

**RIGHT TO INFORMATION AND RIGHT TO SERVICES AS A
TOOL FOR GOOD GOVERNANCE: CHALLENGES AND WAY**

FORWARD

**A Dissertation submitted to the National University of Advanced
Legal Studies, Kochi in partial fulfilment of the requirements for the
award of L.L.M Degree in Constitution and Administrative Law**



**THE NATIONAL UNIVERSITY OF ADVANCED LEGAL
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**Submitted by:
K.S. Vishnu Madhav
(Register Number: LM0119017)**

**Under the guidance and supervision of
Prof. (Dr) Mini S.
June 2020**

**THE NATIONAL UNIVERSITY OF ADVANCED LEGAL
STUDIES**

Kalamassery, Kochi – 683 503, Kerala, India

CERTIFICATE

This is to certify that Reg No. LM 0119017 has submitted his dissertation titled, "RIGHT TO INFORMATION AND RIGHT TO SERVICES AS A TOOL FOR GOOD GOVERNANCE: CHALLENGES AND WAY FORWARD" in partial fulfillment of the requirement for the award of Degree of Masters of Laws in Constitutional and Administrative Law to the National University of Advanced Legal Studies, Kochi under my guidance and supervision. It is also affirmed that the dissertation submitted by her is original, bonafide, and genuine.

Date: 11-10-2020

Place: Ernakulam

Prof. (Dr) Mini S,
Guide and Supervisor,
Professor of Law,
NUALS, Kochi.

DECLARATION

I declare that this dissertation titled, "RIGHT TO INFORMATION AND RIGHT TO SERVICES AS A TOOL FOR GOOD GOVERNANCE: CHALLENGES AND WAY FORWARD" researched and submitted by me to the National University of Advanced Legal Studies in partial fulfilment of the requirement of the for the award of Degree of Master of Laws in Constitutional and Administrative Law, under the guidance and supervision of Prof (Dr). Mini S is an original, bonafide, and legitimate work, and it has been pursued an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

Date: 11-10-2020

Place: Ernakulam

K S Vishnu Madhav

Reg. No: LM 0119017 LLM,

Constitution and Administrative Law,

NUALS, Kochi.

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K S Vishnu Madhav

LETTER OF APPROVAL

This is to certify that **Mr. K S VISHNU MADHAV, REG NO: LM0119017**, has submitted his Dissertation titled "**RIGHT TO INFORMATION AND RIGHT TO SERVICES AS A TOOL FOR GOOD GOVERNANCE: CHALLENGES AND WAY FORWARD.**" The same has been approved.

Prof. (Dr) Mini S,
Guide and Supervisor
Professor of Law,
NUALS, KOCHI

DATE OF APPROVAL: 11-10-2020

PLACE: ERNAKULAM

ABBREVIATIONS

1.	ALR	All India Reporter
2.	A.L.R.C	Australian Law Reform Commission
3.	APIO	Central Public Information Officer
4.	BSF	Border Security force
5.	CAG	Comptroller and Auditor General
6.	CIC	Central Information Commission
7.	CPIO	Central Public Information Officer
8.	CULR	Cochin University Law Review
9.	Del	Delhi
10.	D.L.R	Delhi Law Review
11.	DO	Designated Officer
12.	Fed. L. Rev.	Federal Law Review
13.	GOI	Government of India
14.	ILD	Indian Legal Decisions
15.	IJPA	Indian Journal of Parliamentary Affairs
16.	Ker.	Kerala
17.	L.Q.R	Law Quarterly Review
18.	L.Ed.	Law Edition
19.	NIC	National Informatics Centre
20.	OSA	Official Secrets Act
21.	PGC	Public Grievances Commission

22.	PIO	Public Information Officer
23.	PRO	Public Records Office
24.	Raj	Rajasthan
25.	RTI	Right to Information
26.	RTS	Right to Service
27.	SIC	State Information Commission
28.	S.C.C.	Supreme Court Cases
29.	S.C.R	Supreme Court Reports
30.	U.P.	Uttar Pradesh
31.	Wash. ULQ.	Washington University Law Quarterly
32.	Yale, L. J.	Yale. Law. Journal

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CHAPTER 1

RIGHT TO INFORMATION AND RIGHT TO SERVICES AS A TOOL FOR GOOD GOVERNANCE: CHALLENGES AND WAY FORWARD

INTRODUCTION

"The voice of the intelligence is soft and weak, said Freud. It is drowned out by the roar of fear. It is ignored by the voice of desire. It is contradicted by the voice of shame. It is hissed away by hate and extinguished by anger. Most of all, it is silenced by ignorance."

