

Right to Information: Pros and Cons

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Abstract

The purpose of the paper is to highlight the conceptual framework of Right to Information, role in improving governance, the problems associated with the provisions of Right to Information in governance. In this paper an attempt is also made to discuss the various constraint and limitations of Right to Information in governance. The findings of the paper will help the planners to frame an exact and benefiting policy for right to information and its use in economic, social and political analysis for growth and development of the economy.

Keywords: Human Rights, Right to Information, Bureaucracy, Transparency.

1.1 INTRODUCTION:

Access to information is the key to development and emergence of a vibrant civil society. Everyday almost we all read newspaper; watch different news channels and surf on net with a view to keep ourselves aware of our surrounding, or even in the world to make known what is going on in and around us. Awareness of our surrounding becomes a key issue in our daily lives that helps us to relate the society we are living in and also to the people with whom we share our collective lives and destinies. A number of medium as newspaper agencies, channels and website have come up these days with a view to enhance the people's craving to know and to be updated with the latest available information. Such business is flourishing because they satisfy people's hunger for information. We are in need of information at the time of buying some product from the market on quality, purity, standard and prices of product or service that is necessary for making an informed choice or decisions. The primary role of the information is to equip the consumer to make an informed choice. The Right to Information lays the very foundation to build the good governance, transparency, accountability, participation and to eliminate the concept of the corruption simultaneously it is considered a very basic to any democracy and fifth pillar to ensure the democracy.

1.2 MEANING OF RIGHT TO INFORMATION

The Right to Information means a right to information accessible under the Act which is held by or under the control of any public authority including a right to:

- Inspection of works, documents, records.
- Taking notes, extract or certified copies of documents or records.
- Take certifies sample of material and
- Obtain information in the form of diskettes, floppies, tapes, video or any other electronic mode or through print outs where such information is stored in a computer or any other devises.

It is generally very misunderstood by the people that right to information means only the right to seek information, this misconception is to be reduced by the Right to Information Act, 2005 up to a great extent by providing a comprehensive definition that clarifies the position, dispels the misunderstanding and makes clear that right to information includes:

- The right to seek information.
- The right to obtain information.
- The right to store information.

1.3 NATURE OF RIGHT TO INFORMATION

The information held by the authorities should be disclosed to the public as part of the legitimate and routine discharge of their duties therefore it should not be unreasonably kept far from the citizens. The major concern of the RTI is to allow for greater probity in the functioning of the government departments so as to promote transparency and accountability in the working of the public bodies and contain the scourge of corruption, which are critical for ensuring good governance and development. Right to information is a social legislation enacted for the benefit of the society at large. It is considered a basic human right, the foundation of a well-functioning democracy. Information adds something new to our awareness and removes the vagueness of our ideas. Soli Sorabjee stressing

on the need of right to information intended to bring transparency and openness in administration and public life, says, "Absence of transparency in administration was one of the main grounds for all permeating corruption and using right to information would lead towards openness, accountability and integrity". We live in an age of information, in which the free flow of information and ideas determines the pace of development and well-being of the people. The implementation of RTI Act is, therefore, an important milestone in our quest for building an enlightened and at the same time, a prosperous society. Therefore, the exercise of the right to information cannot be the privilege of only a few. Right to information in its narrow sense is only a right to access the information from the public bodies including right to have access to the records of the proceedings, meetings decision, orders, notification entries in government registers and files, account books, notices, rules, maps, data, drawing or work sists etc. and in broader sense it includes the right to access the information from public as well as private entities, who own, possess or control it. It broadly confers this right not only to the citizens but to everyone as human being, legal entities and foreigners as well. This right does not remain confined to the national boundaries but extends to the whole world including multinational corporations. There are some of the dimensions of the Right to Information:

- Information and freedom of press.
- Right of general people to know.
- Information to rivals/interested parties.
- Information which promotes transparency, openness and accountability in the working of all public authority, disclosure of which may also help in containing or discouraging corruption.
- Other information held by public authority.
- Information which is detained by or controlled by any public authority and one that can be accessed by the public authority under any of the law for the time being in force.

The information revolution however does mean that mankind will progress towards the path of freedom, democracy and brotherhood. It totally depends upon who controls the information, as dominant classes may exploit such information for their own progress and economic development as well as such information greatly affects the International economic order, policies and direction of development of the developed and developing countries. Present scenario comprehends the two competing trends of the day: inclusion of information and exclusion of information. On the one hand we claim that information technology has brought the information at our doorsteps, on the other hand Indian bureaucracy is still very conscious regarding exclusion the information from the people's knowledge to the possible extent. Jurisprudence of the Human Rights integrates the trinity of freedom of the information, communication and expression into the new world over. Atmosphere is being created in the favour of more information and less secrecy curtains have been thrown away as well as ideas of the more information, open society, restructuring of bureaucracy and free discussions have become order of the day.

