Right to Information Act Is a Tool for Strengthen Good Governance

Dr. VijayA.N LL.M Ph.D

Introduction

India is a democratic republic state. Here the Government is of the people, by the people and for the people. Therefore, the people of our country have the right to know about the state affairs. Freedom of information brings openness in the administration which helps to promote transparency in state affairs, keep government more accountable and ultimately reduce corruption[1]. The free flow of information is must for a democratic society as it helps the society to grow and retain a continuous debate and discussion among the people. But the access to information held by a public authority was not possible before 2005 as before 2005, the common people did not have any legal right to know about the public policies and expenditures even in matters affecting legal entitlements for such subsidized services as food for work, wage employment, basic education and health care, it was not easy to seek the details of decision making process that affected or harmed him. And, therefore, it was not possible for a common man to observe and scrutinize the public actions with a view to providing feedback for rectifying the deficiencies in policy planning and the execution of programmes.

It was quite ironical that people who voted the persons responsible for policy formation to power and contributed towards the financing of huge costs of public activities were denied access to the relevant information. After following a decade-long grassroots and civil society campaign, the Right to Information Act, 2005 was passed by the UPA Government with a sense of pride. It flaunted the Act as a milestone in India's democratic journey. Since then, India's Right to Information Act is widely recognized as a strong law that has been extensively used by citizens to access entitlements, redress grievances, and expose corruption and mismanagement in government programs.

RTI Act has also promoted and led to the good governance of the country and is deemed as a basic prerequisite of good governance. There is a close link between Right to Information and

[1] Susanna davis'Democratization and sustainable rural livelihoods,oxford university press 1988 page 289.

Good governance. Good governance is characterized by transparency, accountability and responsiveness. Human security, shelter, food, environment and employment opportunity are all bound up with Right to Information. In the absence of information on this issue, people can‘t live a dignified life and will remain ever a marginalized group in the society. It is a powerful instrument to protect the fundamental rights of people. Indian Parliament has passed Right to Information Act, 2005 to make government accountable, responsible, efficient and transparent in order to lead to good governance of the country. In fact, Right to Information and Good governance are intertwined, they are the two sides of the same coin or two aspects of the same aspiration, viz, to strengthen, stabilize and broaden the working of the democratic system. Access to information by the public is the essential element and pre-requisite of good governance. The RTI is now accepted, as a crucial underpinning of participatory democracy. It has been widely acknowledged as a prerequisite for ensuring accountability and good governance.

Origin and emergence of the concept of good governance

“Good governance” was initially expressed in a 1989 World Bank publication. In 1992, the Bank published a report entitled, Governance and Development, which explored the concept further and its application. In 1997, the Bank redefined the concept “good governance” as a necessary precondition for development. Good governance is to promote and sustain holistic and integrated human development. The central focus is to see how the government enables, simplifies and authorizes its people, regardless of differences of caste, creed, class, and political ideology and social origin to think, and take certain decisions which will be in their best interest, and which will enable them to lead a clean, decent, happy, and autonomous existence. “Good” about governance Good Governance manages and allocates resources to respond to combined problems of its citizens. Hence states should be assessed on both the quality and the quantity of public goods provided to citizens. The policies that supply public goods are guided by principles such as human rights, democratization and democracy, transparency, participation and decentralized power sharing, sound public administration, accountability, rule of law, effectiveness, equity, and strategic vision. The Human Development Report issued insists on “good” governance as a democratic exigency, in order to rid corruption, provides rights, the means, and the capacity to participate in the decisions that affect their lives and to hold their governments accountable for what they do.

Governance is defined as "the action, manner or fact of governing "and the function or power of governing while govern is inter alia defined as "rule with authority conduct the policy, action and affairs of constitutionality of dispolitically"[2].

Vivekchopra defines good governance as unambiguously identifying the basic values of society and perusing these[3].

