



## RIGHT TO INFORMATION ACT: AS A MECHANISM TO FIGHT AGAINST CORRUPTION TO PROMOTE GOOD GOVERNANCE IN INDIA

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*“Power corrupts and Absolute Power Corrupts absolutely”*  
Lord Akton

### Abstract

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 squeeze but corruption is roaring high. The main factor behind the corruption is secrecy, which was taken as a tool of accuracy 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. This paper tries to highlight the RTI as a vital tool in the reduction of Corruption and some steps for the development of democratic governance. In this article the study is based on Secondary sources, which includes books, journals, reports, news papers, internet websites, government publications and records.

**Keywords:** Right to information, Transparency, Corruption, secrecy, cracking, reduction

### 1. Introduction

Corruption is not only an enemy of development and good governance; it is also foe of democracy. The absence of transparency and accountability in governance and administration and our people's sense of helplessness weaken our democratic process. A mature democracy must have effective checks and balances against abuse of power by public servants for self enrichment. Over the past few decades, rampant corruption has bred contempt for the law. The failure of the law to catch the corrupt and then to deliver deterrent punishment to them has led to widespread cynicism among the people. It has also resulted in a decline in moral values throughout society. Even Kautilya way back in 200 B.C. remarked, “Just as it is impossible not to taste honey or poison when it is at the tip of the tongue, so it is impossible for a government servant not to eat up a bit of revenue. And just as it cannot be found out whether a fish swimming through water drinks or not, so government servants cannot be found out while taking money for themselves.”<sup>1</sup> Today everyone is accusing the other persons/ parties for corruption, but without solution. In India, corruption has sufficiently punctured and extremely hampered the process of healthy economic growth and development. Starting from political bosses to the lowest

<sup>1</sup> S.L Goel Good Governance- An Integral Approach, New Delhi: Deep & Deep Publications Pvt. Ltd. (2007), P-219.

level of bureaucratic functionary, none seems to be either an exception or immune from evil effects. Such an assertion does not denote that everyone is corrupt but simply highlights the said prevalent plight of affairs. Even a sacrosanct person finds himself sufficiently circumscribed to yield under its vociferous pressure and tastes the bitter bite of this panic in divergent walks of life.<sup>2</sup>

In India today, being a welfare-state, 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. Information is power, and 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. 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. The statutory right to information gives a legal right to have access to government-held information strengthens democracy by ensuring transparency and accountability in the actions of public bodies. It enhances the quality of citizen-participation in governance from mere vote-casting, to involvement in the decision-making that affects her or his life.<sup>3</sup>

## **2. Objective of the Act**

Objective of the Act is to establish “the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commission and for matters connected therewith and incidental thereto.”<sup>4</sup>

## **3. Meaning of Good Governance**

The concept of "governance" is not new. It is as old as human civilization. Simply put "governance" means: the process of decision-making and the process by which decisions are implemented (or not implemented). Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance.<sup>5</sup> Good governance is the term that symbolizes the paradigm shift of the role of governments.<sup>6</sup>

## **4. Right to Information and Good Governance**

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.<sup>7</sup> ‘Right to Information’ (RTI) refers to the right of every citizen to access information held by or under the control of public authorities. Information is crucial for good governance as it reflects and captures Government activities and processes. It is said that information is the oxygen of democracy. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Access to information not only promotes openness, transparency and accountability in administration, but also facilitates active participation of people in the democratic governance process. The RTI ACT is a tool helping to ensure rights already promised in the constitution. Public participation in Government, respect for the rule of law,

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<sup>2</sup> S. k. Sharma, *Corruption in Indian politics and Bureaucracy*, New Delhi: ESS Publications, (1991), P- 123.

<sup>3</sup> Shalu Nigam, *Right to Information Law & Practice*, P-4.

<sup>4</sup> The preamble to the RTI Act, 2005

<sup>5</sup> Available at <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>.

<sup>6</sup> Holzer Marc & Kim Byong-Joon, *Building Good Governance: Reforms in Seoul*, National Center for Public Productivity, 2002.