-Karl Menninger

In a democracy, the people are the real sovereign. They appoint governments as well as dismiss them. They approve of policies and disapprove of them. Widespread ignorance, which is the enemy of any intelligent decision, deadens democracy, and so it is that no Republic can last if the public is kept in the dark about the processes, policies, and performance of government and of public bodies. Kautilya, in his Arthashastra (300 B.C.), has propounded a welfare state. As per him, a king is expected to behave in the most honest manner: ¹

"In the happiness of his subjects lies his happiness; in their welfare his welfare; whatever pleases him (personally) he shall not consider as good, but whatever makes his subjects happy, he shall consider good."

Good governance and the access to information or the system for delivery of services lie close to each other and complement each other. Without adequate power, there can be no information regime or the service delivered to a citizenry, which is the primary condition of democracy and can not be imagined without the free flow of information and service delivery to the good public governance. Good governance is a subjective term that describes how public institutions conduct public affairs and

¹ R SHAMASASTRY, KAUTILYA ARTHASHASTRA 39 (Weslevan Mission Press, 1929).

manage available resources in a preferred way. The concept centers on the responsibility of governments and governing bodies to meet the needs of the masses as opposed to select groups in society. The idea of "good governance" then emerges as a model to compare weak economies or political bodies with viable economies and governmental institutions. In the context of developing societies/countries, good governance is related to efficient, economical, and corruption-free delivery of services made possible due to economic and social development spearheaded by the government. This study is an attempt to examine the significance of the Right to Information Act and the Kerala State Right to services Act from the perspective of Good governance.

The RTI Act, 2005, enacted to bring in a new era of transparency and open government, on an analysis and comparison with other freedom of information laws across the globe, clearly reveals certain unique features which are provided for to ensure the effective implementation of this right in the Indian scenario. One of the most essential principles of just democratic governance is the presence of constitutional limits on the extent of government power.² Such limitation is well imposed in the form of critical features in the Indian Constitution. A nation's progress depends on the free flow of information within the government and to the citizenry.³ The right to information is an individual human right and is a potent weapon in the hands of the general public who can use it to keep a check on the bodies that govern them.⁴ Access to official information held by public authorities is the criterion of an efficient and robust representative democracy.⁵

Right to Public Services legislation in India comprises statutory laws which guarantee time bound delivery of services for various public services rendered by the government to the citizen and provides a mechanism for punishing the errant civil servant who is deficient in providing the service stipulated under the statute.⁶ Right to Service legislation is meant to reduce corruption among the government officials and to

² His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala, (1973) SCC 225

³ Transparency and Open Government: Memorandum for the Heads of Executive Departments and Agencies" 74 Fed. Reg.4685 (Jan. 21, 2009) U

⁴ *Id*

⁵ R.S. Tiwari, *Good Governance: Populist Democracy to Quality Democracy*, 15 IJPA 23 (2002); see, Karen Syma Czapanskiy & Rashida Manjoo, *The Right of Public Participation in the Law- Making Process and the Role of Legislature in the Promotion of this Right* 19 Duke J. Comp. & Int. JL P. 1

⁶ Sandeep Agarwal, *Corruption watchdog hails Bihar, Bihar govts is best service-providers*, Times of India. 21 April 2011 at 9

increase transparency and public accountability.⁷ Through the induction of the bill, the government servants are made answerable in terms of their functions, duties, commitments, and obligations towards the people. By enforcing the provisions of this Act, we can achieve the idea of good governance.