While good governance as a process denotes a value free dispension, good governance being an adjudicated expression, connotes certain values assumption[4].

Key elements of good governance

Good governance has 8 major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and fixture needs of society. Elements-of-good-governance

Participation

Good governance requires that civil society has the opportunity to participate by both men and women during the formulation of development strategies. This aspect of governance is an essential element in securing commitment and support for projects and enhancing the quality of their implementation. Participation needs to be informed and organized. This means freedom of association and expression and an organized civil society should go hand in hand.

Rule of law

Good governance requires a fair, predictable and stable legal framework enforced impartially. Full protection of human rights, especially minorities should be covered. Impartial law enforcement requires a judiciary to be independent and police force should be impartial and incorruptible.

Transparency

Transparency in government is an important precondition for good governance, and those decisions taken and their enforcement are done in a manner that follows rules and regulations.

[2] New shorter English dictionary,vol.1, clarendon press,oxpord 1st edition 1993.
[3]Kashyapsubhash, crime corruption and good governance,newdelhi,uppal 1997,page113.
[4]Deybata k, defining good governance" indian journal of public administration" vol 4 144 july-sept 1988 page 412.

Transparency ensures that enough information is provided and that it is provided in easily understandable forms and media[5].

Responsiveness

Good governance requires the institutions to serve all stakeholders in a given time-frame. There are several actors and viewpoints and the different interests in society needs mediation. The best interest of the community should be analyzed and achieved which requires a broad and long-term perspective on what is needed and how to achieve the goals of sustainable development.

Equity and inclusiveness

A society's wellbeing depends on ensuring that all men and women have opportunities to improve or maintain their well-being.. This requires all groups, especially the most vulnerable, should have opportunities to improve or maintain their standards of life.

Effectiveness and efficiency

Good governance means Processes and institutions produce results that meet needs while making the best use of resources. The concept of efficiency covers the sustainable use of natural resources and the protection of the environment.

Accountability

It is a key requirement of good governance. Both Public and private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. An organization or an institution is accountable to those who will be affected by its decisions or actions. Accountability can be enforced only with transparency and the rule of law. Rule of law supports the demand for equity and fairness and means to be impartial, not corrupt and to protect the human rights of all. These are the leading criteria becoming benchmarks one has to keep in mind when striving for good Governance in the decision-making.

Right to Information Act, 2005

India celebrated its first Republic Day on 26th January, 1950. That day, India became a sovereign republic nation. The government exchequer collected by different ways ultimately belongs to the citizens of the country. Citizens elect their representatives and send them to the LokSabha and VidhanSabha for managing the public money. The people's representatives are actually public servants. As they are public servants, their position is secondary to that of

[5]M.P.Jain and S.N.Jain, principles of administrative law, 4th edition 1988 page 234.

citizens. But, unfortunately, this fact has not been realized by the people in the last 60 years of Independence. Some people with vested interest deliberately kept the citizens in darkness. Citizens are at the helm of affairs in democracy, nobody is beyond them. The public servants have to serve the citizens. But, the picture is altogether different today. The People's Representatives and the Civil Servants have become masters of the country and made the citizens poor servants. This Act has enabled the common man to seek information. Till to-date, the people have to obey the laws; whereas the government machinery controlled everything. But by the advent of this Act, the Government Agencies have to obey the law and the people have got controlling power. The world over, country after democratic country, has recognized the need to keep their citizens informed about the way Government takes decisions. In our country we have the Right to Information Act for the last 10 years. The spirit of the Act can be best summarized by stating that without informed citizens there is no democracy. It recognizes that in a democracy citizens are the masters and servants cannot deny information to their masters. In fact, servants acts as trustees and hold the information belonging to their masters. But for almost six decades, the servants behaved like masters and the masters simply accepted this treatment.

Rampant corruption prevailing in the country forced the lawmakers to understand that there is no way the country can become better without the servants favoring good governance. Under these circumstances, the preamble of the Right to Information Act highlights containing corruption, improving transparency and making servants accountable by empowering citizens to get information.

