appellate mechanisms, and a monitoring system for reporting and compliance.

Following a summary of the previous day's topics, Cyril W.Vas of the Public Affairs Centre discussed advocacy with respect to right to information. After introducing participants to the concept of advocacy, he outlined elements of a comprehensive advocacy strategy and its' application in a right to information context. Sabine Benzing-Balzer also presented a session aimed at introducing participants to strategic litigation. After drawing the distinction between strategic litigation and public interest litigation, she then discussed the role that strategic litigation can play in promoting legal reform, policy reform and social change. She then turned towards the practicalities of undertaking strategic litigation, including case selection, selecting the proper jurisdiction, ensuring litigation support, and establishing a post-litigation implementation strategy.

The workshop drew to a close on the fourth day, as Cyril Vas briefly traced the political history of Nepal and Bangladesh, highlighting ongoing struggles and suggesting future

avenues for advocacy efforts where right to information issues are concerned. Here, he stressed the need to energize existing legislation in Nepal and to do away with the overly broad regime of exceptions, while emphasizing the need for ongoing vigilance in monitoring the situation and gathering civil society support in Bangladesh. In closing, he highlighted the need for networking and coalition building among NGOs and civil society actors, claiming that we have a great deal to learn from each others' initiatives.

Practical work was also emphasized, as participants were encouraged to draw upon their knowledge and experiences through various group exercises. To begin, participants divided into country-based teams following the second day's presentations, reviewed draft laws in each of their respective countries, and conducted a SWOT analysis. During the third day, participants also worked together to devise an advocacy campaign surrounding right to information issues while the fourth day culminated in each country-based team presenting a comprehensive right to information strategy. This report aims to summarize the sessions, group presentations, and ensuing discussions that occurred over the course of the workshop.

Day 2- Monday, 19 March, 2007

Session 2- The Right to Information as a Human Right

The day opened with an introduction to the right to information issues in the international human rights context, facilitated by Sabine Benzing-Balzer of the Public Affairs Centre. She began by tracing the origins of the right to information as a human right to the UN General Assembly Resolution of 1946, which stated that "freedom of information is a fundamental human right and a touchstone of all freedoms to which the UN is consecrated". She then offered an outline of her presentation, during which she would offer a crash course in international law before elaborating on the role of the right to information in the international human rights system.

To begin, Ms. Benzing-Balzer defined international law as a set of laws governing the relationships between states. Speculation then ensued regarding the types of relationships governed and the kinds of branches that devolved. Audience suggestions included areas such as trade, traffic, navigation, and the regulation of the global commons. Ms. Benzing-Balzer concurred with these answers, further elaborating that international law governs relationships pertaining to the sea, the environment, airspace, dispute settlement, international trade and human rights. In discussing the actors involved in international law, she further argued that states constitute the primary actors, as they are the only ones with full rights and duties. She further added that INGOs and NGOs have some rights and duties, and that individuals have but limited rights and duties, as they are generally bound only by international criminal law in instances such as torture or genocide.

Discussion then turned to the basic principles of international law, namely state sovereignty, state immunity and state responsibility. According to Ms. Benzing-Balzer, state sovereignty rests on the assumption that all states are equal and may decide how they wish to govern their territory, property, and citizens. She further noted that this provision underlies the UN's consensus-based system. In practice, however, she acknowledged that states do make "package deals" and that some concessions may be necessary. State immunity further dictates that states enjoy, in respect of themselves, their agents and property, immunity from the jurisdiction of other states' courts. Ms. Benzing-Balzer conceded that some controversy does arise over this provision, as it has been disputed whether or not a head of state can assert immunity from human rights violations. She further noted that the principle of state responsibility requires states to fulfill certain treaty obligations. As such, they may be held responsible for wrongful acts arising from their failure to comply with obligations, although she acknowledged that this may vary depending on the treaties signed.

Ms. Benzing-Balzer then proceeded to outline the sources of international law. Here, she noted that their origins differ from those in the domestic law system. Rather, she contended, international law stems from treaties (such as conventions, protocols, and covenants), customs, general principles and judicial writings. Treaties, she asserted, are ratified by states and legally binding on states who are party to them. She clarified,

however, that exemptions and reservations may be possible to some extent. She also elaborated upon the nature of customary international law, which may be applied if certain provisions are missing in treaties. Customary international law consists of general state practice over a certain period of time and the acceptance of certain state practices over time. This, she maintained, is known as *opinio juris* and tends to prevail in certain situations, notably those pertaining to torture and genocide.

Having presented a general outline of international law, Ms. Benzing-Balzer proceeded to discuss international human rights law more specifically. International human rights law, she asserted, is a branch of international law that regulates the behavior of states vis a vis individuals within their territory. The sources of international human rights law are similar to those of international law in general, though she noted that they rely upon treaties and customary provisions in particular. She then enumerated the seven treaties that are widely agreed upon, namely:

- 1) The International Convention on Civil and Political Rights (ICCPR)
- 2) International Convention on Economic, Social, and Cultural Rights (ICESCR)
- 3) The Convention Against Torture
- 4) The Convention Against Racial Discrimination
- 5) The Convention Against Discrimination Against Women
- 6) The Convention on the Rights of the Child
- 7) The Convention on Migrant Workers

She further clarified that such treaties are legally binding. The case of the Universal Declaration of Human Rights was also discussed, as Ms. Benzing-Balzer noted that its provisions were morally, but not legally binding. She also contended that some parts may also be binding as customary law, as is the case where torture, discrimination and genocide are concerned. Discussion then ensued regarding who is bound and protected under international human rights law. According to Ms. Benzing-Balzer, only states may be held responsible for human rights violations, not individuals or corporations. However, she pointed out that individuals may leave the state liable if they are officials organs of the state, or if the state fails to undertake adequate measures to protect individual rights from third party interference. Conversely, she noted that individuals or groups of individuals are typically recognized as victims of human rights violations.

Ms. Benzing-Balzer then traced the evolution of international human rights law and the development of the UN system. She began by noting that the founding purpose of the UN in 1945 involved the maintenance of peace and security, the development of friendly relations among nations, and the promotion of human rights. Indeed, she cited Article 55(c), which states that the UN "shall promote universal respect for, and observance of, human rights and freedoms for all without distinction as to race, sex, etc..". However, she noted that it took until 1966 to agree on the ICCPR and the ICESCR.

She then continued to elaborate upon the three classes of human rights, beginning with Civil and Political Rights. Here, she noted that such rights involve negative obligations

of non-interference and are enforceable. When queried about what type of rights may be subsumed under this category, audience members suggested that voting rights, freedom of expression, freedom of movement, right to life and security and right to non-discrimination. Ms. Benzing-Balzer concurred with these suggestions, further adding the right to privacy, the right to a fair trial, freedom from torture, the right to information, freedom of thought and freedom from slavery. She then introduced the second category of human rights, encompassing economic, social, and cultural rights. Such rights involve positive obligations, but are limited in terms of their enforceability. Here, audience members identified equal opportunity, right to health, education and livelihood, and equal pay for equal work as economic and social rights. Ms. Benzing-Balzer also added the right to form trade unions, the right to an adequate standard of living, and the right to participation in cultural life as other economic, social and cultural rights. Finally, she listed the right to development as the third category of rights, noting that these rights are still developing themselves.

