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Right to Information: A Tool for Combating Corruption in India

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Abstract

This paper examines the effectiveness of Right to Information (RTI) Act as a tool for combating corruption in India. The RTI Act was promulgated in October 2005 to ensure transparency and good governance in the country. Based on content analysis and depth interviews with a few bureaucrats and activists, the paper indicates that RTI Act has succeeded in reducing information asymmetries and exposing corruption. Public servants have become relatively responsive and accountable to service since the promulgation of RTI Act.

Keywords: Right to Information Act, Transparency, Information Asymmetries, Corruption

Introduction

The cliché is not quite right: information by itself is not power. But information is a vital first step in the exercise of economic and political power. Opening up channels of information brings about changes about who can do what. The last few decades have witnessed increased awareness among citizens from all parts of the world demanding more information and an end to secretive decision making. As a result, laws regarding public access to information pertaining to government services have been adopted by United Kingdom, Japan, India, South Africa, Mexico and a host of other countries (Florini, 2007).

The proponents of greater disclosure argue that transparency is not only a tool for cleaning up governments but also a key component of public policy effectiveness and efficiency. In an environment riddled with intrigue, secrecy and corruption, the RTI Act, 2005 was passed by the Indian Parliament to bring transparency. The next section throws light on the corruption that has plagued the Indian administrative system. Further, history and struggle leading to the enactment of the RTI Act in India is briefly discussed. It throws light on the uniqueness of the Indian struggle to help the reader understand how RTI as an instrument is developed and being used by the Indian masses.

Indian Public Sector

The Indian public sector remains the biggest employer in the country. The recent Economic Survey (2008-09) undertaken by the Ministry of Finance reported that 18.188 million people were employed in the organised Indian public sector. In terms of economic contribution, public sector accounted for about 35% of industrial value added in India (Ahluwalia, 2002).

Economic reforms were introduced late in India, embarking on the process in earnest only in 1991 in the wake of an exceptionally severe balance of payments crisis (Ahluwalia, 2002; Arun and Nixon, 2000). In developing economies privatisation unfolds rather slowly, and in Indian context it was slower than the pace originally visualized (World Bank, 1996). The problem was compounded as disinvestment program was seen as threatening the material interests of politicians, civil servants, and organised labour (Arun and Nixon, 2000). World Bank (1995) ranked India among the countries that have been most unsuccessful in reforming their state enterprises. Therefore Arun and Nixon (2000) concluded that India provided a checklist of what should not be done with respect to disinvestment/privatisation.

India's public sector can be divided into three categories: (i) governmental bureaucracy-central, state and local (ii) departmental enterprises, such as postal services, railways and parts of the telecommunication system and (iii) non-departmental enterprises incorporated as independent companies, and includes firms in manufacturing as well as services (Mohan, 2005).

This study focuses on the first category- governmental bureaucracy. The following section discusses the features of the Indian bureaucracy with a prime focus on the corruption that has plagued the bureaucratic apparatus in India.

Indian Administrative/Bureaucratic System

India inherited and continued an administrative system that was designed by the British government in sync with the colonial interests. According to Barthwal (2003) British ruled India for centuries and created a nature of state that was law and order state or a police state. The administrative system created by the British in India was regulatory, rigid, and at times oppressive. It was basically meant to maintain law and order and collect revenues. Therefore, the administration in such a system could hardly be expected to have links with the people and be responsive to their needs and preferences (Barthwal, 2003; Perumal, 2003).

Absolute authority in the hands of bureaucrats paved a way for corrupt practices and decision-making in line with vested interests. No wonder, corruption has become the hallmark of today's Indian administrative culture. In 2011, Transparency International ranked India 95 out of 183 based on perceived levels of corruption (<http://www.transparency.org>).

The liberalization of the Indian economy has created an environment in which there has been increasing emphasis on responsive administration. This requires transparency in administration, drastic reforms in Civil Services and a system which functions as a means for the quick redressal of citizens' grievances. The RTI Act, 2005, introduced by the Indian government is a step towards cleaning the Indian administrative system. The following section discusses the struggle that led to the enactment of the RTI Act.

