

INDIANCIVILS *Sample Material* **Contents**

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PROBITY IN GOVERNANCE

Sample Material

Probity in governance is an essential and vital requirement for an efficient and effective system of governance and for socio-economic development. An important requisite for ensuring probity in governance is absence of corruption. The other requirements are effective laws, rules and regulations governing every aspect of public life and, more important, an effective and fair implementation of those laws, etc. Indeed, a proper, fair and effective enforcement of law is a facet of discipline. Unfortunately for India, discipline is disappearing fast from public life and without discipline, as the Scandinavian economist, sociologist, Gunnar Myrdal, has pointed out, no real progress is possible. Discipline implies inter alia public and private morality and a sense of honesty. While in the West a man who rises to positions of higher authority develops greater respect for laws, the opposite is true in our country. Here, the mark of a person holding high position is the ease with which he can ignore the laws and regulations. We are being swamped by a culture of indiscipline and untruth; morality, both public and private, is at a premium. This paper explores whether some legislative measures can be designed to ensure probity in governance. It is true that instilling a sense of discipline among the citizens is more the function of the society, its leaders, political parties and public figures and less a matter which can be legislated upon. Even so, things have come to such a pass that measures need to be contemplated.

Menace of corruption in public life

Corruption is an abuse of public resources or position in public life for private gain. The scope for corruption increases when control on the public administrators is fragile and the division of power between political, executive and bureaucracy is ambiguous. Political corruption which is sometimes inseparable from bureaucratic corruption tends to be more widespread in authoritarian regimes where the public opinion and the Press are unable to denounce corruption. The paradox of India, however, is that in spite of a vigilant press and public opinion, the level of corruption is exceptionally high. This may be attributed to the utter insensitivity, lack of shame and the absence of any sense of public morality among the bribe-takers. Indeed, they wear their badge of corruption and shamelessness with equal élan and brazenness. The increase of opportunities in State intervention in economic and social life has vastly increased the opportunity for political and bureaucratic corruption, more particularly since politics has also become professionalized. We have professional politicians who are politicians on a full time basis, even when out of office. India is rated at 73 out of 99 countries in the corruption perception index prepared by a non-governmental organisation, Transparency International. Corruption today poses a danger not only to the quality of governance but is threatening the very foundations of our society and the State. Corruption in defence purchases, in other purchases and contracts tend to undermine the very security of the State. Some of the power contracts are casting such financial burden upon some of the States that the very financial viability of those States has fallen into doubt. There seems to be a nexus between terrorism, drugs, smuggling, and politicians, a fact which was emphasized in the Vohra Committee Report.

Corruption has flourished because one does not see adequately successful examples of effectively prosecuted cases of corruption. Cases, poorly founded upon, half-hearted and incomplete investigation, followed by a tardy and delayed trial confluence a morally ill-deserved but a legally inevitable acquittal. The acceptance of corruption as an inexorable reality has led to silent

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reconciliation and resignation to such wrongs. There needs to be a vital stimulation in the social consciousness of our citizens – that is neither has a place in the personal nor social. It is true that the present process of withdrawing the State from various sectors in which it should have never entered or in which it is not capable of performing efficiently may reduce the chances of corruption to some extent but even if we migrate to a free market economy, there has to be regulation of economy as distinct from restrictions upon the industrial activity. The requirements of governance would yet call for entering into contracts, purchases and so on.

The Scandinavian economist-sociologist, Gunnar Myrdal, had described the Indian society as a ‘soft society’. He also clarified what the expression ‘soft society’ means. According to him, a soft society is: (a) one which does not have the political will to enact the laws necessary for its progress and development and/or does not possess the political will to implement the laws, even when made, and (b) where there is no discipline. In fact, he has stressed the second aspect more than the first. According to him, if there is no discipline in the society, no real or meaningful development or progress is possible. It is the lack of discipline in the society - which expression includes the administration and structures of governance at all levels - that is contributing to corruption. Corruption and indiscipline feed upon each other. One way of instilling the discipline among the society may be to reduce the chances of corruption and to deal with it sternly and mercilessly wherever it is found. For this purpose, the inadequacies in the criminal judicial system have to be redressed. Corruption is also anti-poor. Take, for example, the Public Distribution System (PDS) and the welfare schemes for the poor including Scheduled Castes (SCs) and Scheduled Tribes (STs). It is well-known that a substantial portion of grain, sugar and kerosene oil meant for PDS goes into black-market and that hardly 16% of the funds meant for STs and SCs reach them – all the rest is misappropriated by some of the members of the political and official class and unscrupulous dealers and businessmen. The famous economist, Late Mahbub-Ul-Haq succinctly and poignantly set out the ill-effects of corruption in a South Asian country like ours. He said:

“Corruption happens everywhere. It has been at the centre of election campaigns in Italy and the United Kingdom, led to the fall of governments in Japan and Indonesia, and resulted in legislative action in Russia and the United States. But, if corruption exists in rich, economically successful countries, why should South-Asia be worried about it? The answer is simple: South Asian corruption has four key characteristics that make it far more damaging than corruption in any other parts of the world.

First, in South Asia corruption occurs in up-stream, not down-stream. Corruption at the top distorts fundamental decisions about development priorities, policies, and projects. In industrial countries, these core decisions are taken through transparent competition and on merit, even though petty corruption may occur in down-stream.

Second, corruption money in South Asia has wings, not wheels. Most of the corrupt gains made in the region are immediately smuggled out to safe havens abroad. Whereas there is some capital flight in other countries as well, a greater proportion goes into investment. In other words, it is more likely that corruption money in the North Asia is used to finance business than to fill foreign accounts.

Third, corruption in South Asia often leads to promotion, not prison. The big fish – unless they belong to the opposition – rarely fry. In contrast, industrialised countries often have a process of

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accountability where even top leaders are investigated and prosecuted. For instance, former Italian Prime Minister Bettino Craxi was forced to live in exile in Tunisia to escape extradition on corruption charges in Rome. The most frustrating aspect of corruption in South Asia is that the corrupt are often too powerful to go through such an honest process of accountability.

Fourth, corruption in South Asia occurs with 515 million people in poverty, not with per capita incomes above twenty thousand dollars. While corruption in rich rapidly growing countries may be tolerable, though reprehensible, in poverty stricken South Asia, it is political dynamite when the majority of the population cannot, but to massive human deprivation and even more extreme income meet their basic needs while a few make fortunes through corruption. Thus corruption in South Asia does not lead to simply Cabinet portfolio shifts or newspaper headlines inequalities. Combating corruption in the region is not just about punishing corrupt politicians and bureaucrats but about saving human lives. There are two dimensions of corruption; one is the exploitative corruption where the public servant exploits the helpless poor citizen. The other is collusive corruption where the citizen corrupts the public servant by a bribe because he gets financially better benefits. Collusive corruption depends on black money.”

PRINCIPLES OF PUBLIC SERVICE

The general principles of conduct which underpin public life need to be restated. We have done this. The seven principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership are set out (later on).

Codes of conduct: All public bodies should draw up codes of conduct incorporating these principles.

Independent scrutiny: Internal systems for maintaining standards should be supported by independent scrutiny.

Education: More needs to be done to promote and reinforce standards of conduct in public bodies, in particular through guidance and training, including induction training.”

The Seven Principles of Public Life are stated in the Report by Lord Nolan, thus -

The Seven Principles of Public Life:

Selflessness: Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.

Objectivity: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

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Honesty: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership: Holders of public office should promote and support these principles by leadership and example.”

The Supreme Court observed further:

“These principles of public life are of general application in every democracy and one is expected to bear them in mind while scrutinizing the conduct of every holder of a public office. It is trite that the holders of public offices are entrusted with certain powers to be exercised in public interest alone and, therefore, the office is held by them in trust for the people. Any deviation from the path of rectitude by any of them amounts to a breach of trust and must be severely dealt with instead of being pushed under the carpet. If the conduct amounts to an offence, it must be promptly investigated and the offender against whom a prima facie case is made out should be prosecuted expeditiously so that the majesty of law is upheld and the rule of law vindicated. It is the duty of the judiciary to enforce the rule of law and, therefore, to guard against erosion of the rule of law.” (See AIR 1998 SC 889, at page 917)