SCOPE OF STUDY

Any country's growth index is defined as the uniform elevation of 80-90 percent of its volumes. The international treaties, as well as the latest United Nations agreements, have emphasized both the democratic and political rights that constitute the common man's fundamental human rights, as well as the material, social and cultural rights that place a reciprocal obligation on the governments to extend certain rights to the people. So that to ensure the people's participation in governance, a good study parallelly goes through two legislations that are the right to information and right to public service delivery. Both are considered as an effective tool of the concept of good governance. The study focuses on the aspect of good governance on the side of the state, the subjects of the state must be aware of the public policies by the public institutions by available resources in a preferred way. The right to information it is, however, not a new concept. It has been there all the time, though in other forms. It is traditionally; man is inquisitive. Through this study, I am deliberately going to focus on the evaluation of the concept of the right to information from a modernistic point of view in the advances in technology and ease in access to information; we all know as in India literacy rate is too low in most of the states so provisions for easy access to all kind of people who are illiterate must also have to be heard. The study also encompasses how far the recent amendment on RTI impacted on people's participation.

The study also focuses on the legal context and goals of India's public service legislation and its creation as a people's right or privilege. This aims to analyze the legislative and policy programs in India aimed at achieving this right through the processes of lawmaking and enforcement. It has also done a comparative analysis of the State Public Services Guarantee Acts. The study ends with a review of the current law on both the

⁷*Id*

right to public services and the right to information in India and proposes that the right should become the prime priority of the administrative structure.

RESEARCH PROBLEMS

The research I intend to undertake on this topic is mainly to answer the question following questions:

1. Whether access to information right to public service delivery is an essential part of Good Governance?
2. Whether the existing legal framework regarding dissemination and access to information is viable and effective?
3. How far the implementation of the right to delivery of service in progress?
4. Whether the recent amendments have had a positive impact on furthering the concept of the right to information?
5. Whether citizen-centric governance is possible with the help of these legislations?
6. Whether the current legal framework providing access to information and the right to public delivery of services is effective and speedy?
7. Whether citizen-centric administration can be achieved through this legislation?

RESEARCH OBJECTIVES

The study focuses on the following objectives

1. To analysis the concept of the right to information as a means to affect governance and to identify if there is any other alternative method to the application of the same.
2. To evaluate the concept of the right to information from a modernistic point of view in the advances in technology and ease in access to information.
3. To evaluate the amendments brought in the current act in the background of the present social scenario and how effective the same amendments will be.
4. To study the grievances redressed system provided under the Act for the applicants.
5. To make a comparison of the Kerala Services Act with the Services Act of different states.
6. To study the objectives of the Kerala Right to Services Act, 2012?

7. To identify the services provided by the line departments which come under the preview of the Act?

HYPOTHESIS

H 1 Laws on the right to services and right to information ensure good governance, but the recent amendments reduce the effectiveness of these laws in India

RESEARCH METHODOLOGY

I intend to undertake a doctrinal and empirical legal research as a means to establish my hypothesis in the best suitable way. But due to the pandemic situation, I couldn't establish my hypothesis by means of empirical techniques.

A VADE MECUM OF THE STUDY

The study is divided into five chapters, including the Introduction and conclusion chapter. The 1st chapter deals with *INTRODUCTION* gives a glimpse of the concept of good governance and how the right to information and right to delivery of public services act as a tool. The chapter also deals with the research methodology used in the completion of the study. It also deals with the objectives of the study, hypothesis, research problems, and the scope of the study.

The 2nd chapter closely looks upon this aspect of the right to Information, explicitly focusing on the origin and development of the same and is titled as "*ORIGIN AND DEVELOPMENT OF RIGHT TO INFORMATION.*" The chapter starts with a small introduction to the concept and moves on to the historical background of the legislation. Then it deals with both the International and Indian perspectives of the right to information. It also deals with the importance and necessity of the legislation. It also goes through the development of the legislation from the freedom of information bill and its shift to the Right to information act of 2005 and its legislative process. It sums up with the recent amendment to the legislation. Shortcomings of all legislations are also discussed in this chapter.