For Understanding the Nature of the Right to Information Following Questions may be Raised:

- What is the Right to Information?
- Who controls this information?
- Why is it important for the people to have the Right to Information?
- Why should access to information be facilitated?
- What type of information's and communication are needed?
- Does the Right to Information belong to media or to the people as well?
- Whether freedom of information is specially incorporated in the Constitution?
- Should access to administrative process be provided to the people?
- What measure/mechanisms should be established to administer the Right to Information Act, 2005?
- What amendments are required in other legislations and rules to facilitated easy access to information?
- What are the grey areas in the implementation of the State Acts and Right to Information Act, 2005?
- Whether delay in framing the rules has resulted into dampening of the spirit of the people to seek information? If so, what promotional measures are required?
- What worth these rights and legal systems have if they are unknown to the common people of the country?
- What suggestions can be made to improve upon the format, content and quality of the existing legislation on the subject?

1.4 FACTORS FOR ADOPTION OF FREEDOM OF INFORMATION LAWS

There have been a variety of internal and external pressures on governments to adopt FOI laws. In most of the countries, civil society groups as anti-corruption, media and environmental groups are playing a key role for the promotion and adoption of laws. International organizations have also demanded transparency into different matter so finally the government had to accept and recognized themselves the user of the FOI laws.

1.4.1 Corruption and scandals

The crisis brought into the force due to lack of transparency in the working of the government. A series of transactions were done by the government which came under the preview of the corruption as opened in the case of MKSS Rajasthan. Continues opening of such type of corruption and scandals had led to the adoption of FOI laws. Anti-corruption campaigns have been highly successful in transitional countries through which attempt was made to change their cultures. In long established democracies such as Ireland, Japan and the UK, laws were finally adopted as a result of persistent campaigns by civil society for political scandals relating to the health and the environment.

1.4.2 International pressure

The international community has been influential in promoting access to the information as the International bodies such as the Commonwealth, Council of Europe and the Organization of American States have drafted guidelines or model legislation and the Council of Europe decided in September 2003 to develop the first international treaty on access. The World Bank, the International Monetary Fund and others have pressed countries to adopt laws to reduce corruption and to make financial systems more accountable.

1.4.3 Modernization and the Information Society

The expansion of the Internet into everyday life has increased the demand for more information by the public, businesses and civil society groups. Inside the government, the need to modernize record systems and the move towards e-government has created an internal constituency that is promoting the dissemination of information as a goal in itself. In Slovenia, the Ministry for the Information Society was the leading voice for the successful adoption of the law.

1.5 CONSTITUTIONAL PROVISIONS FOR RIGHT TO INFORMATION

Some of the states has provided the access as a right through their Constitution subject to the limitations while others has not provided such right. The preamble of the constitutions describes India as a sovereign democratic republic. The interpretation of the rights conferred by the constitution thus has to take their colour from the democratic republic character of our body politic. The constitution being an instrument designed for securing the country's governance as a democratic republic, our rights under the constitution, have to receive an orientation and meaning which can facilitate and effectuate this fundamental premise. It indicates the ability and capacity of any individual to circulate the ideas and information without interference from the state including the freedom to publish in the form of writing, speaking, printing, broadcasting etc. through the same freedom is not the same in respect of the print media and the visual media.

The Indian constitution has an impressive array of basic and inalienable rights termed as fundamental rights contained in part-III. These include the right to equal protection of the laws and the right to equality before the law, the right to freedom of speech and expression also the right to life and personal liberty. These are backed by the right to constitutional remedies that is, the right to approach the supreme court and high court under article 32 and 226 respectively in case of infringement of any of fundamental rights. The state is not only under an obligation to respect the fundamental rights of the citizens, but also equally under an obligation to ensure conditions under which the right can be exercised. The objective of right to information act is to protect these constitutional rights.

1.6 RIGHT TO INFORMATION AND HUMAN RIGHTS

Human rights are the inalienable birth-rights of all human beings and are to be protected and promoted by the state. In the political parlance of human rights, the idea of good governance and participatory democracy are realized and materialized when the right to access to official information is guaranteed along with other rights, to all the citizens. Correct and reliable social, political and administrative information enable the people to be patriotic, role responsive, civilized and politically self-assumed so that democracy survives and gains strength. The quality of democracy, therefore depends to a large extent on the degree to which information is ascertained is an anti-democratic commission, perpetuating bureaucratic despotism.

Knowledge is power is the old saying; the right verbalism as of now is 'Information is Power'. It is an undaunted fact that communication is one of important instruments in all the social intercourse. Information is one pan of the balance and democratic upheaval and human rights are on the other pan. Right to information ensures openness, transparency and accountability in administration by permitting right to information about different issues as varied as deteriorating civic amenity, properties of the elected or nominated representatives, utilization of the public funds, quality and standard of goods and services and basic human rights.