An instance and consequence of the adverse effects of corruption on Indian economy can be gauged from the following statement by Prem Shankar Jha, a keen observer of Indian economy: “So far, despite adopting some of the most liberal foreign investment laws in Asia, India has not succeeded in seducing even one major international corporation into using it as a global production platform. All the Foreign Direct Investment that has come has been bent upon exploiting the domestic market for consumer goods and durables. In a frank discussion in Singapore, fund managers and corporate executives revealed that the main reason why they were not prepared to mesh India into their global production plans was that even after they had obtained all the clearances from the Central and State Governments, they remained at the mercy of local bureaucrats and politicians. Any one of them could stop their operations, and threatened to do so if they were not given an adequate ‘inducement’. Every change of government in a state led to a fresh set of demands and a fresh set of negotiations with the new incumbents. To sum it up, the Chinese took larger bribes, but delivered security of investment in return. Petty bureaucrats who transgressed this principle received a bullet in the back of the head in a football stadium. In India, by contrast, they prospered while the enterprise sickened or died.”

INFORMATION SHARING AND TRANSPARENCY IN GOVERNMENT

“Open Government in the most basic sense is the notion that the people have the right to access the documents and proceedings of government (Lathrop and Ruma, 2010)”. It is a term used as an alternative formulation to “freedom of information” or “access to information” (Chapman, Hunt 2008). In a wider sense it is synonymous with transparency. But it is an even more comprehensive concept than both. Transparency is the core component of open government, freedom of information being a means to secure transparency and greater openness in the affairs of government. Open government means the transparency of government actions, the accessibility of government services and information and the responsiveness of government to new ideas, demands and needs. Open government is one where the business of government and administration is thrown open to all, at all levels, so as to ensure effective public participation, scrutiny and oversight. Transparency implies

openness of both organizations and individuals constituting it and requires openness of information, processes, policy, decisions, actions and outcome. Process transparency covers both internal business and supporting human resource, financial, and administrative processes; and external service delivery and regulation.

Transparency, Participation and accountability through Open Government

Openness through transparency becomes a means to greater civic participation in an enabled environment, where there is effective free flow of information both ways, to see through the working of the government; and to verify whether or not public servants are meeting their obligations to expectations of citizens. All the four components of accountability i.e. answerability, sanction, redress, and system improvement need information to account for unacceptable conduct, decisions, and actions. The gaps in conventional supply side accountability have led to the emergence of demand side accountability. “Social Accountability is the institutionalization of durable societal control over policies and their implementation. Civil society is progressively showing tremendous potential to participate directly in institutions of horizontal accountability. This can extend to all faces of development process, viz., planning (people’s planning), programming, budgeting (budget analysis, participatory budgeting), release of funds (publication of funds released, public expenditure review), award of contracts (procurement watch, integrity pact), and monitoring of contracts (independent quality inspection). Post planning, this may extend to implementation (hospital advisory, management committees, community forest management), progress of implementation (corruption watch) and evaluation (citizen report card, community scorecards) and audit (public hearing, participatory audit, citizen audit request, monitoring of audit compliance, general law on social audit)” (Joshi, 2008). Open government can thus be said to have three components viz.

- Right to information
- Civic engagement in the processes of governance, and
- Accountability for what the government or the public servant says and does

Indian Initiatives

The Open Government Initiatives of the U.S. along with Canadian Government Initiatives that seek to bring in an unprecedented level of openness in government brings out a framework, which sets an example to emulate. However, the early tidings of open government in India can be said to have begun with the landmark judgment of Justice P. N. Bhagwati of the Supreme Court of India in 1981, (Gupta S.P. vs. Union of India (1982), Supreme Court of India, where, besides giving a general description of open government he stressed the need for increased disclosure in matters relating to public affairs. Noting that open government means ‘information available to the public with greater exposure of the functioning of government which would help assure the people a better and more efficient administration’ he went on to describe Open Government in India to be, “the new democratic culture of an open society towards which every liberal democracy is moving and our country (India) should be no exception”.

