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Access To Information And Participation In Communication

By

S P Amarasingam
MEDIA WORKSHOP ON COMMUNICATION CHALLENGES IN SRI LANKA

Organised by

AMIC/WACC/SLFI/SLTTI

ACCESS TO INFORMATION AND PARTICIPATION IN COMMUNICATION

By

Mr. S.P. Amarasingam
Editor
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ACCESS TO INFORMATION AND
PARTICIPATION IN COMMUNICATION

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INTRODUCTORY:

This workshop is part of a Seminar on "Communication Values in Asia" focussing attention on the concepts and recommendations of the Macbride Report on The New World Information and Communication Order.

What the Macbride Commission suggested and which was endorsed by UNESCO is said to be now "in danger of being submerged in the struggle for political interpretation of The New Information Order".

These seminars have been organised for "the purpose of propagating the values which are inherent in the concept of the New World Information and Communication Order, especially in the Asian context, by propagating these values and concepts among communicators, academies and politicians in Asia" and also by initiating discussions with Training Institutions on "how these values and concepts may be incorporated more surely in communications curricula".

These seminars and Workshops are being organised on eight topics viz:

1. Diversity of sources and outlets. 2. Plurality of sources and outlets. 3. Cultural Integrity. 4. Free balanced flow of information and communication. 5. Access to information. 6. Participation in communication. 7. The Autonomy of journalists from political or commercial pressures. 8. Empathy and responsibility in news reporting.
The subject of this paper centres around items 5 & 6 i.e. Access To Information and Participation in Communication. They have been aptly combined because they are really the two sides of the same coin.

The Macbride Report made in all 82 specific recommendations which covered every aspect of Information and Communications.

In this paper I am concerned with two matters which, in many ways, constitute the central and catalytic components of both Information and Communication.

ON TERMINOLOGY

The international information and communication scene is today, in many ways, a labyrinthian maze, with a bewildering and ever-growing vocabulary of new terms, new meanings, new values and new concepts for everything old. Technological sophistication has added complexities to a scenario which can only be compared to the Wonderland in which Alice found herself.

I have been practicing and professional journalist for just over 50 years working in and writing for a variety of newspapers, periodicals and publications. In this period, somewhere along the line, I suddenly found that I had been vocationally re-classified - without changing my occupation or otherwise lifting a finger. After years of being a member of the "press", I had been recycled into "the media". Why this happened I am not certain, but suddenly I discovered that "media" was the key.

Pondering on the words sudden arrival in the linguistic mainstream, I soon awoke to the fact that the word "media" had invaded every sector of news, publicity and journalistic activity. Every advertising agency now has a department called "media". Its functions, I am told, is to analyse and recommend alternative outlets for advertising. What is more is that not merely the Government but every Ministry and often every department has a "Media Centre" or "Media Unit". These centres and units deal with the "print media" the "electronic media" and of course "the public".
One thing has puzzled me. In school and in other scholastic institutions where I spent my youth, I was taught that the plural of "medium" was "media". But in usage today the word is dealt as a singular. It is now "media is.....", or "The media has....."

Even language purists, who had carried on a campaign against what they called ersatz English have given up the fight and have conceded victory to the so-called permissive linguists and the language guerillas who have succeeded in creating a new jargon and a new vocabulary in all matters connected with information and communication and also in practically every field of human activity.

Such jargon, now adopted even by the learned copy-writers of august bodies like UNESCO, is not my forte. This paper will. Therefore, be couched in old-fashioned terminology and I should be forgiven for not making this presentation in the lingo of the brave new world of today in the style and idiom of development romantics who see what they call an "interaction" in every aspect of human activity.

I am making this rather apologetic beginning because I do not want to be accused of ignoring the jargon of the day which academics and professionals who specialise in seminars, symposiums and workshops use with great facility. As I said I am only now in the kindergarten of the new world jargon and this paper is constructed with the terminology I know, conscious of the fact that the showpieces of the day, the "media centres" may suddenly emerge as "Informatics Centres".

OBJECTIVE

The objective of this paper is to examine the current concepts first of "access to information" and second of "participating in communication" in the context in the present-day socio-economic, cultural and political scenario of Sri Lanka. I do not propose to dwell in any detail on the contemporary scene in the island and it would be adequate for a paper of this
kind to make only such references as are necessary to explain certain facts.