1.7 RIGHT TO INFORMATION AND PUBLIC INTEREST

Public interest is a nebulous concept, not defined in any freedom of information laws, understandably so, as it is a very subjective concept, differing from country to country, on the basis of their governmental framework, socio-

economic scenario and development complexities. Balancing these strategic concerns with public interest, therefore, depends on the particular country, the genuine interest of the people accessing that information and the legitimate national interest. However, on a broader perspective the following consideration plays an important role;

- The nature of the information sought.
- The time period of the information sought to measure the sensitivity of the information sought.
- Whether the disclosure would assist the public in understanding the importance of a matter, which has become a national debate.
- The extent of the information already available in the public domain, through the media and other information broadcasting channels.
- The key underlying any disclosure, being, the genuine and legitimate interest in the public's access to information. Public interest does not refer to matters which are merely of interest to the public to know in the sense of gratifying curiosity or providing amusement.

In general, following may constitute public interest favouring disclosure of information:-

- i. Promoting transparency and accountability of public authorities in making decision by them.
- ii. Promoting transparency and accountability in spending the public money.
- iii. Detecting corruption, injustice and negligence.
- iv. Revealing the information affecting public safety.
- v. Allowing disclosing information, permitting public to make an informed decision, promoting a debate and discussion on the issue of public importance.

When openness and transparency are likely to impede the achievement of a major objectives (having constitutional colour) which a government intends to undertake, such as placing a universal health care reform policy framework, or when transparency makes the government appear to be inept in responding to a major national crisis, then in such scenario, the only possible task is to balance between the competing and conflicting interest.

1.8 RIGHT TO INFORMATION AND CORRUPTION

The right to information, likely to reduce the corruption and increase administrative efficiency in so far as it provides every citizen of the country an enforceable right to question, examine, audit, review and assess government acts and decisions to ensure that these are consistent with the principles of public interest, integrity.

Different aspects of the importance of the right to information are discussed in a different way as: Abraham Lincoln, the very first President of the USA, understood the importance of right to information, when he rightly said, Government is of the people by the people and for the people. The first part of the people includes participative management the second by the people includes openness and transparency for the people and the third part for the people includes accountability, which means participation, minimizing corruption and good governance by sensitization of bureaucracy and bringing efficiency in the system. Right to Information Act, 2005 was accepted with the objectives of:

- Greater and superior Transparency in the working of public authorities.
- Enhancement in the accountability and performance of the Indian government.
- Decision making procedure: and
- Reduction or decrease in the corruption of the government departments.

The philosophy of secrecy rests on the ground that governance is not the business of the common people; however, in a democracy barring people from access to information smacks and sows the seeds of fascism. Granting maximum access to governmental materials and limiting confidentiality to minimum are a way for developing into a global jurisprudence of open government. It is important that locking up informational sources needs to be looked down, in the new world over. Since law serves life, informational law has therapeutic value for the already anaemic Human Rights and people. Such a law is anathema for those in power. Power to the people implies their Right to Know and denies to government the right to hide. It "We the people" are final masters and performance auditors of bureaucracy, and then need for free access to all public information, argues for itself. How can Stockholm resolutions for environment conservation or "Health for all" or any other social welfare project may be meaningful, if full disclosure and processing of facts is not made into a human right? No people's struggle or workers fight for fair employment terms, or women organizations fighting for equality against gender discrimination, or effort of the disabled to be a part of the mainstream, or the displaced seeking relief and rehabilitation can achieve success in the absence of this right.

Right to Information Act has become a reality consistent with the objectives of having a stable, honest, transparent and efficient government. True governments are not elected just by holding elections but from informed franchise. Efficient government cannot be run, by its mystic babu but from the enlightened participation of its populace in public affairs. Now the government will have to move fast a few steps further, as free flow of information for the citizens and non-government institutions still suffers from several bottlenecks, for example existing legal framework, lack of understanding, the philosophy at the grass root level, and mind set of middle level

employees for secrecy. To bring a change in attitude and mind-set of civil servants, explicit change is required in the old rules so that it become a locomotive for human progress. Non obstinate clause in Section 14 of the Freedom of Information Act may not be sufficient to motive the bureaucracy to make access to information, and more liberal. The Act ensures free flow of information to the public, while inter alia protecting the national interest, sovereignty and integrity of India and friendly relations with foreign states.

Right to Information has been declared in sense as the concept of human rights and apart from the reactionary statutes like Prevention of Terror Act, 2002(POTA), police terror, misinformation and disinformation are the methods adopted by the States to conceal its crimes. Official secrecy being a shelter for the Government and ignorance of facts or their distortion becomes a tranquilizer for the public. Sometimes even the parliament is kept in the dark. Truth has no chance when it is stifled at birth. Freedom of information is fundamental of freedoms. The human essence fails to find expression under the legalized repression and the society is in itself fails to protest or dissent if the right to know is gagged by secrecy. Humanity is unable to manifest itself when sources of information are frozen beyond common access and the voices of resistance are terrorized into muteness or corrupted into silence. A fundamental postulate in a democratic polity means where the common people possess as a public right all the information affecting the matters of public concern, without which the business of the government or the private operations cannot intelligently be directed, controlled, mould, monitor or superintend. Without having the information on any matter the participation with absolute responsibility in the process of decision making cannot be taken by the common people of the country either directly or indirectly. In the quest for universal answer to this persistent malaise, it is much important to identify the main sources of the corruption inherent within the character of the state machine that include a determined denial of transparency, accessibility, accountability, cumbersome and confusing procedures.