For this purpose of understanding the contemporary application of the Right To Public Services In India, the 3rd chapter is titled "*ORGIN AND DEVELOPMENT OF RIGHT TO SERVICES IN INDIA.* ". This chapter is pivotal in understanding the crux of the Right To Public Services legislation. The chapter envisages the concept of the right to

public service delivery and its need. Then it moves on to the International and Indian perspective of the right to public service delivery. The chapter also goes through the development of legislation in the country. It also deals with the implementation and comparison Kerala Services Act with the Services Act of different states, which paves a way to understand the crux of the research question. This chapter gives a critical analysis of the Kerala Services Act, which includes challenges in implementation, penal provisions, and the future of the legislation. It sums up with a conclusion showing how much impact does the legislation made in the concept of good governance.

The contemporary application of the concept of Good governance also involves the problem of deprivation of the enjoyment of the said right by use of self-interest and determination. For this purpose of understanding the contemporary application of good governance and to obtain a remedy from denial of the services and information is studied in 4th chapter and it is titled as "*RIGHT TO INFORMATION AND RIGHT TO SERVICES AS TOOL FOR GOOD GOVERNANCE.*" I intend to examine and delve deep into the possibility of exercising the said legislation in this chapter. This chapter starts with the principles and features of good governance. Then the chapter moves on to the nexus of the good governance and the legislations to prove how it's used as a tool. This chapter tries to satisfy the research objective of how citizen-centric administration is possible. This chapter clearly roots into the establishment of the interrelation of the legislations and the concept of good governance. This chapter also tries to analyze the Kerala Right to Services Act, 2012, very well. The impacts and shortcomings of the said act are also discussed. It sums up with a conclusion establishing the interconnection with the concept and legislations.

Thus in the final chapter, which is titled "*CONCLUSION AND SUGGESTIONS,*" answers to the hypothesis are substantiated with particular reference to preceding chapters. In the concluding part, an earnest attempt is made in delineating a solution to the question of how the rights of the Citizens can be achieved through the concept of a transparent, accountable, and citizen-centric government. The chapter also deals with the overall conclusion of the main study and also deal with particular vital suggestions which are worth considering for the improvement of the present system prevailing in the country in consideration of the current significant drawbacks of the system.

CHAPTERISATION OF STUDY

Chapter 1. - Introduction

Chapter 2. - Origin and development of Right to Information

Chapter 3. - Origin And development Of Right To Services In India

Chapter 4. - Right To Information And Right To Services As Tool For Good Governance

Chapter 5. - Conclusion and Suggestions

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CHAPTER 2

ORIGIN AND DEVELOPMENT OF RIGHT TO INFORMATION

"Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing."

-Justice P N Bhagwati

From a historical perspective, the attempts to spread information on democracy date back to 1893, when a number of international journalists' conferences were held at various locations. Yet little could be done, so whatever could be gained was washed out after the world wars when censorship was enforced in the newspapers. In March 1948, the United Nations held a conference on Freedom of Information in Geneva, attended by fifty-four nations. It passed a series of resolutions urging concrete action and adopted three draft United Nations conventions for further development, which eventually led the United Nations General Assembly to declare freedom of information a fundamental human right and the touchstone of all the other liberties of which the United Nations is concerned.⁸

In ensuring international human rights instruments, freedom of information was not set out separately but only as a segment of the fundamental right of freedom of expression, which comprises the right to pursue and convey information. In 1948 the adoption of the Universal Declaration of Human Rights (UDHR) by the UN General guaranteed freedom of opinion and expression in Article 19.⁹

In 1966, the UN General Assembly adopted the International Covenant on Civil and Political Rights in which Article 19 assured the right to freedom of opinion and expression;

"Everyone shall have the right to freedom of expression; this right shall include freedom to seek to receive and impart information to all kinds, regardless of frontiers,

⁸ Dinesh Trivedi v Union of India, (1997) 4 SCC 306

⁹ Article 19 says: Everyone has the right to freedom of opinion and expression: the right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers

either orally in writing or in print, in the form of art or through any media of his choice."

RIGHT TO INFORMATION-HISTORICAL SETTING

This International Covenant has legal force and is a binding international treaty adopted by the General Assembly in 1966 and came into force in 1976. Moreover, In 1946, the United Nations Commission on human rights established the office of the UN Special Rapporteur on freedom of opinion and Expression and appointed Mr. Abid Hussain to the post¹⁰ in his annual report in 1998, "the special rapporteur" concluded that "the right to seek to receive and impart information (under Article 19) imposes a positive obligation on states to approach to information, particularly in connection to information held by the government in all types of storage and retrieval systems.¹¹In his 2000 annual report, the United Nations Rapporteur came up in detail with a particular content of the right to information. It listed several suggestions and recommendations as to the right to information legislation. It perceived that governments have the duty to disclose information, publish documents of significant public interest, cost of gaining information should not be excessive, etc.