Transparency and Rural Livelihoods: The Story of MKSS

Grassroots struggles for transparency is perhaps the most critical component of the Indian journey toward operationalizing people's RTI. Shankar Singh, Nikhil Dey, and Aruna Roy in

1990 along with a number of peasants and workers from villages around Devdungri in Rajsamand District of Rajasthan, formed Mazdoor Kisan Shakti Sangathan (MKSS hereafter). Their organisation raised the RTI issue in such a compelling manner that it changed the discourse on what had been seen for many years largely as an academic issue (Singh, 2007). This movement struggled to get the right to information passed in the state of Rajasthan and joined with other activists and movements to form a national platform called the National Campaign for People's Right to Information (NCPRI hereafter) in 1996 to fight for the national RTI law.

Policies, Laws and Institutional Structures

For over a decade efforts were made to enact a national law on the RTI. NCPRI comprised of activists, journalists, lawyers, professionals, academics and retired civil servants. One of the main tasks of NCPRI was to draft a RTI law that could form the basis of the proposed national law. The NCPRI and the Press Council of India jointly formulated the initial draft and presented to the Government of India which set up another committee under the chairmanship of late H. D. Shourie, which came up with a somewhat watered-down version of the act drafted in 1997. Further amendments were made to the draft and introduced as a Freedom of Information Bill in Parliament in 2000. The bill was finally passed by Parliament in December 2002 with almost no amendments or changes. Interestingly, even this weak act had not been notified and made operative until the elections and the advent of a new government in May 2004 (Singh, 2007).

Amending the RTI Act of 2002

Essentially minimum exclusions, independent appeals, stringent penalties and universal accessibility are the four indicators of a strong transparency law. However the 2002 act failed on all these counts. The NCPRI, based on their extensive discussions with civil society groups working on transparency, formulated a set of amendments to the 2002 Freedom of Information Act in August 2004, designed to strengthen the act and make it more effective. National Advisory Council (NAC hereafter) was forwarded the suggested amendments, which endorsed most of them and forwarded them to the Prime Minister of India for further action.

The revised RTI Bill based on the recommendations of the NAC was introduced in the Parliament by the Government of India on December 22, 2004 (Singh, 2007). Although when compared to the 2002 act, this RTI Bill was considerably stronger, some of the critical clauses recommended by the NCPRI and endorsed by the NAC had been amended or deleted. Most significantly, the 2004 bill was applicable only to the central government, not to the states, and had almost no workable penalty provisions. As a result the civil society groups reacted sharply and the government was forced to set up a group of ministers to review these changes and refer the proposed act to a Standing Committee of the Parliament. Meanwhile, the NAC both personally and in writing expressed to the Prime Minister their unanimous support for the original recommendations. These efforts were mostly successful as the committee and group of ministers recommended the restitution of most of the provisions that had been deleted. It included applicability to states and severe penalty provisions. Both houses of the Indian Parliament passed the RTI Bill, as amended, in May 2005. The Right to Information bill received presidential assent on June 15, 2005 and came into force on October 13, 2005 (Singh, 2007).

Implementation of the RTI Act

Successful implementation of the RTI Act depends on a variety of factors, both technical and political. The Government of India chose to provide this law for making governance effective and transparent. Neuman and Calland (2007) suggests that in the Indian case the civil society played a critical role in advocating a stronger RTI Act and lobbied around for key provisions which resulted in the true flourishing of the information regime. Effective monitoring and testing of the system is done by the civil society organisations which emerged from the campaigns of the law in India thereby urging greater government compliance (Neuman and Calland, 2007).