<sup>7</sup> Former CJI J S Verma at Central Information Commission (CIC) convention

freedom of expression and association, transparency and accountability, legitimacy of Government, and the like which are the core values of good governance, can be realized only if the right to information is implemented in the right spirit.<sup>8</sup> RTI is perceived as a key to strengthen participatory democracy and ushering in people-centered governance. With access to information on their side, people can function better as an informed and responsible citizenry investigating and scrutinizing government actions and reviewing the performance of their elected representatives with a view to seriously holding them accountable. People can access information on how officials are delivering on their commitments, how the bureaucracy is spending public money and how representatives are interacting with special interest groups. Without good governance, no amount of developmental schemes can bring in improvement in the quality of life of the citizen.<sup>9</sup> Good governance has four elements- transparency, accountability, predictability and participation and RTI helps in achieving the same. the RTI Act provides citizens with a vital tool to inform themselves about a government's record in office. In this way, it empowers ordinary people to make more informed electoral decisions, giving them an opportunity to participate more effectively in governance and policy formulation.<sup>10</sup>

#### **4. Constitutional Development of the Right to Information**

It is required to stress at the very threshold that the movement of right to information in India was never aimed to merely ensure an access to the public information. Rather, the aim is create such favourable conditions so that the right to information can be effectively exercised. It is for sure that the Indian Constitution does not contain any specific right to information or even right to freedom of the press. The Chapter on Fundamental Rights when interpreted broadly

Guarantees the right to information as a part of freedom of speech and expression. As pointed out by H.M. Seervai, "Corruption, nepotism and favouritism have led to the gross abuse of power by the Executive, which abuse has increasingly come to light partly as a result of investigative journalism and partly as a result of litigation in the Courts"<sup>11</sup>. It is submitted that the provisions of the two constitutions (US and Indian) as to freedom of speech and expression are essentially different. The difference being accentuated by provisions in our Constitution for preventive detention which have no counterpart in the US Constitution.<sup>12</sup> Several decisions given by the Supreme Court from time to time have been actually responsible for the development of legal position with regard to the right to information in India. These decisions were not given specifically in the context of the right to information, but specifically in the context of the Right to Freedom of Speech and Expression. Right to Freedom of Speech and Expression has been said to be the opposite or invert side of the Right to Know, and it is not possible to exercise one without the other.

The landmark case in freedom of the press in India was *Bennett Coleman & Co. vs. Union of India*<sup>13</sup> in which the court struck down the newsprint control order saying that it directly affected the Petitioners right to freely publish and circulate their paper. In that, it violated their right to freedom of speech and expression. The judges also remarked, "It is indisputable that by freedom of the press meant the right of all citizens to speak publish and express their views" and "Freedom of speech and expression includes within its compass the right of all citizens to read and be informed." The dissenting judgments of *Justice K.K. Mathew* also noted, "The freedom of speech protects two kinds of interests. There is an individual interest, the need of men to express their opinion on

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<sup>8</sup> The Right to Information Act, 2005, A Guide for Civil Society Organizations

<sup>9</sup> Government of India, Second Administrative Reform Commission, First Report on Right to Information: Master Key to Good Governance, June 2006, para 1.1.1, P-1.

<sup>10</sup> S.L.g *Good Governance- An Integral Approach*, New Delhi: Deep & Deep Publications Pvt. Ltd. (2007), P-314

<sup>11</sup> H.M. Seervai, *Constitutional Law of India*, 4th Edn. Vol. 2, P-1096.

<sup>12</sup> H.M. Seervai, *Constitutional Law India*, 4th Edn. Vol. 1, P- 710.