As the information is considered a power of the common man and the executive at all the level attempts to withhold the information from the reach of such common man in order to increase its scope for control, patronage, arbitrary, corrupt and unaccountable exercise of power. Therefore demystification of rules and regulations, procedures, complete transparency and pro- active dissemination of the relevant information amongst the common public is potentially much strong safeguard against the corruption. Ultimately the most effective check on the corruption is that where the citizens of the country themselves have the right for seeking the information from the state and thereby to enforce the transparency and accountability.

Information is the currency and every citizen requires it into their life as necessary for governance of the society, the greater the access of the citizen to information the greater would be the responsiveness of government towards the community and the greater restriction are placed on access, the greater feeling of powerlessness are held. Without the proper information common people cannot adequately exercise their rights and responsibilities as the citizens or make any informed choice. The information kept by the Government is the national resources, neither the particular government of the day nor any public officials creates those information for their own benefit but such information is created in order to discharge their legitimate duties and for the service of the public for whose benefit the institution of the government exist. It follows that the government and their officials are the trustees of such information created for the common people. The Right to Information enables the members of the public to access the information contained into the documents that may otherwise be available only at the discretion of the government.

There are a numerous ways in which the information kept by the government is at least in theory accessible to the citizens of the country and the parliamentary system promotes such kind of procedure by transferring the information from the government to the parliament or to the respective legislatures and from there to the people, members of the public can also seek information on the concern matters from their elected representatives. Annual reporting, different committee reports, publication of the information and the requirements of the administrative law also increase the flow of information from the government to the common people. However in practise the overwhelming culture of the bureaucracy remains as that of the secrecy, distance and mystification and not fundamentally different from the colonial times. In fact this preponderance of the bureaucratic secrecy is usually legitimised by a colonial law, the Official Secrets Act, 1923 that made the disclosure of any official information to the common public by any public servant an offence.

There is an expectation from the Right to Information laws in order to improve the quality of the decision making by the public authorities in both policy and administrative matters by removing the unnecessary secrecy that surrounded the decision making process. It also enables the groups and individuals to be informed about the criteria applied by the government agencies in making their decisions. It is hoped that this would enhance the quality of the participatory political democracy by providing all the citizens an opportunity to participate in a more full and informed way. By securing access to the relevant information and knowledge, the citizens of the country be enabled to understand the government performance and the cumulative impact of such procedure will be the control on the corruption and the arbitrary exercise of the power.

1.9 RIGHT TO INFORMATION: TRANSPARENCY, ACCOUNTABILITY & OPENNESS

1.9.1 Transparency and Openness

Transparency is always considered as the information is freely available and directly accessible to all those who may be affected by any of the decision and of their enforcement. Access to any information is a great enabler of transparency and the citizens right to Information is considered as the soul of the transparency that improves the quality, ethics and the decision making power of the concerned authorities. In the perspective of governance, openness and transparency refers to the availability of information to all the common public and clearness about the functioning of all government institutions. Without openness and transparency that is unencumbered access to timely and reliable information on the decisions and performance, it would be much difficult to call the general public sector entities to account as failure to supply information on any matter is a major problem with most of the legal system of the developing world. Without the concept of accountability, transparency and openness would be of minute value. The presence of both accountability and transparency is a precondition to effective, competent and equitable management in public institutions.

1.9.2 Accountability

Power corrupts and absolute power corrupts absolutely. Right to Information attempts to lose the power syndrome of those entities that control the communication, gathering, processing, distribution and storage of information system because they will lose their power if such information is transferred from such power group to the common man. By transferring the information from such power groups to the common people they will be made accountable as the notion of democracy prescribed that the government is for the benefit of the common people at large and for the few of the chosen ones. Modern democracy embraces a wider and more direct concept of accountability as that goes beyond the traditionally well deified principle of accountability of the executive towards the legislature. Accountability is possible only when common people have access to information relating to the functioning of the government agencies. Hence not only the government institution but all the private as well as civil organizations must be accountable and responsible towards the public and also to their institutional stakeholders. Accountability is considered as one of the prerequisites for any democratic setup or for good governance. It may be categorized into the four broad types:

- (a) Accountability is accompanying with the awareness of answerability, based on the principle that an individual's identity is determined by one's position held in a structured relationship;
- (b) Liability, that is a second form of accountability, realizes individual identity deep-rooted in more-formalized expectations that developed through rules, contracts legislation and parallel relationships based on the legalistic standing;
- (c) Accountability is accompanying with role-based expectations and such roles stand-in blameworthiness as a source for shaping, directing and leading one's behaviour;
- (d) Accountability expectations are mostly derived from an individual's perceived position in a community where attributions and credits come into play.

1.9.3 Public Accountability

Public accountability is a facet of administrative efficiency and the publication of any information serves as an instrument for the oversight of citizens. Information is considered as one of the means for fighting against the corruption therefore the government that creates or produces the trustworthy flow of information creates greater openness, transparency and accountability. International experience also shows that countries allow their citizen's access to public information held by the government, have checked on the reduction of the corruption and this resulted into the substantial increase in the administrative efficiency.

