

Right to Information Act: A Tool to Strengthen Good Governance and tackling corruption

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ABSTRACT: *Good Governance is prerequisite for democracy. Such governance includes some factors such as transparency, accountability, rule of law and people's participation. India is a democratic country and in every democratic country, there is a need of good governance and transparency. In every development administration experiences indicated that there has always an urgent need for improving government. Today in India there is unprecedented corruption at all levels. All feel its pinch but corruption is roaring high. The main factor behind the corruption is secrecy, which was taken as a tool of faithfulness towards government in past era. If we want transparency in governance, there is a need to crack the corruption by cracking the walls of secrecy. The prevalence of corruption, lack of accountability, efficiency and effectiveness demands the requisite changes and transformations to ensure good governance. Information is power and at International level it is recognized that information is essential for development as a result many countries have enacted Right to Information Act. In that direction government of India too introduces a new era of good governance through the enactment of Right to Information Act in 2005. It provide an opportunity to interact with the officials and institutions. Right to Information is a potent weapon to fight against corruption, arbitrariness and misuse of power. RTI has significant bearing on good governance and development. The Right to Information (RTI) is a vital tool for good governance. Transparency and accountability are for good governance. If there is no transparency, accountability cannot be fixed. There should be maximum disclosure and minimum confidentiality. The Main thrust of RTI law is to change the culture of secrecy, red tapism and aloofness that has long plagued India's monolithic and opaque bureaucracy. Present paper is an endeavor to discuss the major indicators of good governance, role of RTI in good governance and eradication of corruption in India through RTI. Along with that, this paper discusses the position of India in comparison to neighboring countries according to Transparency International (TI) on the basis of governance indicators.*

Keywords: *RTI Act, TI, corruption, good governance*

I. INTRODUCTION

Governance and good governance have become the theme and matter of discussion and deliberations. Government has played a vital role in the life of man. The act and process by which a government governs our people is called governance. The need of good governance is universally accepted. It has recognized that the state and its machinery should work for the welfare of the peoples. Good Governance constitutes the cornerstone of every democracy. Good Governance includes wide range of issues like economic, political, administrative and judicial as well. Governance is a process or a system that ensures certain activities to be carried out, managed or controlled within the parameters of accountability, legitimacy and transparency. Good Governance rests on positive, responsive and sensitive administration. It is a value-laden concept, which emphasize on public interest, public welfare, public service and public goods. According to the World Bank¹, good governance entails sound public sector management (efficiency, effectiveness and economy), accountability, exchange and free flow of information (transparency), and a legal framework for development (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 rights².

¹ <http://www.ifad.org/gbdocs/eb/67/e/EB-99-67-INF-4.pdf>

² Overseas Development Administration, 'Taking Account of Good Government,' London, 1993.

II. MAJOR COMPONENTS OF GOOD GOVERNANCE

As per the World Bank, the United Nations Commission on Human Rights and Asian Development Bank, the good governance includes some attributes and some of them are discussed here:

Accountability –Accountability is a key requirement of good governance. Without accountability, the root of any development failure cannot be traced. Hence not only governmental institutions but all private and civil society organizations must be accountable to the public and to their institutional stakeholders. Accountability is one of the prerequisites of democratic or good governance. Accountability may be categorized into four broad types³:

- (a) Accountability is associated with the idea of answerability, based on the premise that individual identity is determined by one's position in a structured relationship;
- (b) Liability, a second form of accountability, sees individual identity rooted in more-formalized expectations developed through rules, contracts, legislation and similar relationships based on legalistic standing;
- (c) Accountability is associated with role-based expectations. Such roles foster blameworthiness as a basis for shaping and directing one's behavior;
- (d) Accountability expectations are derived from an individual's perceived status in a community where attributions come into play.

Transparency: Transparency means information is freely available and directly accessible to those who will be affected by these decisions and their enforcement. Access to information is a great enabler of transparency. In the context of governance, transparency refers to availability of information to the general public and clarity about functioning of government institutions. Transparency and accountability are interrelated and mutually reinforcing concepts. 'Without *transparency*, that is, unfettered access to timely and reliable information on decisions and performance, it would be difficult to call public sector entities to account. Unless there is *accountability*, that is, mechanisms to report on the usage of public resources and consequences for failing to meet stated performance objectives, transparency would be of little value. The existence of both conditions is a prerequisite to effective, efficient and equitable management in public institutions.'⁴

Rule of Law: Good governance requires fair legal frameworks that are enforced impartially. A fair, predictable and stable legal framework is essential so that businesses and individuals may assess economic opportunities and act on them without fear of arbitrary interference or expropriation. This requires that the rules be known in advance, that they be actually in force and applied consistently and fairly, that conflicts be resolvable by an independent judicial system, and that procedures for amending and repealing the rules exist and are publicly known.