DEFINITIONS

The term "access to information" and "Participation in communication" are probably well understood by participants of workshops of this kind. They are among the more popular catchword jargon spawned in this so-called age of Information by communication experts who are proliferating in number and variety with each passing year.

Access to information As I understand it, the term "access to information" is a two-way operation: First the right of journalists and others to obtain information for publication (or to suppress it, slant it, or twist it, as they think fit). It can also be information which they cannot publish or make available to the public because of the lack of a medium willing or able to present it.

The second aspect of the term "access to information" is the opportunity to people, readers, listeners, viewers - to have access to such information as well help them to acquire knowledge on all matters in which they are interested. The mass media do not publish "all the news fit to print" and often some of the most important items of information are tucked away in governmental publications circulated only in select circles, or in departmental bulletins which nobody ever reads. For ordinary people to have access to information it must be made available in the mass media - print and electronic.

Participation in Communication As I see it, the term "participation in communication" is the opportunity to propagate information together with views, comments, and observations a person may have on any subject to the rest of the community.
It has been pointed out that what is often lacking in Third World countries is peoples’ participation in development planning and administration - which calls for people participating in decision-making as well as in actual implementation of development programmes. Without people’s participation, at every possible level, communication will be meaningless. And without communication on the widest possible scale there can be no meaningful "participation". It is communication which generates the power that moves peoples into action. Whichever way one look at it, "PARTICIPATION" in the most embryonic or elemental form is "communication".

I have now lapsed into the communication jargon, but in simple language, what both terms - "access to information" and "participation in communication" mean is nothing more than a concrete way of giving flesh and body (and even a soul) to the Macbrideian concept that should be able to exercise the fundamental freedom of expression and communication without the constraints which have inhibited them so far.

IN SRI LANKA

The main purpose of this study is to find out how far ordinary people in Sri Lanka have free access to information and/or are able to exercise their rights to full participation in communication.

One way to ascertain how these rights have been exercised is to see how the mass media and other publications have been able to function. Together with this it is necessary to evaluate the depth and extent of the democratic participation in local and national developmental planning and in decision-making in the administration.

Sri Lanka, with its high rate of literacy, is one of the developing countries where the freedom of expression is guaranteed in the Constitution(1978). The fact that there are a very large number of publications - daily, weekly, fort-nightly, monthly, bi-monthly, quarterly, and occasionally from Governmental, semi-governmental and private sources is an indication that access to information and participation in communication is available in this Country. Not many are aware that there is a lively and
and a highly articulate press in this country. Many persons, overwhelmed by the periods of censorship from 1956 up to date, have declared that access to information and participation in communication are virtually non-existent in Sri Lanka. This is incorrect.

The impact of censorship on the public in the period 1956 to 1986 is a subject that merits special study. In Sri Lanka censorship has proved to be a futile exercise. News travel fast on the local grape-vine and censorship only undermined the Government's credibility. In this age of global information, with direct dialing telephones and satellite news coverage, censorship in Sri Lanka proved self defeating.

For nearly a year now, there is no official censorship in spite of the Emergency and the fighting in the North and the East. The Government, at first, had tried to "manage the press" in a way to suit its propaganda needs, but this proved to be a fiasco. Then it activated the long defunct news-agency Lankapuwath, but this outfit was not able to delivery the goods. Finally, it has taken refuge in a new Media Centre but it has so far not been able to pull any governmental chestnuts out of the fire.

The media in Sri Lanka presents an interesting picture. They cover every point of view. Although the news and views of the smaller (often Party) papers do not have the immediate coverage of the large paper, the information they provide filters slowly to the entire population by word of mouth.

The Government in Sri Lanka is the largest communicator. It owns and runs the largest news paper publishing organisation Lake House. It runs the radio and television. Its Media Centre Lankapuwath and other agencies like the Department of Information flood the country with what they regard as information. Then institutions like the Central Bank, the Agrarian Research and Training Institute, Department of Plan Implementation, Finance
Ministry's Planning Department, the Prime Minister's Gas Udawa Media Centre and a whole host of Government "media centres" regularly issue books, pamphlets, bulletins, periodicals and the like. Most of these publications come in the three languages. The information and communication from the Government is massive, but their opinion-making potentiality is limited.