At this point, she elaborated upon the distinction drawn between these categories. First of all, she noted that each category was championed by different groups of countries. For instance, Western countries tended to promote civil and political rights, while Soviet countries emphasized economic, social and cultural rights and developing countries affirmed the right to development. The nature of state obligations and enforceability also played a pivotal role in distinguishing between the different categories of rights. Here, she contended that civil and political rights are often defined as negative obligations. For instance, the right to life means that you cannot kill others, and she noted that this may be useful, as enforcement would not be too costly. On the other hand, the rights set forth under the ICESCR involve positive obligations. In this context, the right to health and education may require states to build schools and hospitals, thereby rendering enforcement far more costly.

As a result, two different enforcement systems developed, and Ms. Benzing-Balzer elaborated upon each one in turn. To begin, she stated that the ICCPR is monitored by the Human Rights Committee, consisting of 18 individuals charged with monitoring regular state reports. Every state is obligated to report on its' implementation of civil and political rights. Furthermore, the committee can also make general comments, hear inter-state complaints, as well as individual complaints, a feature which makes it unique. The ICESCR is itself monitored by the Committee on Economic, Social and Cultural Rights, named by the ECOSOC. However, Ms. Benzing-Balzer contended that enforcement of the ICESCR is weaker, for the committee has developed a reporting system and makes general comments, but no individual complaints are possible.

Ms. Benzing-Balzer then proceeded to discuss the role of the right to information in the context of international human rights law. She began by stating that the right to information is set forth under Article 19 of the ICCPR and therefore belongs to the domain of clearly defined and enforceable civil and political rights. As such, she pointed out that individuals do have the option of bringing forward complaints of rights violations. She then outlined the two roles played by the right to information under the international human rights system. First of all, she noted that the right to information constitutes a

fundamental human right under Article 19 of both the UN Declaration of Human Rights. Furthermore, she maintained that the right to information may also serve as a tool for the fulfillment of other human rights and cited numerous examples. For example, the right to information may also aid in reinforcing the right to education, as it may be used by parents to challenge the basis on which school admission is denied. She then described a project undertaken in New Delhi by an organization known as Parivartan. Under Indian law, there exists an order stipulating that 25% of poor children can access private schools for free. With this in mind, Parivartan traveled to slums to inform parents of this rights. Yet, parents often applied for admission, only to have their request denied. Parivartan then assisted parents in filing an application to view the reasons for the school admission denial, at which point schools often turned around and admitted the children. She further discussed the manner in which the right to information may aid individuals in claiming their right to food, as it can be used to learn about ration entitlements and to expose the fraudulent distribution of grain. As such, she concluded that the right to information may help to support economic, social and cultural rights, which might otherwise be less easily enforced.

Further discussion then ensued regarding the example of private school admission. One audience member raised the issue of how the right to information may play out in the context of private sector organizations. In response, Ms. Benzing-Balzer explained that the Indian Freedom of Information Act even covers organizations that outsource to private organizations, as it pertains to all information held by public bodies. Before closing, Ms. Benzing-Balzer noted that general comments also enrich right to information provisions and provided numerous examples to substantiate her claim. For instance, in cases where the right to water is concerned, she noted that accessibility also includes the right to information about what the government has done to ensure access to water. She further acknowledged that governments often find it easy to evict low-income people from their dwellings. In such instances, the right to information often enables people to learn about available compensation packages. The Child Rights Charter also enriches right to information provisions, as it grants children with disabilities the right to know about educational, vocational and guidance services. Moreover, right to health provisions typically stipulate that individuals should be granted access to the highest attainable standards of health. Yet, she also noted that it is a common duty to keep private health information secret. With this in mind, she asserted there are rights, but also restrictions, where information is concerned.

Ms. Benzing-Balzer then opened the floor to questions and comments on behalf of participants. Some confusion arose as to whether the right to information could be equated with the right to services. Here, Ms. Benzing-Balzer replied that the right to information does not guarantee access to services in and of itself, but that it does allow people to learn about services that should be provided. She ended the session by clarifying that the right to information generally involves the right to public information.

Session 3- The Right to Information as a Tool for Good Governance and Against Corruption

Mr. R.K. Regmee began the session by asking participants if they had ever heard anyone wish someone "may you be corrupted", or exclaim "may mismanagement flourish in this country". Indeed, he noted that we are typically conscious that there should be no corruption or mismanagement, yet such phenomena are rife in our daily lives. Yet, he expressed confidence that upholding the right to information may serve to correct this, for corruption often involves keeping information from the public eye.

Mr. Regmee then set forth by introducing the right to information as an instrumental right. Here, he asserted that governance is a process, as you cannot achieve good governance by simply declaring it. Such a process involves a great deal of information. Indeed, he contended that the right to information ensures that governance is fair and that all rights are enforced. From his perspective, there can be no transparency or rights without information. He then pointed out that the media exists to transmit information, a necessary task in light of citizens' need to make decisions regarding where to invest and for whom to vote. With this in mind, media collects much-needed information and represents citizen in transmitting such information. For this reason, he deemed media freedom to be essential, as it guarantees that citizens will have the means to make informed decisions.

He then proceeded to pose the question of whether the right to information is a tool or a text. Given that the right to information satisfies a need, he argued that it should be viewed as a tool, for it would otherwise be little more than philosophical discourse. Moreover, he claimed that preserving the right to information is a means of good governance. He then pointed out that citizens do not participate directly in the government- rather, they elect representatives. In this light, information permits citizens to be aware of actions undertaken by the government on their behalf and to participate indirectly in the political life of their countries.

Discussion then turned towards the nature of the right to information as a human right. Here, Mr. Regmee acknowledged that some countries view information as a privilege of the state. However, he expressed his dissent with this notion, claiming instead that information is for all citizens. As such, Mr. Regmee asserted that there can be no denial of information, for it is a human right. Likewise, the right to information should also be universal, applying to all countries in the world. Were this the case, Mr. Regmee maintained, certain countries would not be able to define information in the manner of their choosing.

Mr. Regmee also briefly touched upon the intersection of the right to information with the right to privacy. Here, he asserted that he perceived no conflict between the right to privacy and the right to report. He then drew a line of demarcation between the public and the private, claiming that information is generally published for the public good and not to hurt private citizens. For instance, he noted that refusing to report a physician's mistakes might prevent lives from being saved. Furthermore, he outlined certain

instances in which citizens' right to privacy may be outweighed by other considerations. Though he emphasized the importance of preserving citizens' honor and humanity, he maintained that the right to privacy may at times be transcended by issues of state security and public safety. In a similar vein, he contended that some information may also be rightfully withheld in the interests of public safety. With this in mind, he asserted that it is enough to specify "press freedom" where reporting is concerned, and that no further analyses are required.

He then proceeded to further discuss the notion of good governance. Though he noted that each person has their own definitions of good governance, he asserted that certain universal definitions exist. As such, he enumerated each one in turn:

- 1) Consensus
- 2) Participation
- 3) Rule of Law
- 4) Accountability
- 5) Transparency
- 6) Responsiveness
- 7) Equitability
- 8) Inclusiveness

Conversely, however, he described corruption as an invisible force. Mr. Regmee then continued to outline his equation for corruption, whereby:

$$\text{Corruption} = \text{Monopoly} + \text{Discretionary Powers} - \text{Transparency}$$

He further defined corruption as the misuse of entrusted power for private benefit, as an improper means of attaining wealth, and above all, as an unlawful act. According to Mr. Regmee, corruption may have many faces, including bribery, embezzlement, nepotism, and fraud. He named the players as public officials, policy makers, administrators, and private sector leaders. In many ways, he claimed that this renders corruption even more insidious, as these figures are often the builders of nations.