The Right to Information Act in 2005

The passage of Right to Information Act in 2005 by Government of India (GOI) ensured timely response to citizen requests for government information, marking a paradigm shift in the citizen-government relationship in India. The real impact of the landmark legislation is fully reflected in the famously quoted statement of a poor village woman when she told a public servant “without the Act

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our lives were at stake, and with it now, your job is". The Act sets out a practical regime of right to information for citizens. The main objectives of the law on RTI are: to operationalize the fundamental right to information; to set up systems and mechanisms that facilitate people's easy access to information; to promote transparency and accountability in governance; to minimize corruption and inefficiency in public offices and to ensure people's participation in governance and decision making. According section 2 (j), 'Right to information' includes the right to

- Inspection of work, documents, records;
- Taking notes, extracts or certified copies of documents or records;
- taking certified samples of material;
- Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

It is significant that the principle of open access to administrative documents has been defined as a right under section and not merely an interpretative principle which can be invoked regardless of the purpose for which that right is exercised. The Act mandates both proactive and reactive supply of information, cataloguing, indexing and computerization of the appropriate records and their dissemination. In cases, where the right to information has been denied by a public official, sufficient information must be provided of the reasons of the refusal. That decision is always reviewable by the appellate authority and the State Information Commission. Right to information has to include the right to protected disclosure of sensitive information. As a prelude to a full-fledged legislation to protect whistle blowers a national resolution on the same has been issued empowering the Central Vigilance Commissioner.

Participation (Civic Engagement)

The constitutional method of political participation of people at the grass roots is achieved through the process of devolution to the lower echelons of governance. Even though the Government of India had initiated the process of devolution of powers as early as in the 1950's through the Panchayati Raj system, and introducing the element of participatory rural works programme through financial participation of beneficiaries, the Union Government brought in the 73rd and 74th amendments to the Constitution to more firmly institutionalize local governments as the third tier of the State. One of the key objectives of local level Governments is to ensure that the process of planning for development in the country follows a bottom up participatory development approach. The best example of this is 'Peoples Planning' in Kerala, the southernmost state of the Union. It also firmly established the place of Gram Sabha (village assembly) and ward committees in the towns, in the constitutional scheme of things. They meet to get information from the officers of the Grama Panchayat/ Municipalities as to the services they will render and the works they propose to do, discuss the budget and details of allocation of funds and also the details of the estimate and cost of materials of the works executed or proposed to be executed. to study the annual statement of accounts, the last audit notes and replies thereto, to suggest remedial measures and to report satisfactory completion of the works, to secure self-discipline among members securing payment of their taxes and repayment of loans and to conduct social audit of works like the works under the Mahatma Gandhi National Rural Employment Guarantee programme .

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Civic participation takes the form of informing; consulting; engaging; collaborating and empowering, as has been suggested by the International Association for Public Participation. In participatory governance, government has an obligation to provide information, receive feedback, receive complaints, give answers, enforce sanctions- disciplinary, civil, and criminal, empower citizens, confer rights on the citizen- civil, political, economic, and social; promote social capital, facilitate participation, promote collaboration; and be inclusive, equitable, responsive, open, transparent, and accountable to the people. Civil society involvement and association with the government can relate to governance structures and functions, assets, resources, and fiscal and financial management systems, and such other internal operative business systems; and external service delivery processes and procedures. These may cover personnel management, fiscal and financial management and performance management. These in turn could relate to recruitment, placement, transfer, promotion and discipline in the area of personnel management; policy, regulation, planning, decision making, programming, budgeting, expenditure, accounting and audit in financial management, programme Implementation, service delivery, oversight and evaluation in performance management.