Participation: 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 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. This aspect of governance is an essential element in securing commitment and support for projects and enhancing the quality of their implementation.

Lack of these components turns the governance into bad governance. The deficit of all these indicators leads the path of abuse of power, corruption and aloofness in the administration.

III. CORRUPTION IN INDIA AND ITS IMPACT ON DEVELOPMENT

Corruption in India is the biggest challenge for development. The culture of corruption has become well entrenched in the society. The Prime Minister of India has felt that there is corruption both at political and administrative level. In 2007 when Hon'ble PM addressing the IAS probationers of 2006 stated that "*the barriers of administrative and political corruption should be tackled by the upcoming bureaucrats and quality of governance be improved at all levels to build an India 'worthy of our dreams'. If there are barriers, there are barriers in our country, in our good governance, in our governance processes. It is a fact [that] there is lot of corruption, both at the political level and at the administrative level. We must take it head on.*"⁵

On the inaugural of the conference of CBI in 2011, the same PM stated that there is very large scale Corruption, even in high places and many big fishes are escaping and they should be caught and severely

³ **Definition of basic concepts and terminologies in governance and public administration** by United Nations Economic and Social Council January 2006

⁴ United Nations Development Programme, Transparency and accountability in the public sector in the Arab region, New York, 2004.

⁵ HAGDE N. Santosh, Effect of Corruption on Good Governance, First CIPS Foundation Day Lecture, accessed at http://www.cips.org.in/public-sector-systems-government-innovations/documents/NS-Hegde_CIPSFDL_ed20May11.pdf,

punished⁶. Corruption in India is deep rooted and people are concerned in corruption 'at the cutting edge level of administration'. A detailed empirical research in 2007-08, focusing on 22,728 households living below the poverty line, found that they paid about 9000 million in bribes to access basic and need based public services⁷. A similar survey was conducted in 2005 on 14,405 responds found that citizens had paid the bribe to the tune of Rs. 21068 crores to avail public services⁸. These studies set up corruption as one of the major obstacle in governance. A corruption in governance affects the economy of the country and indirectly affects all types of development of the citizens. Recently in times of India it was reported that out of many lakhs of crores released by the government of India for eight national schemes. It was founded by the CAG that at least a sum of Rs. 51000 allocated to these schemes has not been counted for⁹. Imagine if in a single year so much have been big amount been siphoned off by only eight schemes, suppose how much money earmarked for the poor have been siphoned off by all government initiatives .

In 1986 Rajiv Gandhi , the then PM reported that out of every rupee earmarked for the benefit of the citizen, only 15 paisa reaches to the beneficiaries. Over the time this amount has reduced and reached the prediction at 10 paisa. It arise a question in every one's mind that if only 15 percent of sanctioned amount reaches to beneficiaries than left sanctioned amount goes where? "The remaining 40 percent was spent on administrative costs and nearly 45 percent disappeared into the corruption column"¹⁰. On the basis of the corruption perception index provided by Transparency International we can analyze the level of corruption in India and along with the level or position of other countries can be analyzed through this ranking and scoring. Since 1995, Transparency International (TI) publishes the **Corruption Perception Index (CPI)** annually ranking countries "by their perceived levels of corruption, as determined by expert assessments and opinion surveys."The CPI ranks countries/territories based on how corrupt their public sector is perceived to be. Corruption is the abuse of entrusted power for private gain. It is generally Comprises illegal activities, which mainly come to light only through scandals, Investigations or prosecutions. Here the scoring of India and its ranking is indicated from the period of 2002 to 2012.

Year	Number of Countries	India'Rank	India's Score
2002	102	71	2.7
2003	133	83	2.8
2004	146	90	2.8
2005	159	88	2.9
2006	163	70	3.3
2007	180	72	3.5
2008	180	85	3.4
2009	180	84	3.4
2010	178	87	3.3
2011	183	95	3.1
2012#	176	94	3.6

Source http://www.transparencyindia.org/resource/press_release/Corruption%20Perception%20Index%202011.pdf
2012 scoring and ranking are based on TI report and CPI index 2012.

⁶ ibid

⁷ Centre for Media Study Transparency International India, "Tii-Cms India Corruption Study 2007 with Focus on Bpl Households: National Report," (CMS India Transparency International India, 2008)

⁸ . Transparency International India, "India Corruption Study 2005 to Improve Governance," (New Delhi: Centre for Media Studies, 2005).

⁹ HAGDE N. Santosh, Effect of Corruption on Good Governance, First CIPS Foundation Day Lecture, accessed at http://www.cips.org.in/public-sector-systems-government-innovations/documents/NS-Hegde_CIPSFDL_ed20May11.pdf ,

¹⁰ CR Kumar, "Corruption and Human Rights: Promoting Transparency in Governance and the Fundamental Right to Corruption-Free Service in India," Columbia Journal of Asian Law 17(2003-2004).