There are three non-Governmental publishing houses in Colombo - one of them the Gunasena group, publish daily papers in the three languages, the second, the Upali group, publishes daily papers in two languages and the third Virakarsari publishes a Tamil Daily. Though these paper groups are nominally "independent" they are part of the Government Establishment (whichever party is in power). In addition to all these, the leading Opposition Parties (the SLFP, the CP, the SLMP) publish daily papers in Sinhala. The LSSP and other parties have weekly or monthly papers. Even the "banned" JVP has a paper. Many trade unions issue bulletins.

In Jaffna there are now three daily papers in Tamil. The Saturday Review, an English, weekly, published in Jaffna reflects the views of the militants and the terrorists groups. It has shown rare courage and steadfastness in publishing what is "suppressed" or "slanted" in other papers.

If one has the time and the patience to go through all these publications in the three languages, it will be seen that nothing - especially political matters - can be kept "secret" in this country. The papers of the Opposition parties lay bare the darkest secrets of the Government and the ruling party. Regarding the news on the ethnic front very little escapes the attention of the weekly (English) Saturday Review and the Tamil dailies from Jaffna, Eelanadu and Eelamurasu.

The large number of libel cases filed against daily papers, specially those of the Opposition Parties, the number of complaints lodged with the Press Council and the number of times the question of a breach of privilege is taken up in Parliament in
regard to reports in papers is a clear indication that many papers in Sri Lanka discharges their functions with aggressive fearlessness. It must be stressed that it is wrong to judge, as many people do, the press of this country from the papers published by the big newspaper groups. These papers generally portray the Establishment point of view, but the daily, weekly and other publications of the political parties, trade unions and independent organisations project a totally different picture of events, developments and personalities in the country.

In this connection I cannot do better than cite a passage from the judgement in the New York Times Pentagon Papers Case. In the course of his judgement Judge Murray I Gurfein said:

"A cantankerous press, an obstinate press, an ubiquitous press must be suffered by those in authority in order to preserve the even greater values of freedom of expression and the rights of the people to know. In the last analysis it is not merely the opinion of the editorial writer or of the columnist which is protected by the First Amendment. It is the free flow of information so that the public will be informed about the government and its actions."

I have cited this passage not only to show the virtues and validity of a "cantankerous" and "Obstinate" press but also to show that the new-fangled concepts of "access to information" and "participation in communication" revolve on the age-old fundamentals enshrined in article 14 (1) (a) the Constitution of the Democratic Socialist Republic of Sri Lanka which reads that every citizen is entitled to "the freedom of speech and expression including publication .......

RIGHT TO INFORMATION

It will be seen that article 14 (1) (q) of the Constitution gives to every citizen a fundamental right described as freedom of speech and expression. The state is bound to respect this fundamental right and cannot act to defeat it. It is clear that the right to express one's thought is meaningless if it is not accompanied by a related right to secure all information on matters of public
concern from relevant public authorities. A citizen can usefully exercise his right to criticise, comment, to approve policies or even form an intelligent opinion on them, as is expected of him in a participative democracy only if there is freedom of information as ancillary to the freedom of expression.

To my mind, not merely a leader of Opposition but every Sri Lankan citizen has the right to demand of the State and other public bodies to grant, and never to withhold, information on public matters. Even the doctrine of privilege and secrecy has been exploded by the Indian Supreme Court in what is known as the "Judges Case (AIR 1982 Supreme Court 149) where confidential correspondence between the Chief Justice and the Law Minister were directed to be divulged.

When matters of public moment demanding citizen activists' assent or dissent or mobilising effort need to be illuminated by materials in the custody of public authorities, the only way democracy can become functional and rights become real is by responsive recognition of every citizen's access to every information and furnishing of such information, except top secrets, reasonably classified as such which it may be dangerous to disclose from the point of view of State security and the like. Informational justice has a constitutional basis. I regard legislation on the right to information a vital weapon of the citizen against abuse of power. Indeed, even public interest litigation, which is regarded an indispensable for realisation of social justice can be nullified if meaningful right to information is, philistine fashion, negatived. Public causes seeking judicial remedies cannot be effectively agitated unless there is free feedback from public agencies of official information in Government's possession. Open government, a democratic value, implies open sesame for all citizens in serious search of State-held secrets. In many democratic societies such legislation exists and in Sri Lanka this constitutionally implied.