Effective implementation of the RTI Act requires political commitment from the top. The Indian government is inured to working in a secretive fashion and the notion of transparency is far beyond the range of experience and mind-set of most public bureaucrats. Therefore strong political will is necessary to have a fundamental mind-shift. Indian Prime Minister Dr. Manmohan Singh both in the past and present has shown such political will. The Third Annual Convention on Right to Information was inaugurated by the Prime Minister Dr. Manmohan Singh on November 3, 2008. The theme of the Convention was 'Right to Information and its Ramifications for Good Governance'. The Prime Minister restated his commitment at the annual convention:

'Our Government takes great pride in the implementation of the Right to Information Act. This transition from a tradition of secrecy in official matters has of course not been easy. It has involved not only setting up of an appropriate institutional mechanism but also a change in the mindset of public servants.' (<http://www.hindustantimes.com>; <http://cic.gov.in/convention-2008/PM-Speech.pdf>)

The Government of India has established internal systems and processes to generate and provide information and training of civil servants to ensure understanding and compliance – the mechanics of supply side. The Indian government has constituted Information Commissions which can exercise its powers without being subjected to direction by any authority. These Commissions have been established across the country and their main function is to receive and inquire into the complaints from citizens regarding their RTI applications. These Commissions have powers of Civil Court to settle RTI cases (<http://cic.gov.in/index.html>).

Information Commissions are the appellate authority under the RTI Act, which would be called upon to objectively deliver judgment on disputes over access to information between the citizen and the government. They are playing the crucial role of an oversight authority that through its orders and judgements is expected to initiate a change in the mind-set of the bureaucracy. Further, appropriate training is provided to the Public Information Officers across the country to deal with request from citizens seeking information under the Act and render reasonable assistance to them. One of the criteria for measuring the popularity of the RTI can be indicated by the number of RTI applications filed over a period of time.

According to the 2010-11 Annual Report prepared by the Central Information Commission, the number of information seekers increased by 2 times (5,55,726 requests) over the

previous year 2009-10 (<http://cic.gov.in/AnnualReports/AR-2010-11/AR2010-11E.pdf>). This also demonstrates the success of the RTI Act in creating conditions of free flow of knowledge, as envisioned by the Parliament on passage of the RTI Act. Also, only 5.2% RTI requests received were rejected in the year 2010-11 in comparison to 6.43% in the previous year. The PM also praised the decrease in the number of rejections and commented that it can be one of the measures of success in empowering citizens with information (<http://cic.gov.in/AnnualReports/AR-2010-11/AR2010-11E.pdf>).

The global experience indicates that freedom of information has dramatic effect on corruption. Out of the top ten countries on the Annual Corruption Perception Index 2011 prepared by Transparency International, eight had effective legislation for public access to government records whereas out of the ten 'most corrupt' countries, none had a functional access to information. Obviously, access to information has emerged as a tool to combat corruption. (http://www.transparency.org/policy_research/surveys_indices/cpi/2008).

Methodology

In order to test whether the RTI Act is promoting transparency in the Indian administrative system, information from both supply side (public officials) and demand side (representatives of civil society i.e. RTI activists) was insightful. Media, civil society organisations, and social activists have played a critical role in generating awareness about the RTI Act at a mass scale. Awareness has been primarily generated through news articles based on RTI investigation. Therefore primary sources of data collection were newspapers articles, interviews (as given in the appendix), and internet research.

Face to face fully standardised in-depth interviews were conducted with Indian bureaucrats and RTI activists. Going by the thumb rule, one researcher should roughly do 15-25 interviews, 15 interviews were conducted which included 7 with RTI activists and 8 with public officials. Interviews were conducted with only those RTI activists (purposive sampling) who have been working on the RTI before the Act was passed by the Parliament so that they can describe their experiences with the Indian bureaucracy both before and after the Act was passed. The interviews were held between July 2009 and August 2009. Content analysis (See Appendix) of the newspaper articles was carried out. Articles were from India's leading newspaper 'Hindustan Times' and magazine 'India Today'. They were selected because of their prominent presence at national level.

As suggested by Krippendorff (2004), content analysis of media can be done to measure public opinion. Further, Krippendorff (2004) suggests that content analysis enables researchers to go through large volumes of data with relative ease in a systematic fashion. It allows inferences to be made, which can then be corroborated using other data collection methods. Therefore, interviews with public officials and RTI activists were conducted to further explore the grassroots reality. It is further backed by secondary data analysis of the study done by Price Water House Coopers in collaboration with the DFID and Management Consultants, namely Development Alternatives.

Results

The result section broadly has four parts – a) Content Analysis, b) Interview with RTI Activists, c) Interview with Indian Bureaucrats and d) Secondary Data Analysis. Each section discusses the results of the study.