It lays down the foundation for a better tomorrow. In fact, every citizen who is the master has now the same power to obtain information which only the legislators had so far. This single aspect alone should create a new group of people who will demand good governance. This tool should help the poorest. To help the poorest requires attacking corruption at its root. The RTI Act is sufficiently strong in its present form to even attack the roots of corruption. There will forever be corruption at the lower levels as long as its seeds are sown at the highest level. The RTI Act can be used to expose these seeds of corruption which in turn can curb corruption at the lower levels.

Today, in addition to this Act, we have the benefit of internet. Also most of the youth today do not bribe to get jobs. Even if a small number of such people who can handle technology effectively are motivated to fight corruption it can do wonders. Such optimism was unthinkable only a few years back. The RTI Act, young people and internet can really bring in the real freedom to everybody. This was unlike during Mahatma Gandhi's time when he had to move from place to place to mobilize people and use communication methods which were very primitive. So, we are at a distinct advantage as we are empowered by technology. India is graded year after year as one of the most corrupt countries in the world. By fighting corruption we are making our own tomorrow better.

RTI Act recognizes that information held in any form should be made available to citizens. In fact, samples of materials used also come under the definition of information. Overriding all other facts, the RTI Act allows information pertaining to third parties to be given to the citizen even if prohibited by the earlier Acts. The only requirement is that the information sought should be in public interest. As far as information held by the Government including personal information, the Act allows one to get such information without even giving any reason as to why you need that information. The RTI Act not only helps the citizens but also the whistle-blower and to recognize whether a particular person is a genuine whistle-blower or not, all one has to do is see files handled by him earlier. In this way supporting a whistle-blower is a much easier task today. But as whistle-blowers do not announce about their own activities, opinion of individuals should be collected and likely whistle-blower's list should be prepared. The very fact of preparation of a whistle-blower's list itself allows more information to come regarding whistle-blowers.

Right to Information is a fundamental human right allowing access to public information and is well established, both in legislation and in practice. It has been swiftly gaining popularity in many parts of the world as an effective tool to strengthen participatory democracy, promote good governance, check corruption and help ensure other rights thereby building an open and accountable society. As a result, billions of people around the world now enjoy the right to access information held by their governments and public agencies. Millions of people around the world have utilized these laws to access public information, to expose and check corruption, to

enhance their ability to participate in public affairs, to improve public service delivery and to protect other human rights, opportunities and justice.

Constitution provision dealing with good governance

To protect Indian people from various kinds of disparities which they faced at the time of British rule, Indian constitution makers included various Articles in constitution which are specifically deal with good governance.

According to the supreme court of India, the concept has been elucidated in the following words the framers of the constitution were very much conscious and aware of widespread inequalities and disparities in the social fabric of the country. This is the reason why goal of justice social, political and economic was given the place of pre-eminence in the preamble. The concept of equality enshrined in part 3rd and part 4th of the constitution has two different dimensions.it embodies principles of non-discrimination[6].at the same time it obligates the state to take affirmative action for ensuring the unequal in the society are brought at the level where they can complete with others[7].

Article 19 provides certain rights regarding freedom of speech etc. these rights are required for the proper democratic setup and development of the person[8].

Article 20 provides protection of person against ex-post-facto law from a penalty greater than that he might have incurred at the time of his committing the offences, double jeopardy[9].

[6] See Article 14, 15(1) and 16(2) of Indian constitution.
[7] Article 15(1), (4),(5),39,39A and 41 of Indian constitution.
[8] See article 19 of indian constitution.
[9] See Article 20 of the indian constitution.

RTI Act and Good Governance

The result of good governance is development that "gives priority to the poor, advances the cause of women, sustains the environment, and creates needed opportunities for employment and other livelihoods"[10]. UNDP defines good governance in terms of eight specific characteristics i.e. participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and the rule of law where participation, transparency, legitimacy and responsiveness forms the pillars of good governance.