Several United Nations organizations have also contributed to shaping the right to information in the present form. The United Nations Development Programme (UNDP) adopted Public Information Disclosure Policy in 1997.¹² The policy provides for a presumption in favor of disclosure.¹³ It enumerates specific documents that shall be made available to the public.¹⁴ The policy says a request for disclosure shall be responded within thirty working days, and any denial of information must state reasons. The policy makes provision for standard exceptions such as trade secrets, internal notes, memoranda and correspondence amongst UNDP staff, personal, health or employment-related information, etc.

Many countries all around the world are now giving legal effect to the right both by ensuring approach to information in the constitution and by adopting laws which give

¹⁰ UNGA Resolution 193/45

¹¹ Report of the special Rapporteur, *Promotion and Protection of the Right to freedom of Opinion and expression* ,UN DOC/E/CN4/194840

¹² Public Information Disclosure(UNDP,1997)

¹³ *Id*

¹⁴ *Id*

practical effect to the right, providing concrete processes for its exercise. Every country has different legislation on the right to information. Needs and different structures and laws must be adapted accordingly.

The issue of the right to information is seen as the one which will change the power balance between citizens and the state and empower people to participate in decision-making processes. While the essential aim is to bring accountability to systems of governance, there is a growing awareness of a similar insistence on transparency and accountability in the modern enterprise, given the trend of globalization and the new economic order and its growing influence in everyday life.¹⁵

There is a growing global trend towards recognition of the right to information by inter-governmental organizations, civil society, and the people. Various organizations like the United Nations, the Commonwealth, the Organisation of the American States, and the Council of Europe have given authoritative statements supporting the implementation of the right to information in the context of official human rights mechanisms. Many intergovernmental organizations have adopted systems of disclosure, which are being reviewed and updated on a regular basis by competent authorities.¹⁶

The right to information held by the state has been recognized in Swedish law for more than 200 years. This has gained widespread recognition in both national and international organizations. The national government, inter-governmental organisations, and international financial institutions have endorsed laws and policies, which provide for an approach to information held by public authorities.¹⁷

The original part of human rights or constitutional source of the right to information is the fundamental right to freedom of expression, which includes the right to seek, reserve, and impart information and ideas. With the evolution in the socio-political framework of the world, there was an increased realization that democracy, with its system for the protection of human rights, cannot function properly without the freedom

¹⁵ See. FAIZAN MUSTAFA, CONSTITUTIONAL ISSUES IN FREEDOM OF INFORMATION INTERNATIONAL AND NATIONAL PERSPECTIVE 39 (Kanishka Publishers, 2010)

¹⁶ See, P.S. NARAYANA AND DR. G.B. REDDY, FREEDOM OF INFORMATION AND LAW 11 (Gogia Law Publications 2011)

¹⁷ *Supra* note 16

of information. It became unambiguous that the right to freedom of information can only be beneficial if it is assured by law, and if the modalities by which it is to be exercised are stout clearly in legislation and for international governing bodies in a binding policy statement. Over the years, sound statements, court decisions, and national practices have elaborated specific minimum standards which laws must meet. These include a strong presumption in favor of the principle of maximum disclosure.

RIGHT TO INFORMATION IN THE INDIAN PERSPECTIVE

The right to information is understood fundamental right under the Constitution of India. This right is an integral part of the right to freedom of speech and expression under Art. 19 (1) (a)¹⁸ and right to life and personal liberty under art.21.¹⁹ Although Art 19 and 21 do not specifically mention the right to information, the Supreme court has held on several situations that the right to know is part of the right to speech and expression and right to life and personal liberty.

