

Role of Right To Information (RTI) in Strengthening our Democracy

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ABSTRACT

The RTI Act in India has proved within a few years to be an effective instrument of empowerment of the citizens. Its potential is more than that of the Lokpal in the making. It is a positive measure and has the power to promote in the elected and appointed “public servants” a strong sense of accountability in their functioning, and encourage citizens to shed their apathy leaving things to their fate and cultivate a strong civic sense. India the largest participatory democratic country is considered as a classical structured citizen- government partnership. The free flow of information from the state to public and vice versa can help to form a democratic society where the citizen could share their required information through discussion, thus the beginning of public sphere in a democratic framework. RTI Act actually helps the citizen to form a transparent and accountable sphere. Social scientists consider that participatory democracy is the base line of participatory development. In this context RTI is abroad and multifaceted approach to get an integrated development in any developing society.

Keywords: RTI, citizen-government partnership, accountability, transparency.

Introduction

Indian Parliament passed the Right to Information Act in 2005, which came into force on 15th June 2005. This enactment sets out its objectives in the Preamble, which aims to promote transparency and accountability in the working of every public office. This Act was incorporated into the Statute book on the premise that informed citizenry and transparency are vital to a vibrant democracy. It also says, “Democracy requires an informed citizenry and transparency of governance which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed. This Act has enabled the common man to seek information. Until now, people have to obey the laws, whereas the government machinery controlled everything. But with the advent of this Act, the Government agencies are under an obligation to obey the law and

the people have got controlling power. Due to this Act, transparency is creeping into governance. Now a citizen can get information. This has paved the way for good governance. Thus, this Act is regarded as a milestone in the history of social legislation to share information to citizens regarding working of the government to make them more transparent as a result of which corruption, could be checkmated to a greater extent. The Right to Information Act thus provides an effective framework for effectuating the right to information, a fundamental right, as enshrined in Article 19 of the Constitution of India.

Right To Information is derived from our fundamental right of expression under Article 19. If we do not have information on how our Government and Public Institutions function, we cannot express any informed opinion on it. This has been accepted by various Supreme Court judgments, since 1977. All of us accept that the freedom of the press is an essential element for a democracy to function. It is worthwhile to understand the

underlying assumption in this well entrenched belief. Why is the freedom of the media considered as one of the essential features for a democracy? Democracy revolves around the basic idea of Citizens being at the center of governance and a rule of the people. We need to define the importance of the concept of freedom of the press from this fundamental premise. It is obvious that the main reason for a free press is to ensure that Citizens are informed. If this is the main reason for the primacy given to the freedom of the press, it clearly flows from this, that the Citizens Right To Know is paramount. Also, since the Government is run on behalf of the people, they are the rightful owners who have a right to be informed directly.

Our capacity as human beings to acquire, use and store information is essential for our survival. At a practical level disasters are avoided, accidents prevented and sustenance provided by our use of information. While information itself is important, our ability to discern the degree of the reliability of the information provided is essential in the exploitation of resources or relationships, or in the exposure of sham. Information in the form of facts constitutes the basis of the order in our lives, of community, regularity and knowledge. Information as a term has been derived from the Latin words 'formation' and 'forma' which means giving shape to something, and forming a pattern respectively? It adds something new to awareness. Information is needed by human beings to realize their full social, political and economic potential. It entails a spectrum of knowledge about various issues and involves different stakeholders from market to government. It is the key which helps make decisions. It is also a public resource collected and stored by government in trust for people. The right to information has another sublime dimension. Every politically aware person desires to play a part in the direction of the affairs of the community. Thereby he realizes his identity and feels he is a public contributor to social welfare. A culture of individual action, political consciousness and public spirit is the basis for the success of democracy. The

justification of right to information is to be found in the interests of individual self fulfilment.

Background of RTI

The Official Secrets Act (1923) enacted during the British Rule governed the disclosure of information held by public authorities in India. This Act became a weapon in the hands of politicians to escape being caught for their corruption. The Supreme Court of India interpreted Constitution as the fundamental right as embodied in the Constitution 'right to freedom of speech and expression' and 'right to life'; as a part of RTI. In view of this, provisions were made in various Acts passed by the legislature for providing information to the citizens from time to time. Sections 74 to 78 of the Indian Evidence Act, 1872 give right to the person to know about the contents of the public documents and in this connection section 70 of the Indian Evidence Act lays down that the public officials shall provide copies of public documents on demand to any person, who has the right to inspect them. Under section 33A of the Representation of the Peoples Act, a candidate contesting elections is required to furnish along with his nomination paper the following information in the form of an affidavit concerning:

- Accusation of any offence punishable with two or more years of imprisonment in any case including the framing of charges in pending cases; and
- Conviction for an offence and punishable with imprisonment.

