

# The Right to Information Act and Social Accountability

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## Introduction

The Right to Information (RTI) Act, promulgated in India in 2005, has the ‘potential to change the work culture of entire Indian society’ (Kejriwal 2006). It empowers citizens to access ‘Administrative information, government records and related data’. This new right — after the Constitution of India recognizes the Right to Information as a fundamental right under Article 19(1) — would, in turn, reveal the mammoth machinery of Indian bureaucracy which ‘functions behind red-tape to public glare’ (Noronha 2001). This paper aims to explore the political and philosophical significance of the Indian Right to Information Act as a tool of social accountability.

## The Social Contract between the Sovereign and the Subject

The social sphere has as its constituents, the state, civil society and those on the fringes, who have not been — for various reasons — granted the status of citizen-subject. The state is a sovereign entity while the civil society comprises different associations of the citizen- subjects. Yet, relation between the sovereign and the subject is not that of the ruler and the ruled; they are co-constitutive.

In other words, the source of legitimate powers and prerogatives of the state are the citizens themselves. According to Jean Jacques Rousseau, the basis of the power of a state and its relation to the citizens is the ‘Social Contract’ whereby individuals forsake or part with their natural liberties to the institution called the state so that they may be transformed into civil liberties, which would serve to ensure and enhance the ‘common good’.

While the pursuit of individual well-being would entail the usage of one’s skills, assets and liberties to achieve goals of self-interest alone, pursuit of common good would involve efforts to attain those goals which will benefit the society with its myriad of groups/classification as a whole. Hence, Rousseau delineated the concept of ‘General Will’ which consists of not merely the totality of self-interests of different individuals but of those aims and ambitions, which would enhance the welfare of all.

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The state is the embodiment of this General Will — its function is not to protect and further the interests of any individual or group; as a meta-structure, its function is to enhance the common good of the entire society. Now, if one is to wonder at this juncture as to what constitutes the common good, it would be worth-while to explicate that it does not mean: granting of basic/ fundamental rights to food, shelter, livelihood or education to citizens alone; common good should more significantly, imply existence of conditions in which these rights are not ends in themselves but rather means to the attainment of ideals, such as equality and justice.

The state, therefore, is the guardian of the ideals of human civilization or in the words of Hegel, 'the embodied unity of objective freedom and subjective passions'. As the embodiment of the collective will of all citizens, the state is also responsible to them. The state is sovereign — or not subordinate to the interests or authority of any individual or institution — but also is accountable to all its subjects.

## **The Bureaucracy**

Social accountability is thus a powerful conceptual tool of governance in modern democratic nation-states. In democracies, unlike in dictatorships or monarchies of earlier times, citizens can express their discontent with rulers or administrators by voting them out of power in elections. Yet, they have little scope for exercising similar rights over bureaucracies since it aims at making the process of governance smooth and efficacious through formulation and implementation of rules and regulations of administration.

Yet, just as over time the unbridled celebration of and faith in human rationality waned (as severe limitations of reason and rationality were exposed) likewise it was recognised that the behemoth which is bureaucracy is, too, bound to rules, so much so that it forgot that the entire edifice of bureaucracy was enacted to honour and strengthen the social contract-to enhance the common good. It was, therefore vital to include the bureaucracy, along with the elected representatives, within the ambit of social accountability.

In a telling critique of Indian bureaucracy, Samit Kar states that: "The fatal failing of Indian bureaucracy has always been its low level of professional competence. The lack of professionalism is reflected in the growing lack of senior civil servants to give frank and fearless advice, the inept handling of major problems, which bedevil the nation, inability to innovate and (come) up with imaginative solutions to difficult questions..."

Clearly, the existing condition of Indian bureaucracy is a far cry from the role that Rousseau had articulated as the role of the state in the original social contract. It is plagued with problems of nepotism, red-tapism and rampant financial corruption. A study conducted by the independent civil society organizations, ORG Marg and Transparency International, India in early part of the last decade found that in 10 public sector departments of the Indian government, including health, education, public service commission, police, telecommunication and judiciary,

which employed 2/3rd of India's total public servants, a total sum of 267.28 billion Indian rupees was paid as bribes annually!

## **The Right to Information Act 2005:**

The RTI Act was described as legislation with the 'potential' to transform the very way in which bureaucracy functions in the country. As mentioned earlier, the citizens could now demand information about government policies and their implementation from most of its departments.