India is at different stages of this spectrum of participation in public affairs. A winning start has been made in the matter of right to information. Active citizen and civil society engagement in governance processes including decision making, is essential if one were to realize the objectives of good governance. Among the key goals of community participation are:

- Improving technical efficiency by overcoming information asymmetry, providing communities with information on quality through various forms of monitoring and evaluation, and ensuring that service providers spend resources for necessary technical resources,
- Enhancing allocation efficiency through greater attention to the priorities of communities, increased transparency on budgets and public resources with public budgeting and public expenditures tracking systems, and reduction in ‘rent seeking’, and
- Tightening mechanisms of accountability involving increased transparency from community involvement with public sector agencies like community participation in school management, and community participation in public hearings etc. (Cummins, 2007)

Following are a few of the administrative accountability measures employed by government agencies in India for securing participation:

Public disclosures

- A law on community participation to institutionalize citizen participation in local decision making Citizen charters stipulating standards of service delivery and for penalty for non-compliance
- Conventional and on line help line for grievance redress
- Arrangements for feedback on services
- Whistle blower protection mechanism
- Public service Delivery legislation conferring right to public services with Grievance officer to quickly investigate and grant relief
- Ombudsman to independently enquire into complaints
- Chief /vigilance officer who reports directly to the government
- Integrity pacts for procurement
- Third party inspection of quality of works and supplies

- Independent evaluation studies

Web 2 technologies/Social Media as Open Government instrument

Technology is revolutionizing the way governments are being run. In this knowledge society the relationship between the citizen and government is mediated by information systems and their automation. Automation of government internal business and external regulation and service delivery is a must for any e government plan, a beginning towards which has been initiated through the National e - Government Plan. National Information Technology infrastructure and nationwide distributed database with public information infrastructure are under way. Data bases in India suffer from non-standardization, incomplete data collection at all levels, poor quality and unreliability of data, inconsistency in the methodology and technology employed, absence of universal digitization capability, slow digitization of past data, issues of inter-operability of systems etc. In order to effectively solve these problems Government has initiatives like national policy on open standards which has been published for soliciting public comments. In the meanwhile progress has been made, by the central and state governments, for progressive use of ICT including Geographic Information Systems (GIS) and satellite imagery to re-engineer transparency, participation and accountability as shown below:

1. Use of internet to facilitate open government
2. Government portals for information
3. Web based disclosure of information and pro-active publication
4. Electronic on line MIS and FMIS ensure that right information gets to the right people
5. Use of mobile phones and Wi-Fi to facilitate engagement
6. Computerized grievance redress mechanisms
7. E-petitions
8. 'Open for questions' programme
9. Access to process of service delivery and internal business processes as in OPEN

Social Media is being progressively used for seeking feedback from citizens; pronouncement of public policy; issue based as well as generic interaction and brand building or public relations. In order to encourage and enable government agencies to make use of web 2 technologies which is a dynamic medium of interaction the Department of Information Technology, GOI has released a draft social media strategy. The Framework & Guidelines for Use of Social Media for Government Organization hopes to help the government enhance its outreach, engage and interact with the Indian internet users. The Planning Commission of India has taken the initiative and put itself on Facebook with a page on the "Twelfth Plan," 2012 through 2017.

Way forward

Though the Right to Information Act (RTI) 2005 has become the governing law regarding public disclosure of governmental information and accessibility to public data, data-sharing policies in India are still complex in nature, as various provisions under law define and determine the scope of data provided. Taking note of this, the Department of Science & Technology (DST), Government of India, was assigned the task of developing a comprehensive National Policy for Data Sharing and Accessibility, by the cabinet, in June 2010. According to the Report of Open Government Data in India, while government has initiated many e-governance initiatives, very few of them have resulted in publicly accessible databases. Fewer still of those publicly accessible databases are 'open' in

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terms of data reusability (technologically, in terms of machine readability and openness of formats), data reusability (legally), easy accessibility (via search engines, for persons with disabilities, etc.), and understandability (marked up with annotations and metadata). Putting out raw data will not suffice. To ensure the relevance of open government data, mechanisms have to be put in place to take its benefits to the common person and to marginalized communities, both by the government as well as by civil society organizations. Concrete steps on these lines will help realize the dream of Open data in the near future in India.