In light of these considerations, Mr. Regmee proceeded to outline what he termed as "Information Therapy". Here, he explained that he tends to think of citizens as suffering from a particular predilection, and of governments as ailing. He further contended that capital is not terribly important- rather, information, innovation, and vision are key to success. As such, people may be weakened when they cannot access information. However, he affirmed that information is empowering and may even act as a third eye. With this in mind, he prescribed "Information Therapy" based around four components:

- 1) Public Education
- 2) Clear Rules and Procedures
- 3) Files in Open Platforms
- 4) Transparency

Mr. Regmee then enumerated many potential benefits that could result from a round of "Information Therapy". First of all, he claimed that such measures would enable users, for they would have a better idea of what their governments can and cannot do. As such, they would be better able to air grievances. He also contended that this process would foster a greater degree of public scrutiny, would allow for the emergence of checks and balances, and promote open audits. Furthermore, Mr. Regmee asserted that information therapy would also serve to prevent corruption. Claiming that information ignites, he pointed out that people rarely have any impetus to act if they aren't aware of any wrongdoing. Right to information therefore permits the exposure of abuses, the unveiling of corruption, and the punishment, prevention, cure or reduction of wrongdoing.

In closing, Mr. Regmee discussed future directions to pursue in ensuring the right to information, in achieving good governance, and in combating corruption. To begin, he advocated for the establishment of sunshine laws, whereby no process in government would be hidden. He also called for holding open meetings, whereby government and committee meetings would be open to all those who could join. In cases where the general public cannot participate directly, he suggested that media participation could replace public attendance. Plurality was also deemed to be an integral element of ensuring the right to information. Indeed, Mr. Regmee maintained that ours is a post-modern society, with many views and opinions, and there is often more than one answer to a given question or issue. Furthermore, he called for the creation of a "Knowledge Society" and also claimed that the use of communication technology can serve to further the purposes of good governance and anti-corruption.

Several comments and questions arose after Mr. Regmee's presentation. Sangita Nirola raised the issue of adopting a gender-based definition of corruption that would also include misuse of power and gender-based violence. Considerable discussion also arose over press freedom and the right to privacy, as participants questioned what should be done about media activities that ruin people's lives and occasionally jeopardize public safety. Others pointed to the damage sometimes inflicted by media quoting services, which can be devastating where low-income people and small organizations are concerned. Here, Mr. Regmee acknowledged that media rights are not absolute, but cautioned against beggaring and silencing the media altogether. Rather, he suggested that a code of conduct be drawn to curb its' excesses. The question of media ownership was also raised, as some noted that the media is run by the corporate sector, not by journalists, and their interests may determine access to information. Mr. Regmee acknowledged this phenomenon, suggesting that the ownership and financing of a particular media source should be made clear.

Video Presentation

A video presentation followed, featuring a film entitled "Our Money, Our Accounts". Created by a New Delhi-based NGO by the name of Parivartan, the documentary aimed to demonstrate how access to information can be used to combat corruption and empower marginalized people.

The film began by asking if India, purportedly the world's largest democracy, is really a democracy. Here, they noted that people's participation is limited to casting a vote every five years, that representatives rarely seem to be responsive to people's needs and that little accountability has resulted in terms of how taxpayer money is spent. The film then documents Parivartan's efforts in the inner city slums in India named Sundarnagari. Here, staff members went from street to street, employing creative methods such as music and street theater to demonstrate how access to information can uncover government mismanagement and empower citizens. They also inquired about infrastructure work conducted on their block and the findings were shocking. For instance, though government documents had specified that a street was to be paved four inches thick, closer examination revealed that the concrete layer was only two inches thick.

In consultation with community members, Parivartan then decided to hold a People's Court hearing on 14 December, 2002, to discuss public spending. Indeed, it constituted the first hearing about development spending in an urban context and more than 1000 people attended, including citizens, journalists, municipal councilors and NGO workers. Over the course of the hearing, numerous instances of corruption were unveiled as secrets in government files were exposed. For instance, 7 million rupees were found missing, 15 out of 29 pumps were nowhere to be found and many streets or lanes existed only on paper. Though the atmosphere was tense at times, the event proved to be illuminating and served to demonstrate how the right to information can aid citizens in documenting and speaking out against corruption.

Questions and comments followed the video presentation. Many participants were curious as to what happened to the staff at Parivartan. Here, Ms. Benzing-Balzer noted that they have had to contend with threats, harassment and physical violence, but still carry on with their work.

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Session 4 - The Ideal Right to Information Law

The fourth session was presented by Mr. Venkatesh Nayak of the Commonwealth Human Rights Initiative. Although the session was aimed at elucidating best practices in right to information law, Mr. Nayak began by stating that he would not be presenting a model law. Indeed, he argued that right to information laws cannot be generic and should take into account regional specifics. Rather, he explained that he would instead discuss components that should ideally be part of comprehensive right to information legislation.

Mr. Nayak began by tracing the origins of right to information law back to the French Revolution. He pointed out that the rebellion had occurred due to the opaque nature of the government, which permitted people to be arrested at will. In many respects, the right to information was enshrined in the Declaration of the Rights of Man, which contained provisions stipulating that taxes could not be raised against the will of the

people and that citizens should know what uses their money is being put towards. As such, this constituted the first access to information law. At the same time, the Declaration of the Rights of Women also covered similar ground. Here, Mr. Nayak contended that the declaration elucidated the basis of the right to know, as it asserted “the right to verify the necessity of public contribution” and “the right to demand accounting”. Modern right to information laws were first adopted by Sweden in 1966, with other Scandinavian and European countries soon following suit.

However, Mr. Nayak noted that right to information issues remain pertinent to this day. He cited the experience of Gujarati survivors of communal violence in 2002. Here, although the government devised many subsidy schemes for housing and social security, this was treated as prized information and few got to see it. Indeed, Mr. Nayak maintained that there is something that often demands secrecy in government. He traced this phenomenon back to a “colonial hangover” known as the Official Secrets Act, where the act of distributing information to outsiders is treated as a punishable act. As such, information is withheld until an official decides to bequeath it and Mr. Nayak contended that such attitudes suggest the need for a paradigm shift.

Mr. Nayak then went on to discuss some terminology used in discussing right to information issues. Having listed “freedom of information”, “right to information” and “access to information”, he asked participants what’s in a name. Audience suggestions varied, as some volunteered that it may involve rights vs. needs. Others asserted that the use of the term “rights” involves a more proactive approach as it suggests that we must claim such rights. According to Mr. Nayak, freedom of information speaks to the unrestricted flow of information, whereby people can access it freely, except in situations where it contravenes public safety. Right to information, however, places officials in a position of duty to provide information, while access to information encompasses both freedoms and rights. He further argued that a constitutional guarantee is necessary, or else the right to information will be no more than a statutory law. Here, he argued that freedom of information lies at the basis of informed decisions and is a fundamental right. Furthermore, a constitutional guarantee would mean that power would be judicial and therefore not easily subverted.

With this in mind, Mr. Nayak proceeded to highlight certain underlying principles of comprehensive right to information laws. First of all, he asserted that a presumption of openness, rather than secrecy, should prevail. All information should also be made accessible, unless otherwise specified. Mr. Nayak further contended that information available to parliament should also be accessible to the general public, nothing that MPs have the right to ask questions and the people who elected them should be able to do the same. Moreover, he argued that there should be an obligation upon public bodies to provide access to information. He also pointed out that we live in a globalized world, where people cross borders readily. As such, the right to access information should be granted to everyone, not just citizens. Finally, information should be given without justification. In other words, he claimed that information should be granted without requesting reasons- simply asking should be enough.