It must be stressed that Freedom of expression, to be purposive postulates more than idle prattle. Speech is sterile it is signifies nothing and is fertile if it informs and educates. Said William Benton, US delegate to the United Nations.
'Everyone should have the right to freedom of thought and expression. This shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers. It follows that the fundamental freedom of expression is more than a paper write only if it can be fertilised by all public sources of information. So it is that I read, as integral to the right of free speech the further right to public information from all public sources. No citizen can be civicly functional in a living democratic order unless all custodians of public sources of information are under a public obligation to furnish to any one who seeks facts bearing on public matters with a corresponding enforceable right of access to all files and documents in case of bureaucratic refusal or apocalyptic plea of confidentiality this demotion of all fundamental freedoms vis-a-vis the right to know has not received sufficient parliamentary, political, press or agitation attention. Candour is more than a virtue it is a necessity. The words of Justice Brandeis are: political wisdom: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best disinfectants; electric light the most efficient policemen. Americans have a strong belief in the healthy effects of publicity, and therefore a strong antipathy to the inherent secretiveness of government departments. One manifestation of this is the refusal of the courts to allow the government, by its mere fiat, to suppress evidence needed by parties to legal proceedings if the government claims that disclosure would be contrary to the public interest, the courts will disallow the claim unless they are satisfied that it is sufficient well founded to justify sacrificing the interests of the litigant-and that is a heavy burden of proof. The United States never accepted the doctrine that the executive was sole judge of the need for secrecy, a doctrine that was followed in Britain until the House of Lords recently reversed itself...."
The Indian Supreme Court in the Judges Case has struck a blow against secrecy in Administration and for open Government. SUCH A matter has not yet come before our Sri Lanka Supreme Court, but in India it has been decided that the State shall not withhold from the litigant and the court any public information needed for public justice save exceptional materials dangerous in public interest to disclose. But even without litigative necessity every Indian must be armed with the right to demand all such information as concerned public interest. In our systems of values, citizen participation in public information is basic. A few excerpts from the judgement (Bhagwati J.) illuminate the Indian advance:

"The demand for openness in the government is based principally on two reasons. It is now widely accepted that democracy does not consist merely in people exercising their franchise once in five years to choose their rulers and, once the vote is cast then retiring in passivity and not taking any interest in the government. Today it is common ground that democracy has more positive content and its orchestration has to be continuous and pervasive. This means inter alia that people should not only cast intelligent and rational votes but should also exercised sound judgement on the conduct of the government and the merits of public policies, so that democracy does not remain merely a sporadic exercise in voting but becomes a continuous process of government - and attitude habit of mine. But this important role people can fulfil in a democracy only if it is an open government where there is full access to information in regard to the functioning of the government......"

GOVERNMENT AND SECRECY

In Sri Lanka, the Government particularly some Ministers, is often anxious to keep matters of public concern "secret". They even use the provisions in the Penal Code about "criminal Libel" to trace (if possible) the source of the leaks when the newspapers refuse or reveal their sources of information) but also to intimidate the papers which had the guts to publish governmental secrets which throw light on hidden corners of the administration's work.
Now, if secrecy were to be observed in the functioning of the government and the process of government were to be kept hidden from public scrutiny, it would tend to promote and encourage oppression, corruption, and misuse or abuse of authority, for it would all be shrouded in the veil of secrecy without any public accountability. But if there is an open government with means of information available to the public, there would be greater exposure of the functioning of government and it would help to assure the people a better and more efficient administration. There can be little doubt that exposure to the public gaze and scrutiny is one of the surest means of achieving a clean and healthy administration. It has been truly said that an open government is a clean government and a powerful safeguard against political and administrative aberration and inefficiency.

The Franks Committee of the United Kingdom also observed to the same effect while pleading for an open government. It said in its report page 12:

"A totalitarian government finds it easy to maintain secrecy. It does not come into the open until it chooses to declare its settled intention and demand support for them. A democratic government, however, though it must compete with these other types of organisation, has a task which is complicated by its obligation to the people. It needs the trust of the government. It cannot use the plea of secrecy to hide from the people its basic aims. On the contrary, it must explain these aims; it must provide the justification for them and give the facts both for and against a selected course of action. Now must such information be provided only at one level and through one means of communication? A government which pursues secret aims, or which operates in greater secrecy than the effective conduct of its proper functions requires, or which turns information services into propaganda agencies, will lose the trust of the people. It will be countered by ill-informed and destructive criticism. Its critics will try to break down all barriers erected to preserve secrecy, and they will disclose all that they can, by whatever means, discover. As a result matters will be revealed when they ought to remain secret in the interest of the nation."
FREEDOM OF INFORMATION

I would like to draw attention to a piece of legislation in the United States about which little is written or spoken in countries where the press have many difficulties to publish what is true. The Freedom of Information Act (USA 1966) obligates every agency to disclose for inspection and copying every public material. Informationally speaking, public bodies have no legal hideouts. To go underground is unconstitutional for government agencies. Alas we are still colonial and follow the British who have no Article 19 although the House of Lords have frowned on suspicious secrecy by echelons in power.