The Second Administrative Commission, Government of India has, after detailed studies into the working of government, made comprehensive recommendations in its detailed reports, among others, on the right to information, citizen centric service delivery, local government, e-Governance etc. Some of the recommendations relevant, which are being followed up and will further the cause of transparency, improved citizen centric service delivery, and participatory governance, are listed below:

- *Suo motu* disclosures under the RTI Act, 2005 should not be confined to the seventeen items provided in Section 4(1) of that Act but other subjects where public interest exists should also be covered.
- Citizens' Charters should be made effective by stipulating the service levels and the remedy if these service levels are not met.
- Regular citizens' feedback, survey, and citizens' report cards should be evolved by all government organisations for gauging citizens' responses to their services. These should be used as inputs for improving organizational efficiency.
- Citizens should be actively involved in all stages of the welfare and development programs implemented by the government.
- Social audit should be made mandatory for all developmental programmes and be institutionalized for improving local service delivery.
- Evaluation tools for assessing the performance of local bodies should be devised wherein citizens should have a say in the evaluation.
- Reward schemes should be introduced to incentivize citizen's initiatives
- School awareness programmes should be introduced, highlighting the importance of ethics and means of combating corruption.
- Citizens may be involved in the assessment and maintenance of ethics in important government institutions and offices. Alongside action on the well-considered recommendations of the Commission, attention of the Central and State governments have to turn towards further meaningful and systematic efforts to strengthen freedom of information and participatory governance. The following initiatives will have to be thought of in order further the cause of more open administration:
 - More progressive proactive publication and updating of information useful to the public, including online.
 - Strict adherence to the mandate of the R.T.I Act covering supply of information sought under the Act swiftly, following the salutary principle of secrecy as an exemption, treating information as a 'public good'
 - Quick reduction of backlog of information sought.
 - More effective records management and retrieval.
 - Publicizing information on financial disclosures

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- Furthering measures to improve the country's budget transparency from the present 67%, which is a comparison not so bad, and taking action for putting information on budget allocations, releases, expenditure, procurement, etc
- Enactment and enforcement of whistle blower protection law, to further the cause of openness and improve discipline and accountability
- Putting in practice the principle of 'Open Meetings', including passing of the open meetings law.
- 24/7 channels for feedback, complaints, secure protected whistle blowing.
- Furthering measures for a more enabling environment for civil society participation in public affairs affecting the citizen. Pending finalisation and earnest implementation of the national policy on open data, data sharing and accessibility, social media in governance, and National Information Technology Infrastructure and nationwide Distributed Database with Public Information Infrastructure under way, earnest I C T application on the following lines will further the cause of Open Government.
- Facility to secure feedback from the public on the internet
- Use of mobile phones to inform, chat rooms, and bulletin boards.
- More progressive use of the Internet, web2 technologies, government wikis, data feeds, department blogs, channels on social media to communicate with citizens, on line town hall meetings, use of 'mash up' technology to assist service delivery, as in the case of 'fixmystreet.uk', discussion groups, memberships' forums, etc
- Virtual town square for crowd sourcing of opinions, ideas etc.
- Resort to 'idea jam' to engage people in public discussion
- Computerized neighbourhood environment tracking e-rule making Improving government agencies and particularly Local government capacity to inform, consult, interact, and collaborate is possible through tools for each activity as shown below.
- Inform citizens through interviews, surveys, public hearings,
- Consult through nominal groups, focus groups etc, and get feedback and to stimulate public debate,
- Engage through public issue forums, citizen panels, workshops and incorporating citizen views in discussion process, and
- Collaborate with the citizen and create long term partnerships of citizens, and
- To address issues through study circles and community task force, and
- Educate the civil society to improve their capacity to effectively and collaboratively use open data, as and when it becomes a reality, for public good, including the government.

THE RIGHT TO INFORMATION

In India today, the state has spread its tentacles to virtually every aspect of public life. The person on the street is condemned to grapple hopelessly with corruption in almost every aspect of daily work and living. Most government offices typically present a picture of a client public bewildered and harassed by opaque rules and procedures and inordinate delays, constantly vulnerable to exploitation by employees and touts. In the quest for systemic answers to this chronic malaise, it is important to identify the sources of corruption inherent within the character of the state machine. These include a determined denial of transparency, accessibility and accountability, cumbersome and confusing procedures, proliferation of mindless controls, and poor commitment at all levels to real results of public welfare.