The Core of the right to information lies in

- Peoples participation in Governance
- Governments Accountability to the public
- Transparency in Government

Right to information given under different nomenclatures like the right of "access to information." In the Indian context means two things

- A Right to have access to information (in forms of records, files, registers, maps, data, drawing, etc.) held by the government in relation to the legal rights of every person.
- A Right to provide information, which could affect a person's right.

¹⁸ Art.19(1) (a) guarantees : 'All citizens shall have the right to freedom of speech and expression'

¹⁹ Art 21 reads: 'No person shall be deprived of his life or personal liberty except according to the procedure established by the law'

IMPORTANCE AND NECESSITY OF RIGHT TO INFORMATION

Information is the instrument that every citizen requires to participate in the life and governance of society. The higher the access to the citizen to the information, the higher would be the responsiveness of the government to the community needs. Alternatively, the higher the restriction that is placed on access, the greater the feelings of powerlessness and alienation' without information, people cannot adequately know about their rights and responsibilities as citizens make informed choices

The right to information has both instrumental and intrinsic value. Its intrinsic value comes from the fact that citizens have a right now. It is a critical step towards deeper and most meaningful democracy. More substantially, in a country like India, it can promote action for development, and there will be considerable growth of intrinsic values. The information enables citizens to make sensible choices and keep tabs on elected representatives and officials who claim to act on their collective behalf. Thus, transparency and accountability absolutely improved.²⁰

The National Commission to Review the working of the Constitution headed by Shri M.N./ Venkatachaliah, J. in its report submitted on March 31, 2002, emphasized the importance of the right to information as under;

"Major assumption behind a new style of governance is the citizen's access to information. Much of the common man's distress and helplessness could be traced to his lack of access to information and lack of knowledge of decision-making processes. He remains ignorant and unaware of the process, which vitally affects his interest. Government procedures and regulations shrouded in a veil of secrecy do not allow the (clients to know how their cases are being handled) They shy away from questioning officers handling their cases because of the latter's snobbish attitude and bow wow style. The right to information should be guaranteed and needs to be given a real rational substance. In this regard, the government must assume a major responsibility and mobilize skills to ensure the flow of information to citizens. The traditional insistence on secrecy should be discarded. In fact, we should have an oath of transparency in place of an oath of secrecy. The administration should become transparent and participatory. Right to information can usher in many benefits, such

²⁰ <http://www.indexline.org>

as speedy disposal of cases, minimizing manipulative and dilatory tactics of the baboon, and last but most importantly, putting a considerable check on graft and corruption."

Therefore, the Right to Information promotes transparency, empowers the citizens to reduce corruption, increases competency, makes public officials accountable, and puts an end to their indifference, arrogance, and corruption, Unless the citizens are informed about their rights in the form of information. Presumably, they cannot assert their rights and make the public authorities accountable for their actions.²¹

FREEDOM OF INFORMATION BILL 2000

The BJP led the National Democratic Coalition to finalize the Freedom of Information Bill, 2000, reworked the Shourie draft. It was introduced on July 25, 2000, at the Lok Sabha. However, this Act may not be reported in the Government Gazette until the President's signature. This Bill contained new rules, such as setting the 48-hour time limit on material pertaining to life and freedom. Still, different provisions of the Act were similar to those of the RTI Act.²²

However, Bill has shortcomings. It strengthened the government official's commanding position, which retained broad veto powers for withholding information. It gave exemptions to the sweeping viz. Centre and states exchanged knowledge. There was neither fine requirement nor information commission rule. Private bodies, too, have been left out of this Bill's purview.

A host of states, including Tamil Nadu in April 1996; Goa in 1997; Karnataka in 2002; Maharashtra in 2000; Delhi in 2001 Rajasthan in 2000; Assam in 2001; Madhya Pradesh in 2002; and Jammu & Kashmir in 2004, enacted the RTI Act before the implementation of the Freedom of Information Bill in Parliament and again after its enactment. In their respective assemblies, Kerala and Gujarat had also decided to introduce the RTI Bills. However, the RTI Acts enacted in the states were very weak

²¹ 2 REPORT OF THE NATIONAL COMMISSION TO REVIEW THE WORKING OF THE CONSTITUTION 127 (Universal Law Publishing Company)

²² Shilpa, *RTI: A Tool to Strengthen Good Governance and Tackling Corruption*, 55 International Journal of Humanities and Social Science Invention, 45 (2010).

except for Goa and Delhi. The Actions of Goan and Delhi are considered as radical as some.