Schwartz and Wade (Legal Control of Government) write on the American Law:

The Freedom of information Act effects a profound change in the position of the citizen vis-a-vis Government. No longer it is the citizen seeking information from an administrative agency a mere suppliant. In signing the new law President Johnson said, with pardonable inaccuracy, that it entitled Americans to all the information that the security of the nation permits". As stated by the Federal Attorney General, the policies behind the 1966 Act are as follows: That disclosure be the general rule, not the exception; that all individuals have equal rights of access; that the burden be on the government to justify the withholding of a document, not on the person who requests it; that individuals improperly denied access in documents have a right to seek injunctive relief in the courts; that there be a change in Government policy and attitude.

The key provisions for attaining these ideals is that....each agency on request for identifiable records made in accordance with public rules stating time, place, fees to the extent authorised by statute and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States...has jurisdiction to enjoining the agency from withholding agency from records and to order the production of any agency records improperly
held from the complaint.

In addition agencies are required to publish details of their organisation, rules and procedures, statements of policy opinions, instructions and other information. This bold legislation is steadily exerting a beneficial influence; it has already made an definite impact on administrative secretiveness. Its utility can scarcely be determined from the court decision alone. In its first year, of twelve cases decided under the Act, four were held in favour of disclosure and eight against. Many of the agencies have however taken steps not apparent in reported cases to implement the spirit of the statute. For example several have established regional reading rooms, staffed with public information specialists, to assist individuals in obtaining access to records in their own localities without the frustration of having to seek information at a long distance. Of the greatest importance is the fact that most requests for information have been settled without resort to the courts. In many cases most of which would never have arisen had the Act not been passed the highest agency official ruled in favour of disclosure and materials were furnished which would not have been made available before Congress stated its strong policy in favour of freedom of information.

Nixon vacated the White House the moment Presidential secrecy was declared illegal.

There is no doubt that "access to information" and "Participation in communication" are to be meaningful. A law similar to US law is necessary. In Sri Lanka, attempts to uncover misuse of power and acts of high corruption are made by establishing special Commissions of Inquiring. Such ad hoc remedies will not be necessary if the press is permitted to function freely.

IN THE ELECTRONIC AGE:

I would like to touch on one more aspect which vitally affects the future of the "access to communication" in Sri Lanka.

The electronic age is upon us. Information and Communication are becoming fully automated. It is a deep conviction of mine that it is only the knowledge of both, the latest results of the burst forward advances of the developed capitalist countries in the field
of information, as well as the internal process within these countries, that will allow the so-called Third World countries and their allies to draw the basic lines of a correct policy in this field.

Further by realising the true dimensions of the technological gap between advanced capitalist and developing countries as well as the tremendous speed at which that gap is widening, there comes out not only the urgency of our duties but also the absolute necessity of a much closer co-operation of developing countries with their allies in the capitalist and socialist world. Within the framework of such co-operation, those in the capitalist countries striving for democratisation of information and a New International Information Order (NIIO) may play a helpful role.

Finally I would like to draw attention to the fact that in recent years considerable attention has been given to the mechanisms by which power is exercised in international communication and information. The subject of control over such related areas is satellite frequencies, wire service output, and broadcast inputs has been at the centre of much international debate. The discussions have emerged from the realisation that the International structures of communication heavily favours the developed countries and perpetuates dependency in the periphery. From the perspective of the Third World, foreign control over "culture" or "consciousness" has implications that transcend those associated with foreign control over the types of industry.

While the international structure of communication have been the subject of much debate, the full dimensions of this field have not been studied. Many aspects of the centre-periphery relationship have gone relatively unnoticed. One of the most important of these is the field of international advertising where transnational penetration is extensive and the implications are alarming.

All these factors have great relevance in regard to the New International Information and Communication Order.