Discussion then turned to the subject of which bodies should be covered by right to information legislation. According to Mr. Nayak, right to information provisions should extend beyond states and governments. Indeed, he noted that the scope often varies. He cite the case of South Africa, where its provisions cover private sector enterprises and multinational companies, such as McDonalds and DeBeers. In practice, Mr. Nayak contended that right to information laws should cover any body established by the constitution, including legislature, executive, and local administrations. He further asserted that the judiciary should also be covered, noting that most countries tend to exempt the judiciary and that this constitutes bad practice. Organizations established by statutes should also be covered, including commissions, public sector enterprises and banks. Furthermore, groups established by executive order, such as corporations, boards and committees should also fall under right to information laws. Finally, he maintained that any organization financed directly or indirectly by the government or by public bodies should also be covered. Such organizations could include schools, colleges, trusts and NGOs.

Having discussed underlying principles, Mr. Nayak then proceeded to outline best practice principles. First of all, he stressed the importance of ensuring maximum disclosure, namely the widest possible coverage for public bodies and information held by them. Here, he stipulated that people should have access to original documents and not merely copies of records. This should include records, memos, e-mails, opinions, advice and press releases. He also discussed the need to define the scope of this right and claimed that it should include:

- Accurate information
- The right to inspect records, documents, and works
- The right to take notes and extracts from records and documents
- The right to obtain certified copies, records, and material samples
- Access to information in electronic form

He further argues that proactive disclosure on the part of public bodies is a must. Here, he maintained that the government should give information without being asked, as people often do not know where or to whom they should direct their inquiries. With his in mind, he outlined the type of information that public bodies should publish:

- Details about government organization, structure, staffing, and salaries.
For instance, the salary of the prime minister is published in the constitution
- Powers, functions, responsibilities, channels of decision making and accountability mechanisms
- Norms adopted in every operation of the public body.
- Rules, regulations, guidelines, manuals, and orders

- Details of consultative and advisory mechanisms- are meetings public and minutes accessible?
- Budgets, plans, allocations, and disbursements
- Details of subsidies of welfare schemes, such as application guidelines and details of beneficiaries.

He then outlined measures to make such information accessible. First of all, he recommended that information be updated regularly, using local language where possible. He also asserted that information should be distributed through many sources, including notice boards, the print media and internet to ensure that it reaches the widest possible audience. He also called for the establishment of designated officers to keep information, as this would enable people to know who to contact. Moreover, he argued that immediate access should be granted and that reasons should be provided for administrative and quasi-judicial decisions. Finally, he asserted that officials ought to disclose proactively in response to people's need to use the law.

In a similar vein, Mr. Nayak also highlighted the need for ensuring minimum exemptions in the establishment of any right to information law. Here, he specified that there ought to be no exemptions for entire categories of documents. For instance, he pointed out that the air force and navy are not covered by right to information laws in certain countries. He further asserted that there should be no exclusions of any public bodies and that any exemptions should be narrowly defined. Similarly, he posited that denial of access should not be subject to other laws. Furthermore, he asserted that all exemptions ought to be based on a harm test, being subject only to public interest and not vested interests.

He then proceeded to outline circumstances under which it might be appropriate to grant exemptions. Here, he noted that exemptions should be granted if defense, security, or economic interests will be harmed or if an offense might result due to disclosure. Exemptions might also be acceptable with respect to trade secrets, intellectual property rights and other instances where disclosure might harm competition. He also stipulated that exemptions should be granted in cases where examinations or recruitment processes may be compromised. Moreover, he outlined the need for exemptions in situations where disclosure could hamper and investigational process or endanger the life and safety of another person. Finally, he argued that exemptions are also possible in the name of privacy, except in instances where there is public interest override. For instance, he cited the example of women whose husbands put them at risk of contracting AIDS without notifying them. He claimed that this would constitute one instance where access to medical records would be justifiable.

At this point, a refreshment break ensued. Participants reconvened at 15:45 pm, as questions and discussion followed regarding the potential for disclosure of information to harm decision making processes. Mr. Nayak duly noted these concerns, but asserted that

discussion process information should be given in situations where it wouldn't frustrate the process, claiming that the right to information also empowers honest, upstanding officials.

Mr. Nayak then called for the creation of simple, inexpensive and timely access procedures as a means of ensuring best practice with respect to right to information laws. In other words, he claimed, people should not be charged 50 000 rupees and should not have to wait three years to have their request processes. He again called for the establishment of designated officers to receive and process requests. Furthermore, he asserted that such officers should assist people who cannot file requests. Here, he emphasized that the use of preprinted forms should not be made compulsory, since not everyone has the privilege of access to education. He also requested that information be provided to people with disabilities. In addition, he contended that information should be provided in the form requested, except when it is likely to disproportionately divert resources. Moreover, he asserted that officials should not insist on filing formal requests every time they want information.

He then devoted some attention to the question of timely access to information. In general, he argued that information should be disclosed within a time limit of 21 to 30 days. Furthermore, he stressed the need for processing urgent requests relating to life and liberty within 24 to 48 hours, such as in cases involving the police in India. If requested information relates to the work of another public body, Mr. Nayak also asserted that the designated officer should transfer it within 5 to 7 days and inform the requestor in writing. Furthermore, if information cannot be disclosed, officials should respond in writing and list the reasons behind their refusal. He also argued that the designate officer ought to have statutory powers to seek and receive help from any other officer to process requests, further suggesting that there should be significant consequences if he or she refuses assistance without cause. The issue of fees was also broached, as Mr. Nayak suggested that they be kept as low as possible. Moreover, he advised that, when fees are charged, they should be kept reasonable and should not exceed the actual cost of reproduction. He further suggested that public bodies should bear the costs involved in searching for documents.

According to Mr. Nayak, establishing appellate mechanisms also constitute an integral part of best practice with respect to right to information laws. Here, he suggested that the first appeal should take place within the public body in question, before an officer or employee higher in rank than the designated officer. The second appeal should then take place before an independent body, such as an Information Commissioner. He further set forth certain criteria for selecting a commissioner and that such an officer should:

- Be appointed through a consultative process
- Have powers to entertain second appeals and direct complaints
- Have powers of the civil court to investigate, including powers to search

He also outlined additional provisions to consider when designing an appellate mechanism. First of all, he advised that courts should not interfere, except during the

appeals process. Furthermore, protection should be offered to both whistleblowers and officers who disclose information in good faith.

In closing, Mr. Nayak emphasized the importance of devising systems for monitoring and reporting compliance. Here, he called for the establishment of an oversight body to monitor implementation. This body would be charged with several tasks, including:

- Developing a map
- Training employees
- Implementing public education programs to spread awareness
- Establishing rules and regulations to implement laws with parliamentary approval

He also proposed that a stringent threat of penalty should be imposed, as this may help to overcome resistance to openness. Such penalties could be imposed in situations where officers refuse requests without cause, provide misleading information, delay access or destroy information. Furthermore, he suggested that a graduated monetary penalty system be implemented, with imprisonment being prescribed for grave offenses.

Comments and questions then followed, as one audience member wondered if information could be abused if given more widely. Mr. Nayak responded by saying that access to information simply means access to what is written in documents. He then speculated as to ways in which it might be misused. Although he acknowledged blackmail to be a possibility, he added that this only works between two people. Similarly, he argued that slander only occurs when information is presented with a slant in the media and that offended parties do have the right to respond. Other questions also ensued regarding record-keeping and punishment procedures.