The cycle of history of corrupt practices is never coming to an end. The ongoing scams are apparent examples of corrupt practices. Among the latest scams 2-G Spectrum, Commonwealth Games, Adrash Society scam are a few to be mentioned. The concept of Right to Information has genesis in abuse of power and authority.

What is Right To Information (RTI)

The Right to Information refers to the right of every citizen of the state to access information under the control of public authorities consistent with public interest. The main objective of providing information is not only to promote openness, transparency and accountability in administration but also to ensure participation of people in all the matters related to Governance. Right to Information is a very effective tool in the hands of citizens to make the objectives of Good Governance (SMART) realizable. Right to access information held by public bodies is a fundamental human right, protected under constitutional law of India. It is accepted by supreme court that Right to information is an inherent part of Right to Freedom of Speech and Expression under article 19(1)(a) and the Right to Life and Personal Liberty under article 21 of the constitution. But then, the question arises why we need a separate law for freedom of information when there is a constitutional provision. In spite of Constitutional Provisions, Which guarantee fundamental rights we have not been able to create a culture and climate where values of freedom, rights and a democratic way of life are respected. One of the purposes of making laws like the right to information, which is primarily a human right, is to help create this culture. Hence Right to Information must be guaranteed by a strong legislation and the process of law-making itself must be participatory.

This right has also been derived from the notions of an individual in his capacity as a member of his community.

The liberal society, as it was first conceived, aims to guarantee freedom of religion, freedom of speech and expression, freedom of information, freedom from illegitimate authority, etc. while in western countries disclosure of information is mandatory, till the introduction of the Right to Information Act, 2005 it was discretionary in India.

The right to information can be broadly classified into two broad heads:

- Right to information against government
- Right to information against private persons

The Need for Right To Information

- I. **Ensures people's participation:-** Since most of the governmental works are carried out for the people, people must be involved in the planning process and must know exactly how things are being done. To participate in planning processes and judgment of whether certain plans and schemes are useful for them or not, people must have sufficient information about the nature of the projects and programmes. This will enable them to give their opinion well in time for required changes or modifications. This will reduce project costs and will increase project outputs manifold.
- II. **Protects the Civil Liberties:-** The right to information is essential for protecting liberties of citizens by making it easier for civil society groups to monitor wrongdoings like custodial deaths and the abuse of preventive detention legislation. Custodial institutions are some of the most opaque places in the country. Violations in custody range from deaths in custody, keeping convicts in jail long even after they have served their sentences, and abuse of women. Effective community monitoring of these institutions is dependent upon access to information. Some government are even considering providing the right to information explicitly in relation to prisons.
- III. **Ensures Principle of accountability:-** Ours is a democratic system of governance in which the government is run for the benefit of the public at large and not for the benefit of one person or a few persons. Governance from the village to the central level therefore has to be accountable to the people. People have a right to know what

the government is doing. A Right to Information will ensure that people can hold public bodies accountable on a regular basis, without having to lay the entire burden on their elected representatives who are themselves often unable to get the information sought in spite of all the resources at their command.

IV. **Transparency:-** There is a presumption that everything that is done by the government is done for the public good-which means, it is done to further the objective of public well-being, is done honestly with optimum benefits from the funds used. However, as we all know, in recent times, this presumption has been eroded to a great extent by misuse, misappropriation and also careless use of public funds. To counter this, it is essential that there should be complete transparency in all public dealings. This is bound to bring about a more careful utilization and application of funds. Transparency will also help people to hold the officials accountable for their mishandling of public time and money. Transparency would go a long way in helping to expose the corrupt and allowing the honest to do their jobs without fear or favour.

V. **It makes media more effective:-** Even if the government provides for the right to information, the citizens resort to media like newspaper, radio, television etc for day to day information about government activities. The media provides a link between the citizens and its government. So, it is essential that media is able to access information. The media's right to information is not a special privilege but rather an aspect of the public's right to know. The lack of a right to access official information causes many problems for the media. Balanced reporting becomes difficult when the primary sources of information are denied. In absence of exact information,

they provide biased news, suppressing or distorting information. By providing right to information, media and citizens would together make the government more accountable.