<sup>13</sup> AIR 1973 SC 783

matters vital to them and a social interest in the attainment of truth so that the country may not only accept the wisest course but carry it out in the wisest way. Now in the method of political government the point of ultimate interest is not in the words of the speakers but in the hearts of the hearers". This principle was even more clearly enunciated in a later case <sup>14</sup>where the court remarked, "The basic purpose of freedom of speech and expression is that all members should be able to form their beliefs and communicate them freely to others. In sum, the fundamental principle involved here is the people's right to know." Another development on this front was through a subsequent case<sup>15</sup>in which it was held that if an official media or channel was made available to one party to express its views or criticism, the same should also be made available to another contradictory view. The Court held that a state instrumentality having monopolistic control over any publication could not refuse to publish any views contrary to its own. The right to have transparency in criminal justice system and to have it free from any sort of arbitrariness has been developed by the courts in the area of civil liberties. In *Prabha Dutt Vs. Union of India*<sup>16</sup> the Court held that there excepting clear evidence that the prisoners had refused to be interviewed, there could be no reason for refusing permission to the media to interview prisoners in death row. In *State of U.P. v. Raj Narain*<sup>17</sup> the Court said, " While there are overwhelming arguments for giving to the executive the power to determine what matters may prejudice public security, those arguments give no sanction to giving the executive exclusive power to determine what matters may prejudice the public interest. Once considerations of national security are left out there are few matters of public interest which cannot be safely discussed in public". Justice K.K.Mathew went further to say, "In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. Whenever one claims secrecy for his public activities which do not have any negative effect over the public security, must be cautious of the right to know available to the people. It is not in the public interest to cover the routine business with the veil of secrecy. Such secrecy can seldom be legitimately desired. It is generally desired for the purpose of parties and politics or personal self-interest or bureaucratic routine. The responsibility of officials to explain or to justify their acts is the chief safeguard against oppression and corruption".<sup>18</sup> The expression "freedom of speech and expression" in Article 19(1)(a) has been held to include the right to acquire information and disseminate the same. It includes the right to communicate it through any available media whether print or electronic or audio-visual, such as, advertisement, movie, article or speech, etc. This freedom includes the freedom to communicate or circulate one's opinion without interference to as large a population in the country, as well as abroad, as is possible to reach.<sup>19</sup>In *People's Union for Civil Liberties*<sup>20</sup>, the Supreme Court dealt with this aspect of the freedom elaborately. The right of the citizens to obtain information on matters relating to public acts flows from the Fundamental Right enshrined in Article 19(1)(a). The right to information in basic part of Article 19(1)(a) as for the promotion of freedom of expression it is essential to secure the information related to the basic details of the candidate contesting the elections. In *Dinesh Trivedi, M.P. and Others v. Union of India*<sup>21</sup> the Supreme Court dealt with the right to freedom of information and observed "in modern constitutional democracies, it is axiomatic that citizens have a right to know about the affairs of the government which, having been elected by them, seek to formulate sound policies of governance

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<sup>14</sup> *Indian Express Newspapers(Bombay) Pvt. Ltd.vs Union of India* (1985) 1 SCC 641)

<sup>15</sup> *Manubhai D. Shah v. Life insurance Corporation* AIR 1981 Guj 15

<sup>16</sup> AIR 1982 SC 6

<sup>17</sup> AIR 1982 SC 6

<sup>18</sup> *State of U.P. v. Raj Narain* AIR 1975 SC 865

<sup>19</sup> M.P. JAIN, *Indian Constitutional Law*, 6th Edn., Vol. 1, P- 1418.

<sup>20</sup> *People's Union for Civil Liberties (PUCL) v. Union of India*, AIR 2003 SC 2363.

<sup>21</sup> 4 SCC 306 : (1997) 1 SCJ 697.

aimed at their welfare". It has been recognized that the right to know, right to receive and disseminate the information is within the right to freedom of speech and expression. Using the best possible means to impart and receive the information has been recognized as a fundamental right of the citizen of India. The right to know has, however, not yet extended to the extent of invalidating Section 5 of the Official Secrets Act, 1923 which prohibits disclosure of certain official documents.<sup>22</sup> Moreover the right to know in a democratic system is neither a fundamental right nor a common law right. It is pure and simple because it is a statutory right and this right originates from Constitution of India in accordance with the Article 19(1)(a) and it was shaped in a statute *i.e.* The Right to Information Act, 2005. Hence it cannot be described as pure and simple statutory right. The information which is best facilitated meaningful cannot be read as an integral part of any fundamental right. The enforcement of the right can create confusion and at initial stage this right cannot be placed in the pedestal of the basic or fundamental right but when citizen will go to a department or organization then only such right will take a crises in many a cases for both citizen seeking information and authority supplying it with a rightly sharpened sword over his head at the point of heavy penalty and punishment. Hence the whole Act can be judged at the point of its implementations and contemporary development wherein each citizen is involved in plethora of information and each organization is pre-occupied with abundant work burden.<sup>23</sup> Here RTI Act is concerned with the crystal clear information which must be furnished to each citizens of India who seek this information. It is very important for every government to set up effective machinery for the good governance of citizens<sup>24</sup>.