The public accountability is a part of the governance and the Government consist of public servant is accountable to the public for their service. Therefore accountability and governance is the part and parcel of the government, which acts as principle and the agent and make an impact on the public. When any government agency translates any government policy into any programme, the success of such transaction is very much dependent on a clear understanding and outcome of the result that was sought. There is no surprising fact that the history of accountability and governance within the public has shifted from measuring inputs to measuring outputs and matching outputs to identifying outcomes. The only point that weakens the accountability or the effectiveness of the government or the public sector is the lack of information on any matter.

1.9.4 Responsibility of Public Authority

Public authority is responsible to maintain its records and if possible on computer. The authority is to publish within the time period of four months from the enactment of the RTI Act some of the information as follows:

- The particulars of the organisation, functions and duties.

- Powers along with duties of its officers as well as employees.
- Procedure followed for the decision making process comprising supervision and accountability.

Public authority is to designate some of the officers to provide information to the citizens. Request for seeking the information can be made in Hindi, English or in any other official language of the area. Such application is too accompanied with the prescribed fee and no fee is to be charged by any person of below poverty line. The application for information can be made to the Central or State office accordingly and the reason for seeking need not to be provided. On receiving the application the concerned is to provide the information within a time period of 30 days or otherwise may reject the application and in case where the information sought relating to the life or liberty of any person shall be provided within 48 hours only. This is the most comprehensive right and includes many things in its ambit for the benefit of the common people of the country.

1.9.5 Participation

Good governance requires that all the civil societies should have the opportunity to participate during the formulation of development strategies that directly affects the communities and all such groups should also be able to participate into the design and implementation of programme and projects. Even where such projects have a secondary impression on any particular localities or population, there should be a process of consultation that takes all their views into account. This characteristic of governance is one of the essential element for securing the commitment and support for the projects and enhancing the excellence and quality of their implementation.

1.10 RIGHT TO INFORMATION AND GOOD GOVERNANCE

The concept of governance is as old as human civilization and defined as the process of decision making and includes the process by which the decisions taken are to be implemented or any act or process through which the government governs the people. The concept of good governance includes some of factors as transparency, accountability, rule of law and people participation. The need of good governance is universally accepted and prerequisite for democracy. India is also one of the democratic countries so there is a need of good governance and transparency. The government played an important role in the life of a common man as the state and its machinery works mainly for the welfare of the common people. Good governance also comprises within its domain the varied range of issues such as economic, political, social, judiciary and administrative as well and constitutes the cornerstone of every democracy. Experience shows that every development administration always requires a vital need for improving the government. Some process or system that ensures governance requires all those activities to be carried out, managed or controlled that comes within the parameters and limitations of accountability, legitimacy as well as transparency. Good governance mainly works on the concept of positive, responsive and sensitive administration and considered as a value-laden which emphasize forcibly on the public interest, public welfare, public service and public goods. Today in our country there is unprecedented corruption at all levels and the feeling is pinching but corruption in reality is roaring high. Secrecy is one of the main cause behind such corruption, while the same was considered one of the key tool for showing faithfulness towards the government is past era. In order to have the transparency in the governance, there is a need to crack the walls of the secrecy and to ensure the good governance; information is only considered as the power. Simultaneously at the international level it is also recognised that information is very essential for the development of any nation, as a result of this many of the countries have adopted the Right to Information Act.

This Act provides an opportunity to the common people of the country to interact with the official and institutions. This Act is also considered as a potent missile to fight against corruption, arbitrariness and misuse of the power and having a noteworthy bearing on the good governance and development. Transparency and the accountability are the two very facets of the good governance and in the absence of any one the other cannot be in existence. Maximum disclosure and minimum confidentiality is required to ensure the concept of good governance. The main lunge of such law is not only to make the people aware but to transform the traditions of secrecy, red tapism and detachment into the society that have alone long plagued India's monolithic and opaque bureaucracy. Accordingly to the World Bank, good governance entails sound public sector management (efficiency, effectiveness and economy), accountability, exchange and free flow of any information (transparency), and a legal framework required for the progress (justice, respect for human rights and liberties). In seeming agreement with the World Bank, the Overseas Development Administration of the United Kingdom of Great Britain and Northern Ireland (now the Department for International Development), defines good governance by focusing on four major components namely legitimacy (government should have the consent of the governed), accountability (ensuring transparency, being answerable for actions and media freedom), competence (effective policy making, implementation and service delivery), and respect for law and protection of human rights. The basic premise behind the rule of Right to Information is, since the government is of the people, by the people and for the people, it should be clearly open, transparent and accountable in all respect and should not conceal or hide anything from the same people. "Good governance" means the efficient and effective administration in a democratic framework. It involves high level organizational efficiency and effectiveness corresponding in a responsive way in order to attain the

predetermined desirable goals of society. Good governance is essential dovetailing policies which the respective states must ensure while formulating their policies, necessary vary according to the particular circumstances and needs of different societies. Simultaneously the responsibility for determining and implementing such practices, based on transparency and accountability. According to the *World Bank document viz. Governance and Development*, the parameters of good governance are as follows:

- Legitimacy of the political system. This implies limited and democratic government.
- Freedom of association and participation by various social, economic, religious, cultural and professional groups in the process of governance.
- Co-operation between government and civil society organizations.
- A sound administrative system leading to efficiency and effectiveness.
- An established legal framework based on the rule of law and independence of judiciary to protect human rights, secure social justice and guard against exploitation and abuse of power.
- Bureaucratic accountability including transparency in administration, public policies, decision-making, monitoring and evaluation of government performance.
- Freedom of information and expression requires for the purpose of construction and formulation of public policies, decision-making, monitoring and evaluation of government performance.

Actually good governance has eight major facets including participatory, consensus oriented, accountable, transparent, responsive, effective, efficient and equitable and also follow the rule of law. Good governance is an ideal which is difficult to achieve in its totality. However to ensure sustainable human development action must be taken to work towards achieving this ideal. The RTI is one of the important method by which the success in good governance may be achieved. The first and foremost task appears to attempt for a fundamental redefinition of governance, to change the mind set of bureaucracy, to overcome to colonial hang-over of the persistent notion of the Rulers and the Ruled, Governors and Governed, Government and the People, the us and they. The interaction between the administration and the citizen needs to be enhanced by the awareness of and respect for the constitutional rights of the people. Interaction is essential between free and self-governing people and the agents appointed by them. Massive and sustained participation of civil society initiatives, self-help groups, voluntary organization etc is necessary to achieve a faster pace of socio socio-economic development and for building a more just caring and equitable society as envisioned by the constitution. The movement must be from governance to self-governance. This requires a radical re-shaping of policies so as to create an enabling and facilitating environment in which effective interaction between the government and the institutions of civil society becomes possible.

1.11 INTERNATIONAL PRINCIPLES OF RIGHT TO INFORMATION

Despite the fact that legislation in different countries varies significantly, there are some common themes which can be identified as the very regular features of a freedom of information regime. Furthermore, certain mechanisms or standards in national legislation can be identified as best practice approaches, justified by the principle of maximum disclosure, which should be promoted in other countries. It is generally argued that freedom of information and predominantly the right to access information detained by any public bodies is a fundamental right and considered as part of the right to freedom of expression. Some established principles also through lights on the established jurisprudence regarding the right to freedom of expression including the right to information. Though the implementation of the right to freedom of expression carries with it special duties and responsibilities and subject to certain restriction, but these shall only be such as are provided by law and are necessary:

- For respect of the rights or reputation of others.
- For the protection of national security or of public order or of public health or morals.

The principle of maximum disclosure establishes a presumption that all the information held by public bodies should be subject to disclosure and that this presumption may be overcome only where there is an overriding risk of harm to a legitimate interest apart it also implies that system and process should be established, ensuring that the members of the public can in practice access information and that public bodies should make all reasonable efforts to facilitate this access.

There are around nine headings, based on those primary principles set out in The Public's Right to Know.

1.11.1 Maximum Disclosure

Freedom of Information Legislation Should be Guided by the Principle of Maximum Disclosure

The principle of maximum disclosure encapsulates the basic rationale underlying freedom of information legislation and a version of this is explicitly stated as an objective in a number of national laws. An important aspect of this principle is that the body seeking to deny access to information bears the onus of proving that it may legitimately be withheld. Another aspect of this principle is that the scope of the law should be broad and not only the citizens but

everyone must be benefited from the information and any individual requesting access should not give any reason or need to show any particular interest in that information. No public bodies should be excluded from the ambit of the law and every legitimate secrecy interest can be addressed through an appropriate regime of exception. Public corporation should also be covered and many argued that even all private bodies which are substantially publicly funded or carry out public functions should be included within the ambit of the law. This principle encapsulates the basic rationale underlying the very concept of freedom of information and ideally it should be provided in the Constitution to make it clear that access to official information is a basic right. The overriding goal of legislation should be to implement maximum disclosure in practice. Public bodies have an obligation to disclose information and every member of the public has a corresponding right to receive information. Everyone present in the territory of the country should benefit from this right. In other words, the public authority must show that the information which it wishes to withhold comes within the scope of the limited regime of exceptions.

1.11.2 Obligation to Publish

Public Bodies Should be Under an Obligation to Publish Key Information

It is not enough for the law simply to require public bodies to accede to request for information but effective access for many of the people depends on these public bodies actively publishing and disseminating key categories of information even without making any request from anyone. Though the scope of such obligation is totally depended on the resources available, but the amount of information covered should increase over time, particularly as new technologies make it easier and cheaper to publish and disseminate information and what information should be published again depends upon the public body concerned. All the Public bodies at least are under an obligation to publish the following categories of information automatically as operational information about how the public body functions, costs, objectives, audited accounts, standards, and achievements and so on, particularly where the body provides direct services to the public.

