

RIGHT TO INFORMATION: A CURB ON CORRUPTION

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ABSTRACT

Information is a key that helps anyone in making the correct decisions. Sharing information also helps the nation to put up a strong cadre of knowledgeable citizenry who can contribute significantly in the democratic procedure and execute their responsibilities competently. Effective accountability rests on the people's acquaintance with the information and circumstances for the decisions taken. Transparency is the essence of the representative form of government. In addition, it ensures accountability of institutions of governance because they hold the authority and power on behalf of the people the great master, author and founder of the society. The purpose of this paper is to highlight the role of the right to information in India in curbing the corruptions. The findings of the paper will help the planners to frame an exact and benefiting legislative provisions on right to information in India.

Keywords: Right to Information, Public interest, Corruption.

INTRODUCTION

In the democratic governance the freedom of information is rightly considered as a strongest human right. In order to make the governments accountable, citizens of the country should be entitled to know, means have a right of access to all the official documents. Though freedom of information has been just beginning at a strong pace only in recent times, but it is hardly a new concept. The root of concept may be traced back in the 18th century. The period is considered as the age of enlightenment in the field of freedom of information. Quite earlier to it the plea for freedom of speech and expression was raised for the first time in the history of democracy by the Athenian Orator Socrates (B.C. 436-386), who committed suicide after his country was defeated and conquered by Philip of Macedon at the Battle of Chaeronea. His immortal speech "Logos Areopagicos" was a strong plea for restoring democracy and freedom of expression in Athens.¹

In 367B.C, Aristotle, the great Greek Political philosopher pointed out that," if liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost".² During 1215 a revolution was started in England against the King by the Barons relating to their right which was named *Magna Carta*. This was also a revolution for freedom to know as this charter provides that all the freemen of our kingdom are entitled to know the provisions maintained under the

¹ Mdhu R. Sekhar , "Towards a vibrant Democracy", Yojana, January 2006, P.39.

² Dr. V.R. Godhaniya college, Porbandar, Post Graduate College, Centre of English, M.A.-Part-II available at [www.drvrinstitute.org/drvg_files/MA_PART-II_\(2010-2011\).pdf](http://www.drvrinstitute.org/drvg_files/MA_PART-II_(2010-2011).pdf) visited on 20th Apr, 2015.

charter.³In Great Britain, King Henry VIII (1534) banned the reading of the Bible in churches, for he thought that the ideas of liberty contained therein might make the common people restless.⁴ Alongside in East Asia, the Tibetan monasteries feared for long mass education more than Chinese invasion. The reason behind it that such monasteries ruled over the souls of the masses and over their rights and liberties.⁵ Undoubtedly, the freedom of information is out-come of in-depth philosophical scrutiny followed by reactionary political development and favourable public opinion.

RIGHT TO INFORMATION

With dawn of civilization, human beings have tried to exercise power over each other by controlling access to information and knowledge. Historically, this was most often through access to information regarding medicinal plants and the incantations that prevented or cured the disease, especially in ancient India wherein concealment of knowledge and useful information and use of it was considered as great sin. However, with lapse of time these lofty ideals were pushed to oblivion, by keeping such information within the family, medicine men and women safeguarded their power over others. Priests and holy personages claimed privileged access to the gods and kept their conversations with God a secret, thereby setting them up as centre of reflected power. There was of course, the passing on of this knowledge to ‘apprentices’, but this was in most societies a high controlled activity. In many cases, critical information was only passed on within the family and that also at the last possible moment. For example, among the Warli tribal in Thane district of Maharashtra, there are many medicine men who have detailed knowledge about the medicinal properties of plants growing in the region. However, this knowledge is confided by the father only to the son and that also at the former’s death-bed. However, learned in law like Kautilya advocated for free exchange of information, references to secrecy may be found in the writings of Kautilya (3 B.C).⁶

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. 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)⁷ 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.⁸

³Para 1 of English translation of Magna Carta, available at www.bl.uk/magna-carta-english-translation visited on 22nd Apr, 2015.

⁴ John M. Barry, “God, Government and Roger Williams’Big idea” available at www.smithsonianmag.com/history/god-government-androger-williams-big-idea-6291280/ visited on 24th Apr 2015.

⁵ Height of Darkness: Chinese Colonialism on the World’s Roof available at www.reversespins.com/heartofdarkness.html visited on 28th Apr 2015.

⁶ Ms. Moushumi Basu, “Secrecy and Governance”, Article published in Yojona, August 2005, page.26.

⁷ For example an agenda of fulfilment of part iv of the Constitution.

⁸ Anshu Jain, Good Governance and Right to Information: A Perspective, Journal of Indian Law Institute, 2012, Oct-Dec, 54(4), P. 515.

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 of⁹:

- 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.¹⁰

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,

⁹ Ansari MM. “Impact of Right to Information on Development: A Perspective on India’s Recent Experiences” paper presented at the UNESCO Lecture, Paris, May 15, 2008.

¹⁰ Harsh Mander and Abba Joshi, The Movement for Right to Information in India People’s power for the control of corruption available at www.humanrightnative.org/./rti/India/articles/the%20Movement 2. Visited on 23 Nov, 2014.

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.¹¹

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.¹² 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.¹³

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

¹¹ Haritas Kaveri, Right to Information movement: The first step against corruption, Lawyers Collective 2008, August, 18(8), p. 10.

¹² Justice V.R.Krishna Iyer, The Dialectics and Dynamics of Human Rights in India (Yesterday, Today and Tomorrow), Eastern Law House, Calcutta, 1999, p.,15-16.

¹³ibid, Section 1, Importance of the Right to Information to combat corruption.

are the trustees of such information created for the common people.¹⁴The 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.¹⁵

CONCLUSION

The main objectives of the law on 'right to information' is to operationalize the fundamental right to information to set-up systems and mechanisms to people for having an easy access to information, to promote transparency and accountability in governance, to minimize corruption and inefficiency in public offices and to enable people's vibrant participation in governing polity of the country. The ambit and scope of the Act are much wider, the Act shakes off the monopolization of information by few and sets in the transparency, which in turn promotes accountability. The act proposes to transform Indian 'mass of citizens' into informed class of citizenry. The intent and spirit of the act is free-flow of information, which leads to formation of wise-citizens and knowledge society.

¹⁴ Dr. Minal M. Bapat, Right to Information: Its Scope and Need, AJHC, Jan 2008(Journal Section) p., 14-15.

¹⁵ Narayan Vikrant, Right to Information: A paradigm shift from representative to participatory democracy, All India Reporter 2009, August, p.116.