## **5. Ratio of Corruption in India**

Corruption in India is a major issue that adversely affects its economy. A study conducted by Transparency International in year 2005 found that more than 62% of Indians had firsthand experience of paying bribes or influence peddling to get jobs done in public offices successfully. In its study conducted in year 2008, Transparency International reports about 40% of Indians had firsthand experience of paying bribes or using a contact to get a job done in public office. In 2012 India has ranked 94th out of 176 countries in Transparency International's Corruption Perceptions Index, tied with Benin, Colombia, Djibouti, Greece, Moldova, Mongolia and Senegal.<sup>25</sup> In 2013, India was ranked 94th out of 175 countries. In 2014 India ranked 85th out of 175 countries in Transparency International's Corruption Perceptions Index, compared to its neighbours Bhutan (30th), Bangladesh (145th), Myanmar (156th), China (100th), Nepal (126th), Pakistan (126th) and Sri Lanka (85th).<sup>26</sup>

Most of the largest sources of corruption in India are entitlement programmes and social spending schemes enacted by the Indian government. Examples include Mahatma Gandhi National Rural Employment Guarantee Act and National Rural Health Mission. Other daily sources of corruption include India's trucking industry which is forced to pay billions in bribes annually to numerous regulatory and police stops on its interstate highways.<sup>27</sup>

## **6. Role of Right to Information act in reducing the Corruption in India**

Information is an inalienable and natural right of every human being. In a democratic country each person has the right to freedom of opinion and expression. This right includes right of holding

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<sup>22</sup> Mahendra P. Singh, *Constitution of India*, 11th Edn., P-130.

<sup>23</sup> P.K. Das, *the Right to Information Act 2005*, P-16.

<sup>24</sup> J.N.Pandey *The Constitutional Law of India*, Allahabad Law agency, P-175

<sup>25</sup> J.S Rajak. *The Right to Information Act: A Vital Tool to Fight against Corruption in India*. International Journal of Political Science and Development: Vol. 2.P-69.

<sup>26</sup> Available at [http://en.wikipedia.org/wiki/Corruption\\_in\\_India](http://en.wikipedia.org/wiki/Corruption_in_India).

<sup>27</sup> Rouf Ahmad Bhat, *Right to Information Act: A Great Step to Tackle Corruption*, Research on Humanities and Social Sciences ,ISSN -2224-5766 , P-32.

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public opinion and to seek, receive and impart information ideas from the public authorities. They have right to know as to what the government is doing and why it is doing. It is only if the people know how government is functioning that they can fulfill the role which democracy assigns to them and make democracy a really effective participatory democracy. The available and appropriate information helps citizens to live a dignified life in a civilized society.<sup>28</sup> Moreover there is a close link between Right to Information and Good Governance. The Good Governance is only possible when the society is very open and Corruption free. In India, corruption has sufficiently punctured and extremely hampered the process of healthy economic growth and development. Starting from political bosses to the lowest level of bureaucratic functionary, none seems to be either an exception or immune from evil effects. Such an assertion does not denote that everyone is corrupt but simply highlights the said prevalent plight of affairs<sup>29</sup>. In the following sections of the article, it is discussed how RTI has developed a strategy for reduction of Corruption and smooth governance.