Content Analysis

200 articles from 1500 articles were chosen from one national newspaper 'Hindustan Times' and one national magazine 'India Today'. The articles were selected from 2005-2009 i.e. from the time of implementation of the Act that is October 15, 2005 to June 16, 2009. The code values were 0= transparency is not coming through the RTI; 1= transparency is coming through the RTI; 2= other issues relating the RTI.

Interestingly, 75% of the articles conveyed the view that the RTI Act is bringing transparency in the Indian administrative system. About 20% of the articles conveyed the view that the RTI Act is not successful in bringing transparency due to various reasons whereas 5% of the articles were regarding other issues related to the RTI Act.

The 75% support in favor of the RTI Act bringing transparency in the Indian administrative system included individual success stories, corruption scam being bust through the RTI, corrupt officials getting punished as a result of RTI, pending work being done without bribe as a result of the RTI, and public officials trying to suppress the RTI due to fears of exposure and public officials forced to make processes transparent due to the RTI. Snippets of the content are given below:

On March 7, 2006 Hindustan Times published a story how the RTI is making its presence felt in the Public Sector Units. The following quote depicts the whole scenario "RELUCTANTLY, YES, but government departments are beginning to bow before the right to information law. The Central Information Commission (CIC) has over the last month upheld two appeals to get government departments to make the tender-selection processes transparent." (<http://www.hindustantimes.com/Homepage/Homepage.aspx>)

On June 29, 2006 India Today quoted the following:

"A DAILY wage laborer from Delhi used it to get a duplicate ration card. A father used it to get his passport in time to visit his pregnant daughter living in Germany.....The Right to Information Act has helped hundreds of Indians get their work done without having to bribe their way through red tape and laxity." (<http://indiatoday.intoday.in/>)

One of the most exciting individual success stories was published by Hindustan Times on June 15, 2009. The following quotation from the newspaper summarises the whole story 'The Right to Information Act can get you a job. Sounds unbelievable? Ask 30-year-old Dharendra Kumar. Kumar, who is now a civil judge in Dumroan in Bihar, failed to clear the Bihar Judicial Service Examination in 2007, or at least his results showed so. But it was his confidence of having done well in the exam and the power of the RTI Act that helped him undo the injustice meted out to him.' (<http://www.hindustantimes.com>)

The 20% of the articles that suggested that the RTI Act had failed to bring transparency in the Indian administrative system was mainly due to the following reasons: government not providing enough infrastructures for the RTI to function effectively, RTI applications being rejected by the Information Commissions and citizens unaware or unable to use RTI effectively. The following is one example from India Today to portray the above picture:

On July 3, 2006 India Today quoted 'Despite the Right to Information Act being in force in the State, the Guwahati Metropolitan Development Authority (GMDA) has denied a citizen the information he had asked for on the plea that he had not applied for the purpose properly.' (<http://indiatoday.intoday.in/>)

Therefore rather than suggesting that the RTI Act is ineffective, the broad picture painted by these articles was the absence of a suitable environment for the RTI Act to function effectively.

The 5% articles which were neither in favor of the RTI Act nor in opposition because these articles mainly had general discussions by RTI Activists, political figures and Indian Bureaucrats and society on the RTI.

To conclude, overall content analysis of newspaper articles clearly supports that the RTI Act is bringing transparency in the Indian administrative system. These results were corroborated by the interviews and the secondary data analysis. The following paragraphs broadly summarises the information gathered during the interviews and secondary data analysis.

Interviews: RTI Activists

Broadly speaking majority of the respondents (RTI Activists) suggested that the RTI Act is bringing major changes in the Indian administrative system. The culture of secrecy, non-responsiveness and negligible accountability is changing gradually. One of the key changes that they all believe RTI has brought is that it has at least made public officials realise that the Indian public can hold them accountable. RTI Activist Subash Chandra Agrawal who has filed more than 500 RTI petitions in response to the question 3 states that 'the RTI Act has been successful in helping Indian masses not only by way of providing access to information but also serving as an effective watchdog.'