Ultimately, in 2005, the Indian Parliament passed laws on the right to information. The Act²³ was passed by both houses during the Parliament's Summer Session and received the President's assent on 15 June 2005. The first draft proposed about 150 amendments. The Freedom of Information Act, 2002, removes fairly outdated and obsolete regulations. The aim of the Act is to create the functional framework of citizens' right to information in order to protect access to information under the jurisdiction of public authorities.

SHIFT FROM FREEDOM OF INFORMATION TO RIGHT TO INFORMATION IN INDIA

The salient feature that differentiates the right to information from other rights is that it is deeply rooted in the concerns and fights for the existence and justice of most disadvantaged people. The Act is influencing people's mindset for coming forward and question the progress on various welfare schemes and Governmental policies. If we look into the emergence of RTI in India, we want to go through the below incidents that happened in many parts of our country.

1. Rajasthan

The initial sensational battle to fight against corruption started in Devdungri village in Rajasthan is by accessing information from public authorities. Aruna Roy, an IAS officer who had left her job to work for the improvement of the village people who were cheated by the employer in their wages because of their illiteracy. By seeing the conditions of the rural people, Aruna Roy, in 1987, along with Shankar Singh and Nikhil Dey, founded an Association known as Mazdoor Kisan Shakti Sangathan (MKSS) for the Empowerment of Labourers and Farmers. For decades, in that particular area, the people have been frequent victims of a perpetual tradition of acts of corruption by state authorities like nepotism and extortion. Then also they have been mostly silent sufferers, who were trapped and settled desperately.²⁴ In 1994, MKSS entered a new stage,

²³ Right to Information Act, 2005

²⁴ See Smita Srivastava, *The Right to Information in India: Implementation and Impact*, 23 Afro Asian Journal of Social Sciences (2) 20, (2010)

which broke new ground for experiments in confronting corruption through the approach of 'Jan Sunwais' or public hearings. This movement had created a state-wide boom that shook the foundations of the traditional monopoly of authoritarian nature and corruption of the state administrative authorities.²⁵ Because of this RTI Act, access to official records that helped organize the Jan Sunwais was made available.

2. Delhi

Hunger, malnutrition, and occasional deaths from hunger in our country's rural areas are a major cause of concern. In order to ensure food security and maintain an adequate nutritional level among citizens, the government has developed the Public Distribution System (PDS), which is supposed to make the monthly rations available to people at subsidized rates below the poverty line (BPL) and the weakest in the poor population category.²⁶ However, due to the existence of unholy nexus between Fair Price Shops (FPS) licensees and food supply officers, a large portion of the money is siphoned off through black marketing, as a result of which the entire PDS network is in disarray.²⁷ But the fact that using RTI could change the entire PDS process has been demonstrated by people in Delhi's Sunder Nagri region. The information collected by RTI revealed the system's widespread bribery, and immediate action was taken on this.²⁸

3. Uttar Pradesh

A teacher was appointed for the school in a pre-middle school in Panchampur village, 70 kilometers from Banda District Headquarters, Uttar Pradesh. Most of the time, however, the teacher was absent. Workers and volunteers from Delhi-based organizations such as Kabir and Parivartan, along with the Chingari Sangathan local workers in the campaign 'Action Research Villages,' propagated the right to information. Finally, the villagers saw a ray of hope as they heard that they could challenge the government and ask for information

²⁵See Harsh Mander and Abha Joshi, *The Movement for Right to Information in India*,

²⁶ *Supra* note 22

²⁷ See Pradeep Baisakh, *Right To Information and Rural Development*

²⁸ *Supra* note 22

about the attendance records, leave records, and medical records of the school who went absconding.²⁹

4. Punjab

A spy's life is really dangerous because, at every point, there is a risk. And nobody knows better than Kishorilal Sharma, an Amarik Singh, or Saleem, who spied in Pakistan for India. He put his life in danger by relying on the Indian Military Intelligence (IMI), which made promises to him that they would support him and his family whenever and when needed. Although after his release from Pakistani prison on September 18, 1974, he was expecting a warm welcome, yet no one arrived at the border to receive him. Even the IMI failed to recognize him, and this is a common trend in any country's intelligence system.³⁰ The government of the state, however, promised that it would provide financial assistance to people like Sharma. For a long time, he fought, but nothing materialized. He filed an RTI application on this matter in September 2005. When this case came to light, there were also more than 50 other allegations about malpractice in the office of District Commissioner, Police Department, Income Tax Department, Chief Secretary, Punjab, and many other departments. This one allegation led to the discovery of massive corrupt practices in the state departments of government.

