

Right to Information for Participatory Governance and Democracy in India*

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ABSTRACT - The Right to Information Act, 2005 heralded a new era of participatory communication, governance and development in India. There is a well established linkage between right to information and good governance which requires that civil society has the opportunity to participate during the formulation of development strategies that directly affected communities and groups in a democratic society. The civil society, NGOs, media and other institutions have played a crucial role in the enactment of the Act which has come a long way in India. The UPA government played the major role and ensured the enactment after series of struggles, debates and discussions across the country. The courts have also enlightened the policy makers and administrators about the relevance of right to information from social justice and economic development points of view in India. The policy makers and bureaucrats have not played a responsible role in the implementation of the provisions of the Act. Several activists and non-government organizations have launched a drive against the non-compliance with the provisions of the act by the government officials. Efforts are also made by the progressive individuals, activists and researchers to assess the effectiveness of implementation of RTI Act over a period of time. A majority of the commissions have not excelled in the proactive disclosure of information. There are certain advantages and disadvantages identified by the fact finders. Practically, the disadvantages outweigh the advantages with respect to implementation of the provisions of RTI Act, 2005.

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Preamble

The Right to Information Act, 2005 heralded a new era of participatory communication, governance and development in India. The inter-governmental organizations, multilateral development banks and other international financial institutions have recognized the right to information. These institutions have also adopted information disclosure policies since the right to information was seen predominantly as an administrative governance reform across the globe. In the present times, the right to information is duly recognized as a fundamental human right of the people. The paper primarily focuses on the strengths and limitations of Right to Information Act, 2005 in India on the basis of review of literature.

Media and Democracy

People have a fundamental right to information in a democracy. Right to information is an effective instrument of good governance. There is a well established relationship between right to information and good governance. This has been substantiated by James Madison (1822) thus: "A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce, or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own Governors must arm themselves with the power which knowledge gives". The intellectuals have identified the major characteristics of good governance such as - participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness, efficiency, accountability, strategic vision and consensus-orientation. Transparency means that decisions are taken openly and enforced as per rules and regulations. It requires that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided to all the stakeholders in easily understandable forms. The media are well known in the society as informal universities which feed and lead the mankind towards progress. The media institutions have a great responsibility of taking the government policies and programmes to the door steps of the people who matter most in a democracy. The media also have the obligation of facilitating meaningful participation in decision making processes.

The right to freedom of information has been recognized as a fundamental right in about 50 countries across the world. These nations are joined by a growing number of inter-Governmental bodies – including the World Bank, European Union and UNDP – that have established FOI policies. The right to FOI derives primarily from the guarantee of freedom of expression found in Article 19 of the Universal Declaration of Human Rights. It provides that all citizens enjoy rights of freedom of opinion and expression, including the right to "seek, receive, and impart information and ideas, a guarantee now generally considered to

include an obligation of openness on the part of Government. The Constitution of India has guaranteed the freedom of speech and expression to all citizens which also deal with the right to information.

Right to Information Act, 2005

Right to Information is a fundamental human right, crucial to human development, and a prerequisite for the realization of other human rights: civil and political rights such as the right to life and liberty, freedom of expression and equality before the law; and economic, social and cultural rights such as right to adequate food, right to water, right to highest attainable standard of health, right to education. RTI has become a friend in need, making life easier and honorable for common people and empowers them to request and access public services successfully.

The Right to Information Act has heralded citizen's rights to be recognized and thereby made participative democracy possible. If well implemented and well-used, real swaraj will dawn (Madhav, 2006:10). The Act empowers citizens. It has given them a tool to know how governments function. Information can be demanded from the public authorities; i.e., all government bodies and organizations substantially financed by government established including NGOs, all public sector undertakings, all bodies and institutions of self government established or constituted by law made by parliament or state legislature and so on (Centre for Good Governance, 2006:05).