SWOT Analysis of the Draft Laws in Nepal and Bangladesh

At 17:30 pm, participants were asked to divide themselves into country based teams and perform a SWOT analysis. Here, they examined the draft laws in each of their respective countries, identifying strengths, weaknesses, opportunities and threats involved in each case.

Day 3- Tuesday 20 March, 2007

Summary of Day 2

The day began with a brief review of the previous sessions. Sangeeta Nirola of Swati Nepal summarized the previous day, beginning by discussing the UN resolution relating to Right to Information, as well as the distinction between Political and Civil rights as opposed Economic and Social rights. She then proceeded to elaborate upon the importance of the Right to Information in upholding human rights, discussed the video presentation, and addressed best practices in Right to Information. Audience members also discussed anti-corruption initiatives, sunshine laws and futures directions, with examples drawn from the Indian context. The intersection between privacy and Right to Information considerations in the media was also discussed, as was the role of Right to Information as an instrumental tool.

Session 5- Advocacy for the Right to Information

Cyril Vas of the Public Affairs Centre facilitated the morning session, presenting advocacy methodology and strategies for conducting advocacy work surrounding Right to Information issues. He expressed his pleasure in having the opportunity to share his views and ideas with NGO activists, and to learn from their experiences.

Mr. Vas began by asking participants for their input as to which city was the best in the world. Numerous answers ensued, as some named Paris, while others mentioned Dhaka or Hawaii. According to Mr. Vas, however, his favorite is capacity- a city that cannot be seen, but can be built. He further affirmed his belief in a "P formula", whereby priests pray for all, lawyers plead for all, doctors prescribe for all, and laymen pay for all. Here, he asserted that, though we cannot all be lawyers, we can all be advocates and work to bring about reform and social transformation.

He then proceeded to further define and elaborate upon the nature of advocacy. According to Mr. Vas, advocacy is not a new term and can take numerous forms. For instance, it may involve:

a) Organized efforts to effect systemic or incremental change

Here, we must begin by changing our own mindset and reality. Then, he maintained, when people come together, they will be better able to pool their forces together.

b) Pressure groups pushing for change

c) Reform within a particular organization

As Mr. Vas pointed out, advocacy may also involve a leader who seeks to change his own group.

d) Interests of a particular group vis-à-vis others

In some instances, advocacy may be undertaken in the private sector. Here, he cited the example of a chemical company lobbying for lower government tariffs.

e) The Practice of Politics

With this in mind, Mr. Vas presented a more encompassing definition of NGO advocacy, namely a "systematic, democratic and organized effort by NGOs to change, influence and institute policies, laws, practices and behavior so that disadvantaged citizens in particular, or all citizens in general, will benefit". Here, he cautioned that NGO advocacy should not be directed against any individual, government or institution. Rather, its' efforts should aim to counter a system that breeds corruption and hampers development. He then proceeded to outline principles and practices that ought to characterize NGO advocacy. First of all, he asserted that NGOs must uphold credibility as an independent organization. Indeed, given that they are recognized for their values, they should therefore stand for integrity. He also listed non-partisanship as an essential component, and highlighted the need for a collaborative, rather than confrontational stance, to be adopted. He then cited the work of the Public Affairs Centre (PAC) as an example. Here, he began by stating that the PAC started small, using a small survey to issue citizen report cards in a variety of areas (ie: water and transportation) to obtain citizen feedback regarding basic services. Gradually, they obtained recognition for their work, followed by consultation from the government. The results were astonishing- in 1993, 90% of those surveyed reported dissatisfaction with basic services in Bangalore. By 2001, however, the level of satisfaction had risen considerably.

All this considered, Mr. Vas then enumerated four strategies:

- 1) From confrontation to collaboration
- 2) From indifference to active participation
- 3) From shouting to making your voice heard
- 4) From isolated effects to united efforts

He then stressed the importance of networking in advocacy efforts. Indeed, he noted that when civil society actors work together, it leads governments to see that many are standing together and rallying around a certain cause. Furthermore, he advised organizations to be realistic about resources, to adopt SMART analyses of issues, and to develop clear action plans. He then went on to discuss campaign messaging and media tactics. Here, he emphasized the importance of sending loud and clear messages, further specifying that messages ought to be clear, concise, concrete, complete, communicable and relevant to the target audience. Furthermore, he highlighted the importance of identifying potential support groups and of using different media sources, including print sources, the internet and even cell-phones.

Mr. Vas also identified certain risks involved in advocacy. Indeed, he acknowledged that NGOs may become the target of attacks from opposing forces. He also pointed out that campaigns may also encounter problems, as their efforts sometimes require more resources than anticipated. In addition, even when NGOs attempt to maintain non-

partisanship in their advocacy efforts, negative perceptions may also develop regarding NGOs political affiliations. Over time, NGOs may also find that former target groups are no longer friendly, as misunderstandings can lead to fall-outs and the loss of support from former coalition partners. Furthermore, failed strategy may lead to demoralization, as crises may breed anxiety and, in turn, despair.

However, he also pointed out that there are many benefits involved in advocacy as well. Successful campaigns may bring about public recognition, and NGOs may become popular over time. There may also be a great deal of satisfaction derived from achieving a desired policy change and from witnessing the positive impact of such policies. NGOs may also find solidarity in becoming part of a larger group, coalition, or network. Finally, they may also be able to exert a positive influence on governments and donors.

With this in mind, Mr. Vas concluded the session by enumerating ten elements of an advocacy strategy. Essential components included:

- 1) Stating the problem- for instance, obtaining access to right to information
- 2) Developing a set of goals and objectives
- 3) Identifying target audiences
- 4) Identifying other affected groups
- 5) Formulating advocacy message and identifying media outlets
- 6) Preparing a plan of action and a schedule of activities
- 7) Identifying resource requirements: human, organizational, and financial
- 8) Enlisting support from other key players
- 9) Monitoring and establishing evaluation criteria
- 10) Assessing success and determining the next step

In closing, Mr. Vas distributed an institutional credibility and legitimacy check-list to participants. A question and answer session ensued, whereby participants sought suggestions regarding how to decrease the risks involved in advocacy work. Mr. Vas responded that the measures undertaken would likely depend on the situation and context in which each person worked. Participants also sought further clarification as to whether or not recommendations were incorporated in to the Public Affairs Centre's citizen report cards. In response, Mr. Vas assured participants that recommendations are indeed provided and that open houses are held for agencies and civil society members as a means of facilitating discussion.

Group Presentations

Following the morning break, participants divided into country-based teams for the group work segment and reconvened to present their right to information advocacy strategies.

To begin, the Bangladeshi team proposed that they would begin their right to information campaign by defining the problem at hand. They would rely on a wide variety of tools, including meetings, dialogue, seminars, workshops, round table

discussions and press releases. Support would most likely be drawn from donors and like-minded organizations, while they predicted opposition from politicians, bureaucrats and multinational companies. Furthermore, they envisioned making use of numerous local resources, including local expertise and record system. Questions and discussion ensued following Bangladesh's presentation. Some questioned what team members meant by defining the problem, especially in light of the fact that Bangladesh has not yet enacted a right to information act. Others felt that team members should consider specifying a group of politicians among the opposed, as certain politicians could be allies. Cyril Vas also suggested that street theater could also be a valuable tool in their campaign.