In this section, we will argue that information is power, and that the executive at all levels attempts to withhold information to increase its scope for control, patronage, and the arbitrary, corrupt and unaccountable exercise of power. Therefore, demystification of rules and procedures, complete transparency and pro-active dissemination of this relevant information amongst the public is potentially a very strong safeguard against corruption. Ultimately the most effective systemic check on corruption would be where the citizen herself or himself has the right to take the initiative to seek information from the state, and thereby to enforce transparency and accountability.

It is in this context that the movement for right to information is so important. A statutory right to information would be in many ways the most significant reform in public administration in India in the last 50 years. This is because it would secure for every citizen the 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, probity and justice. It would promote openness, transparency and accountability in administration, by making government more open to continuing public scrutiny.

Information is the currency that every citizen requires to participate in the life and governance of society. The greater the access of the citizen to information, the greater would be the responsiveness of government to community needs. Alternatively, the greater the restrictions that are placed on access, the greater the feelings of 'powerlessness' and 'alienation'. Without information, people cannot adequately exercise their rights and responsibilities as citizens or make informed choices. Government information is a national resource. Neither the particular government of the day nor public officials create information for their own benefit. This information is generated for purposes related to the legitimate discharge of their duties of office, and for the service of the public for whose benefit the institutions of government exist, and who ultimately (through one kind of import or another) fund the institutions of government and the salaries of officials. It follows that government and officials are 'trustees' of this information for the people. The proposed legislation would enable members of the public to obtain access under the law to documents that may otherwise be available only at the discretion of government.

There are numerous ways in which government information is at least in theory already accessible to members of the public. The parliamentary system promotes the transfer of information from government to parliament and the legislatures, and from these to the people. Members of the public

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can seek information from their elected members. Annual reporting requirements, committee reports, publication of information and administrative law requirements increase the flow of information from government to the citizen. Recent technological advances have the potential to reduce further the existing gap between the 'information rich' and the 'information poor'.

However, in practice the overwhelming culture of the bureaucracy remains one of secrecy, distance and mystification, not fundamentally different from colonial times. In fact, this preponderance of bureaucratic secrecy is usually legitimised by a colonial law, the Official Secrets Act, 1923, which makes the disclosure of official information by public servants an offence. The right to information is expected to improve the quality of decision making by public authorities, in both policy and administrative matters, by removing unnecessary secrecy surrounding the decision making process. It would enable groups and individuals to be kept informed about the functioning of the decision making process as it affects them, and to know the kinds of criteria that are to be applied by government agencies in making these decisions. It is hoped that this would enhance the quality of participatory political democracy by giving all citizens further opportunity to participate in a more full and informed way in the political process. By securing access to relevant information and knowledge, the citizens would be enabled to assess government performance and to participate in and influence the process of government decision-making and policy formulation on any issue of concern to them.

The cumulative impact on control of corruption and the arbitrary exercise of power, of the availability of such information to the citizen, would be momentous. This information would include, for example in the context of maximum interface of the ordinary citizen with government, the following:

- All estimates, sanctions, bills, vouchers and muster rolls (statements indicating attendance and wages paid to all daily wage workers) for all public works.
- Criterion and procedure for selection of beneficiaries for any government programme, list of applicants and list of persons selected.
- Per capita food eligibility and allotments under nutrition supplementation programmes, in hospitals, welfare and custodial institutions.
- Allotments and purchase of drugs and consumable in hospitals
- Rules related to award of permits, licences, house allotments, gas, water and electricity connections, contracts, etc., list of applicants with relevant details of applications, and list of those selected, conditions of award if any
- Rules related to imposition of taxes such as property tax, stamp duty, sales tax, income tax, etc., copies of tax returns, and reasons for imposition of a particular level of tax in any specific case.
- Copies of all land records.
- Statements of revenue, civil and criminal case work disposal
- Details of Afforestation works, including, details of land/sites, species and numbers of plants, expenditure on protection
- List of children enrolled and attending school, availing of scholarships and other facilities
- Rules related to criterion and procedure for selection of persons for appointment in government, local bodies or public undertakings, copy of advertisement and/or references to employment exchange, list of applicants with relevant details, and list of beneficiaries elected.