Indian Initiatives

The Gujarat based Mahiti Adhikar Gujarat Pahal, a non-government organization launched a drive against bribe using the Right to Information Act at the Satyagrah Kochrab Ashram for 15 days which ended on July 15, 2006. About 1366 cases were filed against the non-compliance by the government officials. This development boosted the confidence of the people and some citizens became propagators, volunteers and activists of RTI eventually. In Assam and Bihar states, the non-government organizations also educated and organized the activists who fought against the violation of the provisions of the act. In Bihar, the activists prevailed upon the government to establish an RTI call centre namely 'Jankari'. The people were enabled to approach the centre and register their complaints against the anomalies.

In Gujarat, Agariya Heet Rakshak Manch, a non-government organization filed application seeking information on the access and uses of Comprehensive Mobile Health Van Units. This incident paved the way for regular visit of the van to the work places and organization of proper health check-up and treatment services to the people. The use of RTI resulted in the improvement of health care services in the rural areas (Gandhi, 2007:07). In 2008, Kabir initiated the nationwide RTI campaign to create new consciousness among the people of India about the advantages of the new legislation which was intended to enhance transparency and accountability in government and promote greater participation in governance by informed citizens. The organizers used several grassroots level communication campaigns including production of documentaries for the rural and urban audience (Tariq, 2008:14). They had even collected over 600 success stories and disseminated information through booklets, newsletter, mass contact programmes, advocacy campaigns and workshops. This initiative also created a large number of RTI activists who filed applications for want of information on governance and fought against non-implementation of the provisions of the RTI Act in India.

The Government of Jammu and Kashmir gave a serious thought to the implementation of right to information law since the Right to Information Act, 2005 was not applicable to the state of Jammu and Kashmir. The Jammu and Kashmir Right to Information Bill, 2009 was intended to provide an opportunity for people to participate in the making of a seminal law that aims to transform the fundamental operating principle of Government from obsessive secrecy to compulsory openness. It was closely modeled on the provisions of the Central Right to Information Act enacted in 2005. The civil society had played an important role in this regard (Aiyar, and Samji, 2009:02).

In Maharashtra, the government had diverted water from 43 dams to Socio Economic Zones in big cities and helped the industrialists at the cost of farmers and other civilians. The RTI came to the rescue of activists and farmers and the Government of Maharashtra passed an ordinance in September 2010 under the initiative of the water ministry is to legalize past inequitable decisions to take away water rights of farmers and give them to big industries and big cities.

In Assam, the All Assam Shramik Krishak Kalyan Parishad created awareness among the masses about the misuse of funds earmarked for flood control by the officials. It was found that about 70 per cent of the funds meant for flood control and other works related to water resources department had been siphoned off by the minister, officers and employees of the department of water resources. The activists noted that only 30% of the work was completed in the different districts of the State. The activists had urged the Chief Minister to order a CBI inquiry into the alleged irregularities (Saini and Gupta, 2009:13).

In Madhya Pradesh, an environmental activist Ajay Dubey filed an RTI application seeking information on number of industries emitting waste in air and water beyond the norms set by the government. The state pollution control board in its reply said that more than 300 commercial units in Madhya Pradesh caused pollution by emitting harmful air and water effluents beyond the permissible limits. The State Pollution Control Board gave details of about 313 such industries which flouted standard pollution control norms during 2009-10. The activists fought against water pollution and strived for the protection of public interest.

In Gujarat, Noor Jahan fought against the local officials who refused to provide drainage facility. She filed an RTI request and obtained information from the District Panchayat Office. She came to know that about 18 drainage pipelines and also 480ft construction works were also sanctioned. The officials had to undertake the civil works and the people saved money because of the availability of information (Acharya, 2010:01).

In Karnataka, B.M.Shivakumar, a resident of Kengeri Satellite town had obtained information about the abuse of political power by the then Chief Minister of Karnataka Mr. B.S.Yeddyurappa. The people came to know that the Chief Minister had given away sites in prime localities at dirt cheap rates to his near and dear ones. The Karnataka Information Commission (KIC) informed that about 51% of the total RTI applications were related to the revenue and urban development affairs. A majority of the applications in these departments pertained to land sale deeds, khata conversions, mutation and record of rights copy. In urban development section, most of the applications pertained to property disputes, illegal constructions and encroachments and building plan violations. The activists prevailed upon the authorities to digitize all land records in the state.