The Nepali team also envisioned a strategy based on a collaborative approach with like-minded organizations. They planned to begin by holding consultations with line agencies and stakeholders. Moreover, theirs would be a united effort, involving considerable networking, active member participation and delegation of tasks. Numerous tools would also be utilized over the course of their campaign. Media advocacy would be undertaken, using both electronic and print forms, such as press releases and news coverage. Demonstrations would also figure prominently, as rallies, street theater and cultural programs would be held. Team members would also conduct sensitivity trainings, workshops and group discussions, while also lobbying extensively with politicians. They anticipated that support would come from NGOs, INGOs, trade unions and the public at large. However, they also predicted opposition from members of the ruling party, as well as from bureaucrats, certain politicians and members of the private. Local resources would figure prominently in their campaign, as they would draw upon financial and human resources, as well as the services of local artists and musicians. Discussion again ensued. Here, Ms. Sabine Benzing-Balzer cautioned against assuming that the private sector would necessarily oppose them, as certain private organizations could use the right to information as a tool as well. Mr. Venkatesh Nayak also drew a distinction between privacy and the private sector, right to information provisions only apply to individuals in the public context.

The group work segment ended with a brain teaser, provided courtesy of Cyril Vas. Drawing "IX" on the board, Mr. Vas asked participants what they saw and then asked them how they could derive "6" from those two symbols. After some speculation, Mr. Vas replied that one need only write an "S" in front of the other two letters. He went on to explain that this exercise was meant to demonstrate that we often have different answers for similar realities. Furthermore, he claimed that this task also illustrated how seemingly insurmountable problems can often have very simple solutions. Mr. Vas then engaged participants in a closed fist game and divided them into two groups, each with a task to perform in one minute. While one group was asked to raise their right hand and clench their fists, the second was instructed to try to open their fists. When the time had elapsed, Mr. Vas asked group members what tactics they had used to get their partners to open their fist. Five responded that they had used force, one attempted negotiation before resorting to force, and one tickled their partner. In sum, Mr. Vas noted that we instinctively use force to achieve our ends. However, he asserted that advocacy cannot always be instinctive and that we must instead aim to be strategic.

Session 6- Strategic Litigation on Right to Information

To conclude the first day of workshops, Sabine Benzing-Balzer of the Public Affairs Centre facilitated a session aiming to present strategic litigation and elaborate upon its' potential application in Right to Information advocacy. Ms. Benzing-Balzer began by demystifying strategic litigation, defining it as a technique of public interest litigation in which the court system is used to achieve policy reform, legal reform and social change through test cases. In essence, she asserted, strategic litigation is smart litigation, for it has the potential to create lasting effects far beyond individual cases. The distinction between public interest litigation and strategic litigation was also further clarified. Here, Ms. Benzing-Balzer explained that public interest litigation involves litigation in the interest of the public good, while strategic litigation is a means of undertaking public interest litigation.

With this in mind, Ms. Benzing-Balzer proceeded to enumerate the objectives of strategic litigation. First of all, she asserted that strategic litigation may be undertaken to bring about legal reform and to support the rule of law. This may take several forms such as, for instance, upholding human rights standards by identifying gaps in domestic legislation. Furthermore, strategic litigation may also be used to stabilize or to clarify a country's legal system. Strategic litigation may also permit ethnic minorities and other minorities to document insitutional injustices. As frequent targets of discrimination in Turkey, she noted that the Kurds have used this method quite frequently in bringing cases before the European Court. Moreover, strategic litigation may also serve to educate members of the judiciary and the legal profession. She also pointed out that it may also foster policy reform. In such instances, strategic litigation may serve to foster political discussion, to engender a change in the culture of the civil service, and to promote government accountability. Finally, she maintained that strategic litigation may also be an indispensable tool in promoting social change by raising awareness regarding the right to information and by empowering marginalized groups.

Following her discussion of the objectives of strategic litigation, Ms. Benzing-Balzer further outlined the objectives of strategic litigation in a right to information advocacy context. In her opinion, there are three scenarios to consider when undertaking strategic litigation in a Right to Information context. First of all, strategic litigation may be a useful tool in cases where states have a constitutional provision covering Right to Information, but no procedural Right to Information law. In such instances, strategic litigation may be used to identify cases falling within the desired scope and to develop litigation strategies to demonstrate the necessity for an additional procedural right. Strategic litigation may also be effective in situations where states have enacted Right to Information laws in an incomplete manner. Here, it may be paramount to develop strategies to force legislation in uncovered areas. She cited the possibility of forcing whistleblower protection legislation as an example, whereby strategic litigation could be used to argue for the need for a provision providing additional protection to those who speak out against corruption. Finally, she highlighted the potential application of strategic litigation in

instances where states have enacted Right to Information laws in a manner that does not assure legal certainty.

According to Ms. Benzing-Balzer, there are numerous advantages involved in utilizing strategic litigation. Indeed, she noted that a single case may have extensive political and legal effects. Strategic litigation may also serve to establish a legal precedent that benefits future claimants and may broaden access to justice. Moreover, she emphasized that strategic litigation may test and clarify the content of existing laws, thereby further promoting accountability. Finally, she claimed that strategic litigation may also serve as a cost-effective way to raise an issue, especially where class action suits may be concerned. However, Ms. Benzing-Balzer also highlighted several disadvantages involved in relying upon strategic litigation. Indeed, she noted that advocates must go through an extensive number of cases. She also contended that strategic litigation involves considerable risks. Here, she pointed out that cases may often take years to resolve and that claimants cannot settle out of court. As such, it may not be the best option for individual claimants. Furthermore, she emphasized that strategic litigation cannot assure victory and that negative decisions may potentially reaffirm undesirable policy precedents. Finally, she asserted that strategic litigation may be of limited effectiveness in countries where legal and protection is weak.

Having discussed the objectives, potential uses, advantages and disadvantages to strategic litigation, Ms. Benzing-Balzer then turned towards the practicalities of using strategic litigation as a tool in Right to Information advocacy. To begin, she outlined how case selection is undertaken by NGOs and public interest organizations. Here, she emphasized the importance of setting priorities in terms of which groups and issues to address, as well as of defining issues for strategic litigation. For instance, advocates could focus their attention upon ensuring compliance with international standards, or could instead opt to promote the clarification, enforcement and application of existing laws. Having clearly defined their objectives, NGOs or public interest organizations then advertise for and select cases to advance their goals. Typically, this is accomplished by searching for cases that have already begun and by working through referral services. She then proceeded to outline factors that must be considered when deciding when to bring a strategic litigation case. Indeed, she advised advocates to evaluate the resources at their disposal, as the services of external lawyers may be needed. It may also be important to select a complainant with standing in the courts, as NGOs may not be able to bring cases of human rights violations forward in certain jurisdictions. Furthermore, she emphasized the importance of ensuring that good external support is available to assist with aspects such as research and the preparation of amicus briefs. She also briefly touched upon which parties ought to be involved in the strategic litigation process. In addition to the courts and defendants, she also maintained that claimants ought to be backed by a team consisting of NGOs, amicus curae, and legal experts.

Ms. Benzing-Balzer then turned to the subject of strategic litigation planning. Here, she asserted that NGOs and public interest organizations should begin by defining their litigation goals. More specifically, they should clearly define the type of problem they are

seeking to address, select the proper jurisdiction, and choose the right defendant. Maintaining links and collaborating with other NGOs was also set forth as an integral part of this process. Ms. Benzing-Balzer next outlined the process involved in selecting the proper jurisdiction, highlighting the following criteria as important considerations:

- **Rules Governing Jurisdiction**

Ms. Benzing-Balzer stressed the importance of determining whether national or international law permits a complaint to be brought before the chosen forum

- **Assessment of Potential Impact**

It is important to consider whether success will have a widespread effect or limited local impact.