1.11.3 Promotion of Open Government

Public Bodies Must Actively Promote Open Government

In most of the countries especially those which have not yet or have just received freedom of information laws having a deep-rooted culture of secrecy within government, based on long-standing practices and attitudes. Ultimately, the success of such law is based on altering these traditions since it is practically impossible to force civil servants to be open, even with the most progressive legislation. Rather, longer-term success depends on convincing public officials that openness is not just an (unwelcome) obligation, but also a fundamental human right, and central to effective and appropriate governance. A range of promotional measures may be needed to address the culture of secrecy and to ensure that the public are aware of the right to information and its implications for them. A number of other means of promoting openness within government have been tried in different countries in the form of providing incentives for good performers, exposing poor performers and ensuring legislative oversight through annual reports. The law should at least allocate the responsibilities for ensuring that this need is actively addressed. Another useful means or tool to tackle the culture of the secrecy is to provide the penalties for all those who wilfully obstruct access to information in any manner including by destroying records or inhibiting the work of the administrative oversight body. The general public should also be well informed about their rights available under the new legislation and also how to exercise them. Some campaigns for public education are needed, including through the media. An important role can be played by the broadcast media in such of the countries where distribution of the newspaper is low or illiteracy widespread. Another useful tool for such purpose is the publication of a very simple and accessible guide on how to lodge an information request and it is the best that the information law allocate such responsibility to an oversight body. A very important another aspect for promoting open government is promoting the better record maintenance by public bodies as it is found in many of the countries that one of the biggest obstacles to accessing information is the poor state in which the records are kept. Officials often do not know what information they have or, even if they do know, cannot locate the records they are looking for in the same department. Good maintenance of the records is important not only for the freedom of information but it helps in handling the key functions of modern government.

1.11.4 Limited Scope of Exceptions

Exceptions Should be Clearly and Narrowly Drawn and Subject to Strict “Harm” and “Public Interest” Tests

The regime of exception is one of the most difficult issues faced by those who drafts the freedom of information law and considered as one of the most problematical parts of many of the existing laws. It is obviously important that all the legitimate secret interest are adequately catered to in the law, otherwise public bodies will legally be required to disclose the information even though this may cause an unwarranted harm. The presumption in favour of disclosure means that the onus should be on the public body seeking to deny access to certain information to show that it may legitimately be withheld according to the three part test for exemptions as follows:

- The information must relate to a legitimate aim listed in the law.
- Disclosure must threaten to cause substantial harm to that aim, and
- The harm to the aim must be greater than the public interest in having the information.

Different right to information laws recognise different legitimate aims subject to some of the exception. The Council of Europe Recommendation also provides a detailed and exclusive list of the possible grounds for restricting the right to information in Principle IV, titled "Possible limitations to access to official documents".

Member states may limit the right of access to official documents. Limitations should be set down precisely in law, be necessary in a democratic society and be proportionate to the aim of protecting:

- National security, defence and international relations;
- Public safety;
- The prevention, investigation and prosecution of criminal activities;
- Privacy and other legitimate private interests;
- Commercial and other economic interests, be they private or public;
- The equality of parties concerning court proceedings;
- Nature;
- Inspection, control and supervision by public authorities;
- The economic, monetary and exchange rate policies of the state;
- The confidentiality of deliberations within or between public authorities during the internal preparation of a matter.

1.11.5 Processes to Facilitate Access

Requests For Information Should be Processed Rapidly and Fairly and an Independent Review of any Refusals Should be Available

Effective access to information requires both that the law stipulates clear processes for deciding upon requests by public bodies, as well as a system for independent review of their decisions. Processes for accessing information are complex and this normally occupies a large part of existing freedom of information laws. It is useful to require public bodies to appoint an individual as Information Officer, who bears overall responsibility for ensuring that the body meets its obligations under the law. Request to access the information should normally be required to be in writing, although the law should take care for those who cannot meet this requirement by requiring the officials to assist them. The law should clearly provide a timelines for responding the request, which should reasonably be short. The reply to a request should be made in the form of a written notice stating about the fee, the form in which access will be provided and where access to all or part of any information is denied, reasons for that denial along with information about any right of appeal. Many of the national laws provide for an internal appeal to an officer higher in rank to the person to whom the request was made in the same department. It is however, crucial that requesters have a right to appeal to an independent organisation for review the decisions made by the public authorities, which is reflected in most of the international standards. It is highly desirable that the appeals should go first to an independent administrative body either by establishing a new independent body for such purpose or allocates this task to an existing body such as the human rights commission or an ombudsman as already exercised by most of the more progressive national laws. Finally, the law should provide for the right to appeal form such administrative body to the courts as the courts really have the right authority to settle down standards of disclosure in the controversial matter and to ensure the possibility of a full, well-reasoned approach to difficult disclosure issues.