Corruption and Its Impact on Development

Corruption in India is the biggest challenge for development. The culture of corruption has become well entrenched in the society. The Prime Minister of India has felt that there is corruption both at political and administrative level. In 2007 when Hon^{ble} PM addressing the IAS probationers of 2006 stated that "the barriers of administrative and political corruption should be tackled by the upcoming bureaucrats and quality of governance be improved at all levels to build an India 'worthy of our dreams'. If there are barriers, there are barriers in our country, in our good governance, in our governance processes. It is a fact [that] there is lot of corruption, both at the political level and at the administrative level. We must take it head on." On the inaugural of the conference of CBI in 2011, the same PM stated that there is very large scale Corruption, even in high places and many big fishes are escaping and they should be caught and severely punished. Corruption in India is deep rooted and people are concerned in corruption „at the cutting edge level of administration“. A detailed empirical research in 2007-08, focusing on 22,728 households living below the poverty line, found that they paid about 9000 million in bribes to access basic and need based public services. A similar survey was conducted in 2005 on 14,405 respondents found that citizens had paid the bribe to the tune of Rs. 21068 crores to avail public services⁸. These studies set up corruption as one of the major obstacle in governance. A corruption in governance affects the economy of the country and indirectly affects all types of development of the citizens. Recently in times of India it was reported that out of many lakhs of crores released by the government of India for

eight national schemes. It was founded by the CAG that at least a sum of Rs. 51000 allocated to these schemes has not been counted for 9. Imagine if in a single year so much have been big amount been siphoned off by only eight schemes, suppose how much money earmarked for the poor have been siphoned off by all government initiatives .

India's Initiatives to Tackle Corruption

Transparency International India is launching its new tool against corruption. All these initiatives are open for press release by TI India. These are discussed here. **Advocacy and Legal Advice Centre (ALAC Help-line)**. ALAC empowers the people to combat and demonstrate that they will become involved in the fight against corruption when they are provided with simple, credible and viable mechanisms and opportunity for doing so. India needs to integrate all anti-corruption measures in all spheres to address these challenges. For this reason TI-India (TII) has been actively engaged in the campaign against corruption, together with other like-minded civil society organizations like Lok Sewak Sangh, Gandhian Seva & Satyagraha Brigade, Public Affairs Centre, Campaign for Judicial Accountability & Reforms, Citizens' Forum Against Corruption, Association for Democratic Reforms, Common Cause, Public Interest Foundation, Lok Satta etc. Accordingly, it has been pursuing, inter alia, for

- ✚ The creation of Strong Lok Pal.
- ✚ Strict implementation of the UN Convention Against Corruption (UNCAC), the only global initiative that provides a framework for putting an end to corruption.
- ✚ The enactment of Corrupt Public Servants (Forfeiture of Property) Law.
- ✚ Transfer of funds lying in secret bank accounts abroad.
- ✚ Introducing Integrity Pact in all public procurement & contract.

- ✚ Police reforms as per the direction of the Supreme Court of India in Prakash Singh judgment.
- ✚ Strengthening of the prevention of Corruption Act and removal of the restriction (Single Directive) that requires sanction of the competent authority even to initiate an enquiry into charges of corruption against senior officer of the rank of Joint Secretary or its equivalent.
- ✚ Independence to Central Bureau of Investigation.
- ✚ Citizens' charters with penalty clause to ensure time bound guaranteed public services.
- ✚ Notification of the rules under the Benami Transaction (Prohibition) Act, 1988.
- ✚ Strong Lok Ayuktas in all states for action against the corrupt.
- ✚ Constitutional autonomy to the Central Vigilance Commission.
- ✚ Passage of the Judicial Standards & Accountability Bill for transparency and accountability in judiciary.
- ✚ Electoral reforms including the de-criminalisation of politics.

Conclusion

India is the largest democracy in the world. Despite a bewildering variety of religions, cultures, languages, food habits, customs and traditions, the ballot box keeps the country together.

There is no transparency and no accountability at the local level where it counts the most. Poor citizens cannot go up to the lowest government functionary and ask how much and for what purpose money is being spent in their village. They have no right to ask for detailed information on expenditure because that is where the corruption begins --

making false receipts and vouchers running into millions of dollars.

The general conviction among the over 300 million living below the poverty line is that the public exchequer is being looted, and that the money earmarked for development is going into the pockets of the rich and the powerful. From the highest echelons of Government to the lowest village functionary, the lawmakers and law enforcers are often also the law breakers, and no one in the Government can touch them.

In the words of Mahatma Gandhi, the real *swaraj* (self-governance) will come not by the acquisition of authority by the few but by the acquisition of the capacity by all to resist authority when abused. To that end, the right to information plays a vital role in promoting literacy levels, besides literacy itself. It ensures transparency, accountability, openness, good governance, empowerment of citizens and curb corruption. Indeed, it is the lifeline of democracy.

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