- **Precedents and Previous Decisions**

Ms. Benzing-Balzer also highlighted the need to evaluate each court's record, taking into account whether or not previous decisions indicate a favourable disposition.

- **Applicable Laws**

Determining which laws or standards are to be applied is also an essential component of selecting the proper jurisdiction, and it is important to determine whether international law can be used in domestic proceedings.

- **Choice of Remedies**

Ms. Benzing-Balzer drew a distinction between criminal and civil actions, emphasizing the differences existing between the two.

- **Procedural Criteria**

Finally, she outlined certain procedural criteria to be considered:

- Legal costs
- Time limits
- Rules of standing
- Rules of evidence, notably the burden of proof.

Ms. Benzing-Balzer also elaborated upon important considerations in choosing a defendant. From her perspective, defendants ought to be selected based on the substance of laws, on procedural requirements, on the likelihood of success and on potential impact. In practice, however, she noted that defendants are usually governments, since only states can be held responsible for human rights violations. She also stressed the importance of developing litigation support through various channels and enumerated several of them. First of all, she identified other NGOs as a potential source of litigation support. She also suggested that advocates enlist the support of other organizations in obtaining amicus briefs, documents drafted by other NGOs that explore laws and the nature of the problem at hand. Advocates should also draw upon expert knowledge and research when bringing forward strategic litigations cases, she

maintained, while also acknowledging the valuable role played by national human rights institutions. Finally, she also encouraged advocates to seek publicity and public support, listing media sources and politicians as valuable targets.

She then proceeded to stress the importance of post-litigation implementation. Indeed, she emphasized that the impact of any strategic litigation victory is heavily dependent upon the follow-up strategy adopted. With this in mind, she listed several forms that a strategy could take, including national advocacy campaigns, international advocacy campaigns, and publishing country-specific or issue-specific reports.

To further illustrate the potential effectiveness of strategic litigation with respect to right to information advocacy, Ms. Benzing-Balzer presented the case of Marcel Claude Reyes et al. vs. Chile at the International American Court of Human Rights. Here, Marcel Claude Reyes brought the case to court in 1998 after their request for information regarding a logging project was denied. They received a favorable decision on October 19, 2006, where the court ruled that the right to information had been established under Article 19 of the Chilean constitution. Moreover, the court requested that a legal mechanism and a Right to Information Act be established by the Chilean government, further specifying that the burden of proof would lie with the government and not with the claimant. Finally, the court ordered right to information training for civil servants and government employees.

A question and answer session then followed, and Ms. Benzing-Balzer fielded questions regarding the role played by strategic litigation in advocacy efforts. When asked about the distinction between strategic and public interest litigation, she further clarified that strategic litigation consists of a tool used for bringing forward public interest litigation.

Day 4- Wednesday 21 March 2007

Session 7- The Way Forward in Nepal and Bangladesh

The final day of the workshop began with a brief survey of Nepali and Bangladeshi political history conducted by Mr. Cyril Vas. To begin, Mr. Vas started by summarizing political developments in Nepal, noting that the acquisition of political power has typically been seen as divorced from the needs of the people. Furthermore, though he noted Nepal's positive struggle for democracy, Mr. Vas asserted that efforts for reform have always been hampered by monarchical rule and royal patronage.

In his overview of the political context in Bangladesh, Mr. Vas also documented a strong history of struggle and loss in Bangladesh's fight for democracy. Hence, he noted the existence of marginalized majority at the mercy of state, transitional players and big business entities. Furthermore, Mr. Vas also spoke of the gap between the people and their representatives, as well as of greed on the part of local political parties, whose frequent strikes tend to paralyze the nation. Finally, he elaborated on the manner in which patterns of unstable governance have devastated the capacity of NGOs and civil society actors to make headway. Moreover, he also contended that development strategies have been designed and implemented in a closed environment between government and donors, thereby further limiting civil society input. Some discussion ensued regarding civil society participation. Here, certain participants noted that Mr. Vas' propositions are accurate in the case of big dams and other infrastructure projects. However, several pointed out that the Bangladeshi government does selectively consult with certain civil society actors when developing budgets.

Participants also discussed the difference between India and Bangladesh, with Mr. Venkatesh Nayak noting that district level governance is strengthening India, thereby permitting greater inclusivity in the decision making process.

Mr. Vas then proceeded to outline potential avenues for advocacy efforts with respect to Right to Information issues in Nepal and Bangladesh. First of all, where Nepal is concerned, Mr. Vas proposed measures aimed at energizing existing legislation. To begin, he highlighted weaknesses in Nepal's Right to Information Bill 2063, proposing that its overly broad region of exceptions should be eliminated. He further outlined the need for vision, as well as sustained orientation and training for stakeholders.

In the case of Bangladesh, Mr. Vas stressed the need to build a mass movement. Here, he quoted Thomas Carlyle in stating "the greatest tragedy is not how we have struggled but what we have missed" and emphasized the need to persevere in the fight for human rights. To this end, he proposed ongoing vigilance in monitoring the situation, as well as sustained efforts to continually gather civil society support. Furthermore, he suggested a change in advocacy tactics whereby Right to Information issues could be incorporated into broader human rights campaigns. Finally, he advocated that these efforts should be catalyzed quickly in order to produce a snowball effect.

In closing, Mr. Vas highlighted the need for further collaboration and networking between NGOs and civil society groups regarding Right to Information issues. This was articulated through two statements, namely "Build Bridges for a Brighter Bangladesh" and "Network Now for a New Nepal". Indeed, Mr. Vas emphasized the need for groups to work together in generating solutions, claiming that we can learn a great deal through sharing ideas and exchanging information about our respective initiatives. The workshop ended on a hopeful note, As Mr. Vas called for a global partnership for development. He asserted that, when we change perspective and collaborate in the name of development, things will change for the better.

Group Work and Presentations

Following the conclusion of the workshop at 9:45 am, participants divided themselves into country-based groups to devise a concrete action plan outlining advocacy effects relating to Right to Information issues over the next six months. Participants reconvened at 10:45 am after one hour of group discussions, and presentations began.

The strategic action plan devised by the Nepali team envisioned campaign activities classified on a monthly basis. Action was scheduled to commence in April, beginning with an RTI training and a stakeholders' meeting aiming to create a network and memorandum of understanding. Network members would also be called to meet in May for a consultative session regarding the RTI bill draft. Work would focus upon identifying loop holes in the draft, reaching consensus regarding which provisions to strengthen, producing a draft amendment and generating recommendations for future advocacy efforts. Following a subsequent meeting in June to finalise the RTI draft, team members anticipated that media advocacy efforts would begin in July. They envisioned disseminating the RTI draft among stakeholders prior to undertaking a vibrant media campaign. August would see another network member meeting aimed at planning awareness activities. The draft would again be distributed among stakeholders, and workshops trainings would be organized to create a greater level of awareness and clarity. Finally, in September, network members would hold a sensitisation workshop with parliamentarians and lobby regarding the importance of RTI. As a result, representatives would then be in a better position to table comprehensive legislation in Parliament.