The RTI Act 2005 was preceded by the Freedom of Information Act, 2002. Many of the states also passed their state RTI Acts. Goa was the first Indian state to have an RTI Act enacted in 1997; Maharashtra and Delhi enacted their RTI Acts in 2001. According to Noronha (2001) the Act was used by activists and common citizens alike to seek information about issues such as deforestation, illegal construction and mal-administration in administrative departments such as education, panchayat (lowest unit of village administration), municipality, etc.

The Act generated a lot of debate about the government motive in the introduction of such a law which so clearly challenges the culture of secrecy that prevailed in the Indian administration. Until then, various government departments and their functionaries were only accountable to higher government bodies; the panchayat, for instance, was accountable to the gram sabha which in turn, was accountable to the district administration and so on.

What caused the state to expand this system of vertical accountability to include citizens and civil society organizations into it and transform it into social accountability? Reasons cited varied: some held the optimistic view that there has finally been recognition of the significance of transparency in a democratic society; others opined that in the era of neo-liberalism when the state is increasingly 'withering away' due to privatization of hitherto public sector bodies, the Act would be of little use as most service providers today belong to the private sector and are out of the ambit of the Act.

Despite such views, the RTI came to be used increasingly to expose corruption in different government departments all over the country. There emerged a new group of activists called the 'information activists' who used the RTI Act as a tool to garner information about lack of implementation of various government schemes and policies. There was an attempt to amend the RTI Act in 2006 whereby the potential of the Act to bring government documents under public scrutiny was to be curtailed but the amendment was not passed.

## **Beneficiaries and loopholes**

Hirschman (1970) states that an individual or a group can exercise either of the two options vis-à-vis the state: exit or voice.<sup>26</sup> It means that when a citizen is dissatisfied with the nature or quality of a certain service provided by the state, it can either 'exit' the system by replacing it with some alternative, better quality service. For instance, if a citizen is disgruntled with the state of public transport in her city, she can exit the system and travel by private vehicle. But this 'exit' option is available only to the economically well-off sections of the society; the poor

and the marginalized have to exercise the remaining alternative-that of 'voicing' their dissatisfaction.

The RTI Act could become a powerful tool of the economically and socially marginalized sections of the society who will perhaps benefit the most from improvement in the bureaucratic machinery. But, until recently, the state did not initiate measures to popularize the Act.

Lack of education and ignorance of the procedures for accessing such information has also deterred the masses from using the RTI but as mentioned earlier, the new crop of 'information activists' have helped the masses in seeking information using the Act. But there are other flaws that cropped up; according to Noronha, the Act is progressive but suffers from lack of implementation. How is the Act not implemented?

In some cases, there has been lack of allocation of sufficient funds; in other cases, there is a stipulation under the RTI Act that public information officers (PIO) should be appointed in all government departments for speedy dissemination of information. Again, there are cases in which no punitive or disciplinary measure has been taken against PIOs, who did not disburse information.

A Rajya Sabha member, Mysura Reddy, attempted to check the efficacy of the RTI Act by seeking specific information from the State Information Commissions of 26 Indian states. He received responses such as lack of funds, lack of manpower and even destruction of the relevant documents. Thus, the RTI could have easily degenerated into yet another failed or ineffective piece of legislation in India had it not been for the recent anti-corruption movements that began all over the country following similar movements in other parts of the world, such as the Occupy Wall Street movement.

The effectiveness of RTI as a tool to break the status quo in which red-tape and corruption reign supreme has once again been highlighted. The rise of demand for strengthening the position of the Lokayukta (Ombudsman) and enactment of the Jan Lok Pal Bill would enhance the efficacy of the RTI Act as they both aim at bolstering the process of social accountability in the country.

## Conclusion

Various government departments, such as the defence, police, public health serve as both ideological state apparatuses and repressive state apparatuses. In other words, they use both coercion and ideological interpellation on citizens to confine them, the citizen subjects, to the position of docile victims of the malfunctioning of the state and its agencies. For instance, bribery is so common that one cannot hope to get any work done in a government department without payment of bribes. But that mindset has begun to change.

The original notion of Social Contract needs to be re-invoked; citizens are important stakeholders in governance who have contributed to the power and sovereignty of the state. Hence, the state and its functionaries, too, are accountable to the citizens. The Right to Information Act with its aim to curb corruption and enhance transparency in administration by

compelling the government to disclose information and share documents can be a vital tool towards reminding the state of its social contract with the citizens.

## References:

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