1.11.6 Costs

Individuals Should Not be Deterred From Making Requests For Information by Excessive Costs

The charging of fees for gaining access is a complicated issue. It is widely accepted the fees of gaining access to information held by public bodies should not be so high as to prevent the potential applicants as the whole rationale behind freedom of information laws is to promote open access to information but practically every law does allow for some charges for access. There are a number of costs which may theoretically be charged, including searching for documents, preparing them, reviewing whether or not they are covered by an exception and the actual cost of providing access, for example by duplication. Different laws have implemented different approaches towards the fees as some limit charges to the cost of duplication and others has classified into different categories as charging less fees for public interest or personal requests. Still others allow requesters to occupy a certain amount of public time as initial two hours free and start to charge a particular fee. In practice, there is wide variance in the way that different countries approach the question of fees for access to information.

1.11.7 Open Meetings**Meetings of Public Bodies Should be Open to the Public**

Freedom of information includes the public's right to know what the government is doing on its behalf and to participate in decision-making processes. Freedom of information legislation should therefore establish a presumption that all meetings of governing bodies are open to the public including the meetings of elected bodies and their committees, planning and zoning boards, boards of public, educational authorities and public industrial development agencies etc. although in practice it is extremely rare for this to be dealt with in a freedom of information law and some countries have separate laws on this. The reason was that the underlying rationale for freedom of information applies not only to information in democracy form, but also to meetings of public bodies.

1.11.8 Disclosure Takes Precedence**Laws Which are Inconsistent With the Principle of Maximum Disclosure Should be Amended or Repealed**

Most of the countries have a range of secrecy laws on their books, many of which are not legitimate or include the illegitimate provisions which are inconsistent with the freedom of information law. If the culture of secrecy is to be addressed, the freedom of information law must take precedence over these laws. This should, where possible, be achieved by interpreting these laws in a manner which is consistent with the freedom of information law. However, where potential conflicts cannot be resolved through interpretation, the provisions of the freedom of information law should overrule those of conflicting secrecy laws.

1.11.9 Protection for Whistle-blowers**Individuals Who Release Information on Wrongdoing Whistle-Blowers Must be Protected**

A freedom of information law should protect all those individual against any legal, administrative or employment – related sanctions for releasing information on wrongdoing. Even the best system of exception will be unable to address every situation where disclosure is warranted and individuals seeking to disclose information in the public interest should not be required to undertake a complex balancing of different public interests. Such protection should apply even where disclosure would otherwise be in breach of a legal or employment requirement. Wrongdoing in this context includes the commission of any criminal offence, failure to fulfil the required legal obligation, any miscarriage of justice, corruption, fairness or dishonesty, including any serious maladministration regarding the public body. It also includes a serious threat to health, safety or the environment, whether linked to individual wrongdoing or not. Whistle-blowers should benefit from protection as long as the act is performed in good faith along with the sensible belief that the information was considerably true and also disclosed evidence of wrongdoing. Such protection should apply even where disclosure would otherwise be in breach of a legal or employment requirement. Some of the countries have adopted this protection in a separate law rather than being included in the freedom of information law. Protection from liability should also be provided to individuals who, reasonably and in good faith, disclose information in the exercise of any power or duty under freedom information legislation. This effectively protects civil servants who have mistakenly, but in good faith, released information. This protection is very important for changing the culture of secrecy and the civil servants need not to have fear from disclosing the information.

CONCLUSION:

In spite of the above mentioned deficiencies, apprehensions and operational shortcomings, the Right to Information has unquestionably proved to be one of the significant milestone and a major step towards ensuring the participatory and transparent development process in the country. However, there is a need to continue the impetus of this legislation and should not allow it at any cost either to die down or to be converted into just a different piece of legislation languishing on any piece of paper. It is definitely in the interest of all the stakeholders to remain dedicated and cautious so that the objectives and purposes of this Act do not get frustrated by any bureaucratic manipulations. It is on the common people of the country to strengthen the values and culture of the openness, which is required to maintain healthy democratic governance where one and all has the right to know and also to be heard in a fair and impartial approach. This shall perhaps be one of the greatest contribution towards strengthen the democracy.

REFERENCES:

1. G. Palanithurai, Right to Information Act in India: A Note on Praxis, Social Action, Vol. 62, July-September 2012, p. 283.
2. Avnish Sharma, Right to Information; A Constitutional Perspective, Civil and Military Law Journal, October-December 2007, Vol. 43, No. 2, p. 76.
3. Kailash Thakur, The Right to Information Act, 2005: A Movement from Darkness to Light, Civil and Military Law Journal, July-September 2012, Vol. 48, No. 3, p. 166.

4. A.T. Jagadish, Right to Information-A Silver Lining in Democracy, Karnataka Law Journal 2012, April 15; 2(8), p. 57.
5. Declaration 19/02/2002, the Commonwealth in the 21st Century: Continuity and Renewal, issued by Commonwealth Heads of the Government in Australia available at <http://www.thecommonwealth.org.dynamic/pressofficedisplay.asp?id=417&tipe=press&cat=53> visited on 15th July, 2015.
6. M. Sarojanamma, Right to Information and the Voters Right to know: An Analysis, Civil and Military Law Journal, April-June 2012, Vol. 48, No. 2, p. 99.