Corruption is the abuse of entrusted power for private gain. It is generally comprises illegal activities, which mainly come to light only through scandals, investigations or prosecutions. It is thus difficult to assess absolute levels of corruption in countries or territories on the basis of hard empirical data. In 2012 India's rank has declined in one rank but it is not the appropriate ranking for the point of good governance. Though during the above mentioned period indicates the serious corruption problem in the country. There continues to be a decline in India's Integrity Score to 3.1 in 2011 from 3.5 in 2007, 3.4 in 2008 & 2009, 3.3 in 2010. Accordingly, India's rank on Transparency International's corruption Perception Index (CPI) has also declined further to 95 out of 183 countries surveyed this year, from 87 out of 178 countries in 2010, indicating a serious corruption problem.

Similar conclusion has been drawn by an Asia Pacific region survey conducted by leading Hong Kong-based business consultancy firm Political & Economic Risk Consultancy Ltd (PERC), where India had been rated at 8.67 (on a scale of zero to 10 with the high end being the worst case of corruption) as the fourth most corrupt nation among 16 countries¹¹. Perception about corruption in India seems to have increased primarily due to the alleged corrupt practices in a series of scandals involving the sale of telecom licenses, preparations for the Commonwealth Games, a land scam involving high level military officers, and improper property loans made by state-owned financial institutions, and the Wiki Leaks reports. This trend is confirmed by the various reports released recently by the Comptroller General of Accounts (CAG).

As regards CPI of India's neighboring countries, there has been an overall improvement in their ranking and score except Bhutan whose score (5.7) is constant and Nepal's score has slightly declined by 0.1 in 2011 as compare to scoring of 2010. On the other hand in China there is improvement in scoring continuously from last three years i.e. 2010, 2011 and 2012 with a scoring of 3.5, 3.6 and 3.9 respectively. In Sri Lanka condition has also improved as the scoring indicates. From last four years the country increased scoring of 3.1(2009) to 4.0(2012) which indicates a great improvement in position. Pakistan also shows improvement in scorings with a difference of 0.2(in 2011 scores 2.5 and 2.7 in 2012) while the condition of Bangladesh it has slight declined with 0.1 in 2012 as compare to 2011¹².

IV. INDIA'S INITIATIVES TO TACKLE CORRUPTION

Transparency International India is launching its new tool against corruption¹³. All these initiatives are open for press release by TI India. These are discussed here.

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

- The creation of Strong Lok Pal
- Strict implementation of the UN Convention Against Corruption (UNCAC), the only global initiative that provides a framework for putting an end to corruption.
- The enactment of Corrupt Public Servants (Forfeiture of Property) Law
- Transfer of funds lying in secret bank accounts abroad
- Introducing Integrity Pact in all public procurement & contract
- Notification of the rules under the Benami Transaction (Prohibition) Act, 1988
- Strong Lok Ayuktas in all states for action against the corrupt
- Constitutional autonomy to the Central Vigilance Commission
- Passage of the Judicial Standards & Accountability Bill for transparency and accountability in judiciary
- Electoral reforms including the de-criminalisation of politics
- Police reforms as per the direction of the Supreme court of India in *Prakash Singh* judgment
- strengthening of the prevention of Corruption Act and removal of the restriction (Single Directive) that requires sanction of the competent authority even to initiate an enquiry into charges of corruption against senior officer of the rank of Joint Secretary or its equivalent
- Independence to Central Bureau of Investigation
- Citizens' charters with penalty clause to ensure time bound guaranteed public services

¹¹http://www.transparencyindia.org/resource/press_release/Corruption%20Perception%20Index%202011.pdf

¹² <http://www.transparency.org/research/cpi/overview>

¹³http://www.transparencyindia.org/resource/press_release/Corruption%20Perception%20Index%202011.pdf

- Social audit
- Ethical standards to be observed by the corporate sector
- Role of the Planning Commission in monitoring the expenditure of money, grants, subsidies, and laying stress on outcomes rather than outputs (statistical formality), etc.

All these initiatives are as per the press release of Transparency India in 2011. As per this press release Chairman of TI India, sure that if these measures are adopted seriously and taken to their logical conclusion, there would be an improvement in India's standing in the world community.