Out of the several personal experience cases, the case of Mr. Ajay Patel, a well-known RTI Activist in the Varanasi District of Uttar Pradesh, is both interesting and sums up the argument expressed in all the other cases interviewed. In response to question 2, he shares his personal experience in the following paragraph. Mr Patel states:

'Before the RTI Act was passed, it was impossible to locate one's query in the government's workflow. This resulted in applicants feeling powerless and helpless. My refusal to pay bribe to a police official led to a 3 year delay for my passport application to be processed. In the absence of RTI I was unable to locate the actual status of my application. But with the RTI coming into force, it took exactly 2 weeks from the date I filed an RTI application to know the reasons why my application is being delayed for my passport to arrive. The RTI Act

forced the police official to be responsive and act according to prescribed rules and procedures.'

Mr. Patel along with the other RTI Activists interviewed felt that RTI has given voice to the Indian public to raise their concerns and demand for better public services from the government and the bureaucracy.

Interviews: Public Officials

Since it was promised that the name and other personal details of the interviewees will be kept completely anonymous, there was some success in getting open responses from public officials. The respondents suggested that RTI Act has become a source of anxiety in many public departments. To quote one of the interviewees' responses to question 2:

'There is a new sense of urgency and tension in the public departments. Officials are worried that if certain documents are retrieved under the RTI Act it might lead to serious consequences. Though they are making efforts to ensure that they fulfil their present and future duties according to specified rules and procedures, they are worried that the ghosts of the past might haunt them in future.'

One of the public official dealing with the RTI confessed: 'Once we receive an RTI application, we first try to deny the requisite information. Then we think how to confuse the applicant. The third step is to make efforts to delay the response. Next, we try to convince the applicant that the requisite information does not qualify as information. We give in only if all these steps fail.'

In response to question 3, majority of the respondents were indeed delighted the way in which the RTI is connecting the Indian masses with the public officials. They commented that even the most honest efforts by public officials were criticised by the Indian media and public if the results were not according to their expectations. Mr. Saurabh Singh, a public official with the Ministry of Rural Development, Government of India observed that 'the RTI Act has given a platform to both Indian bureaucrats and the public in the sense that the former can justify their decisions to the latter. They believe it is a great trust building platform between the officials and the citizens'.

Mr. S. N. Sabat, senior official in the Indian Police Force raised an important point that 'the RTI Act should not be misused to settle personal scores'. To sum up, they all believed that the RTI is an important tool in the hands of the citizens which is being used to demand transparency and accountability from the Indian bureaucrats.

Secondary Data Analysis

An insightful study was done by management consultants Price Water House Coopers (PwC) and Development Alternatives to study the anticipated and unanticipated consequences of the RTI Act. This venture was supported by DFID –Department for International Development under the British Government. PwC in collaboration with Development Alternatives had managed a program, on the Poorest Areas Civil Society (PACS) Program for 7 years, ending in 2007. Part of the program was to study how RTI touches the life of a common villager. In order to study this, campaign ('Mere Gaon ka Sawal', The issues of my

village) was carried out in five districts of Uttar Pradesh with the support of social workers and various non-profit organisations.

The report states that villagers, thanks to their RTI applications, were able to succeed in various areas i.e. they forced government officials to take notice of their issues followed by necessary action. It shows how even illiterate, marginalised but an informed citizenry can bring transparency and improvement in the system. The study concludes by saying that even though areas of corruption/inefficiencies were known earlier in the Government, citizens could not take any recourse. However, with the implementation of RTI Act, the citizens have found a tool to bring in transparency and accountability at all levels of government. Full details of the report can be accessed at (<http://www.empowerpoor.org/>).

Conclusions

In an environment riddled with intrigue, secrecy and corruption, the RTI Act 2005 was promulgated by Government of India to bring transparency. Indian citizens have used this law very effectively to bring about changes that are both big and small. The RTI Act has fundamentally changed the power equation between the government and the governed – those who wield power of the state in any form on the one hand and millions of those who are affected by the decisions and working of the state machinery on the other. Thanks to the RTI Act, in India, real master –the proverbial ‘common man’ is finally being recognised by the ‘public servants’. No other law on India’s statute book gives citizens so much power, so simply, to question any public authority in the country.