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- Prescribed procedures for sending names from employment exchanges, relevant details of demands from prospective employers, list of candidates registered and list referred to specific employers.
- Rules related to criterion and procedure for college admission, list of applicants with relevant details, and list of persons selected.
- Copies of monthly crime report.
- Details of registration and disposal of crimes against women, tribals and dalits (literally the oppressed, groups traditionally subjected to severe social disabilities) and other vulnerable groups, crimes committed during sectarian riots and corruption cases.
- Number and list of persons in police custody, period of and reasons for custody.
- Number and list of persons in custodial institutions including jails, reasons for and length of custody, details of presentation before courts etc.
- Mandatory appointment of visitors committees to every custodial institution, with full access and quasi-judicial authority to enquire into complaints.
- Air and water emission levels and content with regard to all manufacturing units, coupled with the right of citizens' committees to check the veracity of these figures; copies also of levels declared safe by government authorities, to be published and made available on demand.

Even a short random listing such as this would demonstrate the enormous potential power of information, if it be placed in the hands of citizens, to combat corruption that they experience in their daily lives.

Right to Information Act, 2005

The right to information is implicitly guaranteed by the Constitution. However, with a view to set out a practical regime for securing information, the Indian Parliament enacted the Right to Information Act, 2005 and thus gave a powerful tool to the citizens to get information from the Government as a matter of right. This law is very comprehensive and covers almost all matters of governance and has the widest possible reach, being applicable to Government at all levels- Union, State and Local as well as recipients of government grants.

Here is an updated consolidated guide for the use of all stake-holders. This guide discusses some aspects of the Act which all the stake-holder are required to know. Contents of this guide are specifically relevant in relation to the Central Government but are equally applicable to the State Governments except in relation to rules about payment of fee or deciding of appeals by the Information Commissions. It may be noted that this guide uses the term Public Information Officer in place of Central Public Information Officer/State Public Information Officer. Likewise Assistant Public Information Officer has been used for Central Assistant Public Information Officer/State Assistant Public Information Officer and Information Commission for Central Information Commission/State Information Commission except where it was considered necessary to make specific reference to the Central Public Information Officer/Central Information Commission etc. The Departmental Appellate Authority has been referred to as First Appellate Authority inasmuch as the first appeal lies with him.

Object of the Right to Information Act

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government.

What is Information?

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

What is a Public Authority?

A “public authority” is any authority or body or institution of self-government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State Government and non-Government organisations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The financing of the body or the NGO by the Government may be direct or indirect.

Public Information Officer

Public authorities have designated some of its officers as Public Information Officer. They are responsible to give information to a person who seeks information under the RTI Act.

Assistant Public Information Officer

These are the officers at sub-divisional level to whom a person can give his RTI application or appeal. These officers send the application or appeal to the Public Information Officer of the public authority or the concerned appellate authority. An Assistant Public Information Officer is not responsible to supply the information. The Assistant Public Information Officers appointed by the Department of Posts in various post offices are working as Assistant Public Information Officers for all the public authorities under the Government of India.

Right to Information under the Act

A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority. It is important to note that only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

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The Act gives the citizens a right to information at par with the Members of Parliament and the Members of State Legislatures. According to the Act, the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. A citizen has a right to obtain information from a public authority in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be e-mailed or transferred to diskettes etc.

The information to the applicant should ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied. In some cases, the applicants expect the Public Information Officer to give information in some particular proforma devised by them on the plea that they have a right to get information in the form in which it is sought. It need be noted that the provision in the Act simply means that if the information is sought in the form of photocopy, it shall be provided in the form of photocopy, or if it is sought in the form of a floppy, it shall be provided in that form subject to the conditions given in the Act. It does not mean that the PIO shall re-shape the information.

This is substantiated by the definition of the term ‘right to information’ as given in the Act, according to which, it includes right to obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device. Everywhere in the Act, the word ‘form’ has been used to represent this meaning. Some Information Seekers request the Public Information Officers to cull out information from some document(s) and give such extracted information to them. A citizen has a right to get ‘material’ from a public authority which is held by or under the control of that public authority. The Act, however, does not require the Public Information Officer to deduce some conclusion from the ‘material’ and supply the ‘conclusion’ so deduced to the applicant. It means that the Public Information Officer is required to supply the ‘material’ in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.