Following the presentation of Nepal's strategic action plan, considerable ensured. When asked where funds would be derived, Ms. Sangita Nirola of SWATI replied that funds would be drawn from the advocacy budgets of each participatory NGO until a separate budget could be generated. Certain audience members also expressed concern that Nepal's plan may perhaps have been too ambitious, with too many programs and activities scheduled. Here, Ms. Nirola acknowledged that, although a draft already exists, it still requires further analysis and modification on all levels. However, she countered that many NGOs will be involved and tasks will be shared among many participants. Ms. Fatima also suggested that the coalition may need an anchor organization to oversee the network and maintain momentum. Again, Ms. Nirola pointed out that another organization, the Freedom Forum, has been involved in work on the

draft for some time. Though they did not participate in the RTI conference, Ms. Nirola assured participants that they will be consulted and may be interested in anchoring the network.

As the question period drew to a close, Bangladesh proceeded to present their strategic action plan. Over the course of six months, they forecasted a wide variety of activities. To begin, team members envisioned that forming alliances and reviewing existing laws would encompass much of their initial campaign efforts. Work would next center around preparing IEC materials before consultations and media advocacy, both in print and electronic sources, would begin. Finally, team members also proposed fundraising activities in order to generate income to support their campaign efforts. It was their hope that these activities would create an enabling environment and sensitize the supply side regarding the need for more comprehensive Right to Information legislation. Furthermore, they also emphasized that such activities would better enable them to collect materials and disseminate information. Finally, the Bangladesh team presented a timeline for their activities, anticipating that activities could be conducted in the space of one month, while the process of reviewing laws would constitute an ongoing process.

Feedback and Evaluation

Following group presentations and discussions, Cyril Vas stressed the need for ongoing organizational commitment to RTI advocacy. Furthermore, he also requested workshop feedback and suggestions regarding potential avenues for improvement.

Speaking on behalf of the participants, Ms. Fatima Yousuf from the Center for Policy Dialogue thanked all of the organizers for facilitating conference on a highly important subject area and for selecting a diverse, informative and appropriate group of workshops. She also emphasized that the focus on advocacy tactics was immensely helpful, and that the videos and practical activities were very effective in putting such information into perspective. In addition, many also felt that the conference provided an excellent forum for networking. Indeed, many Bangladeshi participants concurred that they did not know each other and were unaware of each others' projects prior to the conference. Several participants stated that they had also become more knowledgeable of electronic tools that may assist them in their endeavors. However, some concerns were voiced regarding the distribution of sessions. Many felt that the first day was a little too heavy and that information could have been better absorbed had it been more evenly distributed over the remaining two days.

Cyril Vas was thanked all participants for sharing their ideas and experiences. He offered particular thanks to the Commonwealth Human Rights Initiative for their highly informative contribution to the workshops and to TI Nepal for organizing meeting logistics so thoroughly. Special thanks were extended to Mr. Ashish Thapa and Mr. Jagan Nath Bhattarai for their tireless efforts on the ground to ensure the every thing ran smoothly. To conclude, Mr. Vas stressed that we are all part of a global village and, as human rights activists, it's important to stay connected as we continue to struggle for human rights in our region. In closing, he summarized three elements of our struggle,

notably confidence, trust and hope. He stressed that it is essential to maintain a positive outlook and that hope can grant as the strength to plan and persevere in the face of adversity.

Annexes

Annex 1- Workshop Agenda

Day 1- Sunday, 18 March, 2007

- | | |
|--------------|---|
| 13:00- 18:00 | Participants' arrival/registration |
| 18:30- 20:00 | Session 1- Welcome and Introduction <ul style="list-style-type: none">• Short round of introduction of participants• Introduction of Transparency International/ Commonwealth Human Rights Initiative/ Public Affairs Centre• Introduction of project and goals of the training programme |
| 20:30 | Dinner |

Day 2- Monday, 19 March, 2007

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|-------------|---|
| 09:00-10:00 | Session 2- The Right to Information as a Human Right

Topics Covered <ul style="list-style-type: none">• The international human rights system- an overview• The role of the right to information in the international human rights system
Resource Person
Sabine Benzing-Balzer, Public Affairs Centre |
| 10:00-10:30 | Comments and Questions |
| 10:30-10:45 | Refreshment Break |
| 10:45-12:30 | Session 3- The Right to Information as a Tool for Good Governance and Against Corruption

Topics Covered <ul style="list-style-type: none">• The right to information as a tool for good governance and against corruption- an introduction• Best practice case studies• Video presentation
Resource Person
R.K Regmee, Transparency International Nepal |
| 12:30-13:00 | Comments and Questions |

13:00-14:00	Lunch Break
14:00-15:30	Session 4- The Ideal Right to Information Law Topics Covered <ul style="list-style-type: none"> • Key elements of an effective right to information law • Best practice examples and model laws Resource Person Venkatesh Nayak, Commonwealth Human Rights Initiative
15:30-15:45	Refreshment Break
15:45-17:30	Session 4- The Ideal Right to Information Law- continued
17:30-18:30	Group Work: SWOT Analysis of the Draft Laws in Nepal and Bangladesh

Day 3- Tuesday, 20 March, 2007

08:30-08:45	Participants' Review of Day 2
08:45-9:45	Session 5-Advocacy for the Right to Information Topics Covered <ul style="list-style-type: none"> • Methodology- the art of advocacy • Some tips for effective advocacy • Doing advocacy for the right to information Resource Person Cyril W. Vas, Public Affairs Centre
09:45-10:15	Comments and Questions
10:15-10:30	Refreshment Break
10:30-12:00	Group Work on Advocacy/ Group Presentations
12:00-13:00	Session 6- Strategic Litigation on Right to Information Topics Covered <ul style="list-style-type: none"> • Strategic Litigation- An Introduction • Doing strategic litigation in the field of the right to information/ case studies

Resource Person

Sabine Benzing-Balzer, Public Affairs Centre

13:00-14:00

Lunch Break

From 14:00

Participants Depart

Day 4- Wednesday, 21 March, 2007

09:00-09:30

Participants' Review of Day 3

09:30-11:00

Session 7- The Way Forward in Nepal and Bangladesh

Topics Covered

Some strategic thinking on right to information initiatives in Nepal and Bangladesh

Resource Person

Cyril W. Vas

11:00-11:15

Refreshment Break

11:15-13:00

Feedback and Evaluation

13:00-14:00

Lunch Break

From 14:00

Participants depart

Annex 2- List of Participants

Participants from Bangladesh:

Ms. Nasreen Ara Begum, BNNRC

Mr. A. S. M. Nasiruddin Elan, Odhikar

Mr. Fahreen Alamgir, TI Bangladesh

Mr. Mohammed Imam Uddin, TI Bangladesh

Ms. Anisatul Fatema Yousuf, Centre for Policy Dialogue

Mr Sanjida Sobhan, Manusher Jonno Foundation

Mr. Jafrul Hassan Sharif, Manusher Jonno Foundation,

Ms. Kohinoor Begum, Bangladesh National Women Lawyers Association

Ms. Abu Obaidur Ramman

Ms. Ain O Salish Kendra, ASK

Participants from Nepal:

Mr. Pranav Bhattarai, Pro Public-Kathmandu

Mr. Lal Hari Pandey, TI Nepal-Butwal

Ms. Neela Ghimre, TI Nepal Support Group- Janakpur

Mr. Ang Chhiring Sherpa, Federation of Nepalese Journalists

Mr. Krishna Bhandarai, Research and Media Against Corruption

Ms. Sangita Nirola, SWATI

Ms. Anita Basnet, TI Nepal Professional Women Support Group-Kathmandu

Ms. Ranjana Sarkar, Jagrit Nepal

Mr. Dinanath Bhattarai, TI Nepal