V. RTI: A TOOL TO TACKLE CORRUPTION

Right to Information is a potent weapon to fight against corruption, arbitrariness and misuse of power. RTI has significant bearing on good governance and development. The Right to Information (RTI) is a vital tool for good governance. Transparency and accountability are for good governance. If there is no transparency, accountability cannot be fixed. There should be maximum disclosure and minimum confidentiality. The Main thrust of RTI law is to change the culture of secrecy, red tapism and aloofness that has long plagued India's monolithic and opaque bureaucracy. Right to Information is a symbol for components of good governance. The components of good governance can be ensured through RTI. It is helpful in ensuring transparency and accountability in the governance. The history of struggle for right to information indicates that, it is the result of efforts made for transparency and disclosure of corruption in the wages system in Devdungri village in the Rajasthan. This effort was started by MKSS (Mazdoor Kissan Shakti Sangthan) to tackle corruption at grass root level. As a result many states pass bill related to right to information and in 2005 government passed a land mark Act named 'Right to Information Act, 2005' with the objectives¹⁴ of :

- ▶ Greater Transparency in functioning of public authorities.
- ▶ Improvement in accountability and performance of the Government.
- ▶ Promotion of partnership between citizens and the Government in
- ▶ Decision making process; and
- ▶ Reduction in corruption in the Government departments.

All these parameters are critical elements of good governance. There are many instances when right to information is used for the disclosure of corruption in one or other form. Social activist Aruna Roy has described India's RTI Act as "the most fundamental law this country has seen as it can be used from the local *panchayat* (a unit of local government) to parliament, from a nondescript village to posh Delhi, and from ration shops to the 2G scam."¹⁵ In January 2013 in Times of India, it is stated that, the right to information (RTI) Act is a very good tool to improve the functioning of the government. This observation was made by Leena Mehendale¹⁶, a retired IAS officer at an interactive titled 'Role of PIOs and RTI activists in good governance'. The former additional chief secretary of Maharashtra termed the RTI Act as the most important act that has been drawn up and implemented after the constitution of the country. Mehendale felt the RTI can facilitate people's participation in development. She stated that often the common man has no role in government functioning. Case studies and media reports show that RTI is being used to redress individual grievances, access entitlements such as ration cards and pensions, investigate government policies and decisions, and expose corruption and misuse of government resources. In 2010¹⁷, K.S. Sagaria, a resident of Kushmal village in rural Orissa, filed an RTI application seeking information on the number of ponds constructed in his village under the government's national wage employment scheme. The information he received was revealing: the ponds had never been constructed even though money had been allocated and spent. Following complaints from villagers, the local administration was forced to take action and suspend the officials involved in the pond scam addition; a recent experiment of students at Yale University found that India's RTI Act can be as effective as bribery in helping the poor access their entitlements. As part of the experiment, slum dwellers in Delhi were divided into four groups and asked to submit applications for ration cards. While the first group submitted their application and did not follow up, the second group attached a recommendation letter from an NGO to their application, the third group paid a bribe and the fourth group filed an RTI request to follow up on their application. Yale Ph.D. students Leonid Peisakhin and Paul Pinto found that while the group that paid a bribe was the most successful, those that filed RTIs had their applications processed nearly as fast. According to Peisakhin: "Access to

¹⁴ . 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.

¹⁵ <http://asiafoundation.org/in-asia/2011/09/28/right-to-information-in-india-an-effective-tool-to-tackle-corruption/>

¹⁶ 'RTI is a good tool to improve govt functioning' Jan 20, 2013 'The Times of India'

¹⁷ <http://asiafoundation.org/in-asia/2011/09/28/right-to-information-in-india-an-effective-tool-to-tackle-corruption/>

information appears to empower the poor to the point where they receive almost the same treatment as middle-class individuals at the hands of civil servants. This is something that payment of a bribe cannot do.”¹⁸

With corruption being viewed as one of the biggest “obstacles in the efficient delivery of development resources to the poor in developing countries,” an empirical study concluded that the RTI negatively impacted corruption and its statistical impact on curbing corruption was quite significant. The study, conducted in 20 states over a span of three years, found that the act “reduces corruption in an average state by 18.5 per cent points”¹⁹. The authors found that the act “explains approximately 62 percent of the actual decline in corruption in Bihar over the period 2005 to 2008”²⁰, which is rather a large impact considering Bihar is one of the most corrupt states. The study concluded that the legislation makes significant contribution in controlling corruption, enhancing the quality of public goods and services, empowering citizens and by breaking the informational monopoly of public officials. “It prevents corrupt public officials from misusing this information to advance their own interest. On the other hand, it provides the government with more power and public support for conducting top down audit of corrupt departments,”²¹ Bhattacharyya and Jha conclude. Thus right to information has a immense power to make government accountable and transparent. We as individuals have the power and the responsibility of bringing Good governance by using and spreading the use of Right to Information. Going beyond stopping corruption and getting the Citizens their rightful due, Right to Information also lends itself to being used by Citizens to address issues of Governance and a rational basis for public policy. Indian Citizens have an opportunity to realize ‘Swaraj’ and turn it into ‘Su-raj’ – a true and enlightened self-governance and good governance.

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¹⁸ ibid

¹⁹ S Bhattacharyya and R Jha, "Economic Growth, Law and Corruption: Evidence from India," (Canberra: Australian National University, 2009).

²⁰ ibid

²¹ ibid