In Delhi, an RTI application was filed after the collapse of the building in Lalita Park wherein 65 persons were killed. Other RTI applications revealed that more than 65 buildings in Shahadra, East Delhi were illegal. The information also reveals a close connection between the builders and officials of the MCD and DDA. The local citizens became aware of the nexus between the builders and officials who took the law and people for granted.

In Tamil Nadu, RTI activists questioned the illegal allotment of houses by the Tamil Nadu Housing Board and found the illegal transactions which adversely affected the common masses that had no political clout and financial power. The political leaders, judicial authorities and government officials had obtained the land or flats at rates 40-60% less than market value. This had caused significant loss to the state exchequer and injured the public interest.

In several states, the RTI activists had identified the illegal issue of fake caste certificate to the undeserving persons because of bribe and political backup. The upper caste persons had obtained SC/ST/OBC certificates and procured government jobs illegally. Such cases were brought to the fore and the culprits were brought to the book on the basis of authentic information obtained by the activists and aggrieved persons (Desai, 2010:06).

The RTI activists also questioned the irresponsibility of railway officials in Kerala and Karnataka. They had questioned the non-availability of railway coaches which resulted in great inconvenience to the people. The authorities had to increase the number of railway coaches in the trains after protests by the passengers and activists (Kannan, 2011:09). The issue also came before the then Railway Minister Mamata Banerjee who responded to the problems of the people.

In Mumbai, the RTI activist Nikhil Desai had filed an RTI plea with the Bombay Municipal Corporation to find out what they planned in the five gardens at Dadar Parsi Colony. The municipal corporation had spent Rs 70 lakh on laying pavements and redoing the lawn at just one of the five gardens at Dadar Parsi Colony. The people had noticed the unnecessary works, exorbitant expenditure and loss to the government after obtaining information. The people strongly protested against the abuse of power and misuse of public funds on the basis of the information obtained by them through RTI.

RTI for Participatory Governance and Development

The RTI activists also obtained information from the central and state government departments about unfilled vacancies due to lack of political will and social commitment. They also questioned about the non-implementation of reservation policy in the appointment and promotion matters (Yadav, 2012:15). The governments were persuaded to conduct a special drive to fill up the backlog vacancies and many persons received the benefit of appointment and promotion subsequently. The National Rural Employment Guarantee Programme was not properly implemented in the rural areas by the elected representatives and officials. The activists of Sabar Ekata Manch and Janpath had conducted survey and noticed certain irregularities in the maintenance of muster rolls and payment of wage to the workers (Malik, 2013:11). The officials were also sensitized by the media comments and public criticisms about the irregularities. The workers were enabled to get minimum wage as per the rules (Jain, 2013:08).

The RTI activists found certain irregularities in the distribution of food grains in the fair price shops in different parts of the country (Bhattacharyya, 2014:03). The ordinary people had become victims of circumstances because of corrupt practices

adopted by the shop owners who enjoyed political support (Rajak, 2014:12). The organizers questioned the lethargic attitude of the officials and prevailed upon them to include the names of eligible persons in the Antyodaya and BPL list and delete the names of rich people from the list of beneficiaries. The Right to Information Act, 2005 is very comprehensive and covers almost all matters of governance and has the widest possible reach (Bhushan, 2015:04).

There is a well established linkage between right to information and good governance which requires that civil society has the opportunity to participate during the formulation of development strategies that directly affected communities and groups in a democratic society. The civil society, NGOs, media and other institutions have played a crucial role in the enactment of the Act which has come a long way in India. The UPA government played the major role and ensured the enactment after series of struggles, debates and discussions across the country. The courts have also enlightened the policy makers and administrators about the relevance of right to information from social justice and economic development points of view in India.

CONCLUSION

The policy makers and bureaucrats have not played a responsible role in the implementation of the provisions of the Act. Several activists and non-government organizations have launched a drive against the non-compliance with the provisions of the act by the government officials. Efforts are also made by the progressive individuals, activists and researchers to assess the effectiveness of implementation of RTI Act over a period of time. A majority of the commissions have not excelled in the proactive disclosure of information. There are certain advantages and disadvantages identified by the fact finders. Practically, the disadvantages outweigh the advantages with respect to implementation of the provisions of RTI Act, 2005.

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