The study clearly showed that the RTI Act has given a historic opportunity to root out corruption and the culture of secrecy from the Indian government affairs and pave the way for governance reform, greater accountability and transparency in government affairs. Across the country, a growing number of people are using the RTI applications as a weapon to fight corruption and demand their rights. The RTI is enabling people to say no to bribes. The RTI has been used to bring about policy changes as well as to feed hungry mouths. It is an all-encompassing act with consequences that have prompted some to say that it is the most important legislation since independence.

The study supports that aligning public service architecture with appropriate transparency mechanisms does promote transparency. The study also supports the point raised by Jenkins and Goetz (1999) that the power of the RTI should not be underestimated. The literature of corruption and anti-corruption overemphasizes the role of the state as cause and remedy and fails to recognize the role of social movements in surfacing the existence of different forms of corruption. But much needs to be done before full power of the RTI can be realised. Indian Government should provide better infrastructure and ensure speedy processing of the RTI cases to motivate the demand side i.e. civil society. Signs of transparency are becoming visible and if the current trend has to continue and to comply with the Act in letter and in spirit, a fundamental change in the attitude within the bureaucracy is necessary. Therefore, for the Act to be utilised to its full potential, Indian Government will have to make serious efforts to inculcate in the bureaucracy respect for citizens’ right and give up its old functioning style characterised by cloak of secrecy and opaqueness.

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Appendix A: Questionnaire for RTI Activists

Q.1. After 3 years of RTI Act coming into force what changes do you see in the Indian Bureaucracy?

Q.2. Do you have any personal experiences which you can elaborate to demonstrate your previous and after experience with Indian bureaucracy with respect to RTI Act?

Q.3. Do you think RTI has helped Indian citizens in any major way?

Q.4. How do you think the government and the bureaucracy have reacted to the RTI Act?

Q.5. What do you think is the way forward with regards to RTI?

Appendix B: Questionnaire for Indian Bureaucrats

Q.1. Do you think RTI Act is an important tool for good governance?

Q.2. Has RTI Act influenced in any way the culture and working environment of your department?

Q.3. Do you think RTI is connecting the Indian public and bureaucrats?

Q.4. What do you think are the future directions for RTI?

Appendix C: Content Analysis Workings

In order to compile articles related to RTI in the Indian Newspaper and Magazine, **Nexis UK** database was used. It is a comprehensive newspaper database providing full text access to all UK Newspaper as well as International newspaper and magazines and it is updated on a daily basis. The database automatically defaults to the news search page. The phrase RTI in the **Enter Search Terms** box was entered and "Hindustan Times" and "India Today" were selected in the **Select Sources** drop down box. The default is to the search for the term

through the whole text of the article but search was narrowed by selecting ***In the Headline***, which led to search only in the headline of the article.

RTI phrase and ***In the Headline*** option were specifically chosen as all the articles whose main focus was RTI were required for the study. The database has a ***Specify Date*** field to search a specific time frame. October 15, 2005- Till Date (June 16, 2009) was selected because it was in October, 2005 that the RTI Act was finally implemented in India. The list of results matching your search will be displayed in date order but they were sorted in chronological order in order to trace the impact of RTI in a more systematic fashion. All the displayed articles as a result of the search were stored in a single Word file through the ***Download Delivery*** icon. Next ***Random Number Generator Pro***, a windows based application to generate random numbers was used. The number of articles generated by Nexis, UK was 1500. Therefore it allowed to randomly select 200 articles out of 1500.

In order to improve the reliability of the research the one more researcher Mr. Jerome Penn was taken on board to interpret the coding after a time interval, further since we were from different backgrounds and culture (Indian and British) it helped in improving the reliability of the research. Random quarters of the samples were taken by both of us in order to understand consistency. The level of agreement between us on coding was 95%. Therefore coding achieved a very high degree of reliability. Over the 6 year period (2005-2011) of our content analysis there have been no changes which could bias the selection of our population of articles. The editors of the two newspapers have not changed for over 10 years and the coders and coding frame has remained the same.

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