In India, the concept of good governance was applied through the passing of RTI Act, 2005, 73rd and 74th constitutional amendment. Right to information is a basic requisite of good governance and the Act has played a major role in good governance as it has helped in making the system transparent and accountable.

Democracy is all about people's participation and empowerment. RTI Act has played a significant role in strengthening democracy by promoting decentralization of power and good governance. RTI Act gave the common people a defining power to shape the government schemes and policies. Governance was no more an arbitrary privilege of select few. RTI Act lent voice to the aspirations of ordinary citizens in issues of governance. The best way to deal with all these challenges while promoting good governance is by making the Act redundant. The governments, instead of waiting for the common people to seek information, must voluntarily make all the information available to the people. It will not only promote good governance but also increase the trust between government and the people it governs.

RTI Act has lent voice to the aspirations of ordinary citizens in issues of governance. It gave the common people a defining power to shape the government schemes and policies. It empowered the people to question, audit, review, examine, and assess government acts and decisions to ensure that these are consistent with the principles of public interests, good governance and justice. The greater the access of the citizen to the information, the greater would be the responsiveness of the government to community needs. Without information, the common man cannot adequately exercise his rights and responsibilities or make informed choices. So Right to

[10] Govt.fo India,(2006) right to information, master key to good governance, first report, second administrative reforms commission, new delhi, preface by M.Veerappamoily

Information is the most effective instrument to check corruption where the citizen has the right to take the initiatives to seek information from the state and thereby promotes openness, transparency and accountability in administration by making the government more open to public scrutiny. It also empowered the people to seek definite and direct answer from the officials of their works or lack of it thus facilitating and encouraging the participation of common people in the process of good governance. RTI Act democratized the information and decentralized the power. Power no more remains confined to select few, rather it was made available equally to all the citizens. Good governance is characterized by transparency and accountability and the best way to ensure transparency and accountability in governance is through increased and informed participation of people.

Rti as a Tool in Promoting Good Governance

A. People's Participation

The passing of 73rd and 74th constitutional amendment has become a mean for ensuring effective governance since the twin aim of decentralization i.e. deepening democracy and good governance can be achieved with active participation of the people[11].

People are biggest stakeholder in governance; they have a critical and crucial role to play in promoting good governance in the country. Participation envisages involvement of the entire society in governance. Both men and women are the cornerstone of good governance. Representative democracy does not mean the rule of chosen few; it must take into interest of all sections specially the most vulnerable sections in the society.

Without people's participation, the Right to Information will remain a non-starter. Participation has a wide range of definitions. On the one side, some researchers take participation to mean simply engaging with any particular activityon the other side, researchers define participation as a process through which people influence and share control over development initiatives.Right to Information Act creates a connection between people and government. Good governance requires that civil society has the opportunity to participate during the formulation of development strategies and that directly affected communities and groups should be able to

[11] Good governance: judiciary and rule of law,sreechithrathirunal memorial lecture,29 Dec. 20007.

participate in the design and implementation of programmes and projects. Even where projects have a secondary impact on particular localities or population groups, there should be a consultation process that takes their views into account.Citizens who understand public affairs and what government is doing can voice their opinion on issues that affect their lives and they can participate in the business of government. Right to information facilities citizens in making political and economic choices and thus strengthens democracy.RTI Act facilitates and encourages the participation of common people in the process of promoting governance. Earlier people had the will, but did not have the way to take part in so-called 'official affairs'. But RTI Act paved the way for active participation of the common people in promoting good governance.

People have showed increased interest in the affairs of government and sought information regarding various issues affecting their lives and well-being. RTI Act empowered the people to seek definite and direct answer from the officials of their works or lack of it. RTI applications have annually increased by 8 to 10 times. A 2009 study estimates that in the Act's first three years alone, close to two million RTI requests were filed in different parts of the country. Thus, there is massive use of the right to know. Of the millions of applications for information, less than 5 per cent have been denied information under various exemption categories. So, accountability has invariably led to efficiency and a sense of responsibility among government officials.