**a) Promotes transparency:** Right to Information enables citizens to see how governments, those in public offices, are working. Transparency is the corn stone of any good government. RTI act has the potentiality to tackle with this uncontrolled corruption in both at gross root level and at power corridors of high and mighty. After enactment of this act, many a cases of corruption came to light. From the common wealth Games to 2G scam, RTI queries have been the starting point of exposure in a score recent access to corruption. It is the most powerful weapon in the hands of a common people to challenge the hidden fortress of administrative system.<sup>30</sup>

**b) Promotes Accountability:** Accountability is another requirement for reducing Corruption The Right to Information act provides people with mechanism to access information, which they can use to hold the government accountable or to seek explanation as to why decisions have been taken, by whom and with what consequences or outcomes. When people are aware about the government decisions. The public officers and common people are interconnected, then it reduces the chances of corruption

**c) Promotes Accessibility:** when citizens have access to information about service delivery and other government functions, they know what they are entitled to and they know how and where to demand their right to those services and other benefits. The Right to Information act by providing easy access of information reduces the traditional long gap between citizens and administration and thus helps in nation building process. The right to know and easy access of government information helps the people to understand the limitations of government at different levels. The real effect of information focuses on the reduction of Corruption.<sup>31</sup>

**d) Promotes participation:** RTI Act facilitated and encouraged the participation of common people in the process of governance and reduces the imbalance in power relationship, provides a tool to oppose injustice and allows collective spirit to make democracy work for everyone. Right to Information facilitates citizens in making political and economic choices and thus strengthens democracy. The process of paying bribe in day to day life decreases and tries to control as it becomes a social norm in the society.

**e) Promotes empowerment:** Before enactment of Right to Information Act, participation in political and economic processes and the ability to make informed choices has been restricted to India. As a consequence, commoners remain ignorant of various schemes and are unable to resist when their rights become causality. At the same time, people remain ignorant in terms of the ways and means through they can obtain their entitled rights from the concerned departments legally.<sup>12</sup> RTI act democratized the information and decentralized the power. Power no more remains

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<sup>28</sup> S. K. Borah .*Right to Information Act: A Key to Good Governance*. International Journal of Humanities and Social Science: VOL -2, Issue- 2 P-12.

<sup>29</sup> S. k. Sharma, *Corruption in Indian politics and Bureaucracy*, New Delhi: ESS Publications, 1991 P 123

<sup>30</sup> Hazra, N. (2013).*RTI- A Right to Good Governance*. Yojana Journal: P-56.

<sup>31</sup> Chaubey, M. K. *Right to information Various Dimensions*. Regal Publications: New Delhi. P-24.

confined to select few, rather it was made available equally to all citizens. So, undoubtedly RTI serves as a great tool of empowerment for the common people.<sup>32</sup>

## 7. Conclusion

“Power corrupts and absolute power corrupts absolutely” Lord Akton's above quote is absolutely correct for current Indian democratic phenomenon regarding corruption. The supreme court of India also stated that the corruption is just like a cancer for Indian democracy. It is the biggest challenge for development. The culture of corruption has become well in entrenched in the society. The corruption is a main barrier for the accountability and effectiveness in Indian democratic, political, bureaucratic and social system. Now the time has come to pour the root of corruption by the appropriate acid for eradicate it. For this reference Right to Information Act is powerful weapon. We may fight against corruption by the proper use of Right to Information Act.

RTI Act, if effectively implemented, could change the nature of governance in India. It could start a process of transparent and inclusive governance that could gradually shift the Indian democracy from being almost totally a representative one to a vigorously participatory one. It could bring sense of empowerment to the citizens of this country, empowerment that is necessary to check rapid downward slide of government performance and standards, and the concurrent trend of declining public expectations. The people would see for themselves that it is not that the government has no money to spend on their welfare, but that much of this money gets illegally diverted.

RTI, thus, is an essential and vital tool for Good Governance and Good Governance is vital and essential for our country. It is high time that we should not blame the colonial rule even after 60 years of independence. We are free to bring out changes in our system suited to our country to project good governance in theory and practices; as no government can hope to survive without strong and effective good governance nor can an administrative system exist without the support of those it was established to serve.

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<sup>32</sup> Rouf Ahmad Bhat, *Right to Information Act: A Great Step to Tackle Corruption*, Research on Humanities and Social Sciences, ISSN (Paper)2224-5766 ISSN (Online)2225-0484 (Online) Vol.5, No.7, 2015