B. Accountability and Transparency

Transparency is the corner stone of any good government. Public has right, to know about the policies and programmes of the government. All communication of the government must be opened to the public. Access to information is a great enabler of transparency and transparency refers to availability of information to general public and clarity about functioning of government institutions. The Right to Information act is intended to promote accountability and transparency in government by making the process of government decision making more open. Though some departments of the Union government are exempted from this Act but the information can be sought if it is concerned with violation of human rights. Even the information from the private authority can be sought only through the controlling authority and controlling authority will send the notice to the institution concerned under section 11 of the Act.

It has been realized by most of the countries through experience that greater access of the citizens to information enhances the openness of government to community needs. In turn, this facilitates immediate redressed of public grievances and thus improves feeling of goodwill towards the government. Capitalists and democratic countries have a higher degree of openness vis-a-vis authoritarian regimes; nowhere in the world is government functioning totally open.

In India, the government passed a landmark Right to Information Act in 2005. Since then, social activists, civil society organizations, and ordinary citizens have effectively used the Act to tackle corruption and bring greater transparency and accountability in the government. We have had instances where numerous activists and groups have used this tool to good effect ensuring the values of transparency and accountability are upheld.RTI as a tool has been majorly used by organized citizen groups, activists and NGOs. As far as its utilization by the individual citizen or the common man goes, the figures are far from satisfactory. Trends tell us that the use of RTI by the common man has been sparse and not up to the mark. This in itself is not a desired result as the RTI aims to empower the common man, irrespective of his/her association with citizen group or NGOs.

Right to information enables citizens to see how governments, those in public offices are working. Public openly comes to know what is to be happened and what has happened.In the absence of any public interest in seeking information, the RTI gets degenerated into settling scores and mudslinging. Indiscriminate and impractical demands by applicants with no relation to transparency, accountability and eradication of corruption are proving to be counterproductive. The executive and government machinery gets tied to non-productive work affecting the efficiency of administration.

RTI has also brought transparency in the system. According to 2012 ranking of Transparency International, India stood up at 94, out of 176 nations. The survey also revealed that 54% Indians paid bribe, at least once, to get things done. After enactment of this Act, many cases of corruption came to light. From the Commonwealth Games to the 2G scam, RTI queries have been the starting point of exposure in a score of recent cases of corruption. It is the most powerful weapon in hands of common people to challenge the impenetrable fortress of officialdom.

Indian judiciary and good governance

The term judicial governance in itself is subject to challenge as the judiciary is not supposed to be involved in governance. However, firstly the effort of Indian judiciary to infuse accountability in the functioning of government institutions the growth and development of human rights jurisprudence has demonstrated the central importance of judicial governance. Secondly, the judiciary is endowed with the additional responsibility of safeguarding the rule of law, whenever the other limb fails to perform their function judicially according to the spirit of the constitution. Thirdly the judiciary plays an important role in the development of market economics of the country lastlyquick and inexpensive dissension of justice is an aspect of good governance which is of the fundamental importance in a successful civil society.

Conclusion

Since its inception in 2005, exactly 10 years have passed and one can safely say that RTI has made its impact felt in the functioning of Government bodies and the larger governance discourse, as the staff has become active, conscious, regular, punctual, accountable and responsible. The corruption in the division is reduced. Big scams have been averted by the use of RTI. People do feel more empowered. Their bargaining power vis-a-vis public officials has increased manifold. A great change has come in India in the last decade in the power equation between the sovereign citizens and those in power. This change is just the beginning and if it can be sustained and strengthened, our defective elective democracy could metamorphose into a truly participatory democracy within the next one or two decades. Thus the impact of RTI in good governance is palpable.