5. Assam

Krishak Mukti Sangram Samiti (KMSS) is a prominent organization formed by RTI activist Akhil Gogoi, based in the state of Assam. The organization is working on a variety of issues ranging from bribery in the public distribution system, non-implementation of the National Rural Employment Guarantee Scheme (NREGA), land rights, governmental and corporate corruption, development of major dams in North East India's vulnerable seismic territories, etc. The Krishak Mukti Sangram Samiti's most prominent work was in 2007 when they filed an RTI application that revealed food distribution irregularities for people below the poverty line. Corruption allegations have been tried and

²⁹ M. M. Ansari, *Impact of Right to Information on Development: A Perspective on India's Recent Experiences*, (Aug 25, 2013; 1:35 PM).

³⁰ *Id*

arrested several high-profile government officials. Because of their corrupt activities, they are still suspended.³¹

LEGISLATING THE RIGHT TO INFORMATION

There have been objections, after independence, to the Official Secrets Act 1923. Various committees were established at different points in time to restrict the area where government information could be withheld and expose all other intelligence domains. Finally, the focus of citizens' organizations changed from simply seeking an alteration to the Official Secrets Act to replacing it with a robust right to information law. Though late, the demand for greater openness and transparency in administration gained momentum. Further, a consensus was evolved among the political parties on the need to legislate on the rights to information. The standard minimum program of the present government explicitly mentions its commitment to introduce legislation on freedom of information.³²

Mazdoor Kisan Shakti Sangathan (MKSS) took a right to information initiative in the early 1990s when MKSS conducted many Jan Sunwai (People's hearing) in Rajasthan between December 1994 and April 1995.³³ This grassroots RTI movement was expanding very rapidly to other regions of Rajasthan and other states. Harsh Mandar, Madhya Pradesh Divisional Commissioner, and Maharashtra's Anna Hazare have played a significant part in accountability. Subsequently, a broad-based forum for change was created in the late 1990s by the Nationwide Movement for People's Right to Know (NCPRI).

The RTI Bill was introduced in 1996 by Justice P. B. Sawant, the chairman of India's Press Council. This plan stemmed substantially from a draft prepared earlier by an October 1995 group of social leaders, civil servants, and lawyers at the Lal Bahadur Shastri National Administration Academy, Mussoorie. The Bill made it very clear that, under Article 19(1) of the Constitution, the right to know is a part of the universal right to free speech and expression. This claimed that the law aims merely to make clear provisions for protecting this right to information for the individual. The draft Bill was

³¹ *Supra* n.22

³² E.C.Thomas, *The Right To Information – A Cleansing Effect*, EMPLOYMENT NEWS

³³ *Supra* note 29

submitted to the Indian government in 1996. In addition to Policy, the bill aimed to put both the private sector and the NGOs under the purview of this new legislation.³⁴ The most significant clause, though, was that a person could not be refused knowledge which can not be withheld to Parliament or the State Legislature. The proposed law stipulated fines for collecting details by design.

At the conference of the Prime Minister and Heads of State in New Delhi in the first half of 1997, the need to legislate on the right to information took place. The legislation was adopted in New Delhi. In its 38th report on "Demands for Grants from the Ministry of Employment, Public Grievances, and Pensions," the Parliamentary Standing Committee for Home Affairs has indicated that the government will take measures for implementing such legislation. The Conference of Chief Ministers decided that state and central governments should closely work on accountability and the right to information.³⁵ The working group was asked to analyze the feasibility and the need for a fully-fledged right to information Act or its introduction to be initiated progressively to meet the need for a reactive and open government. The working group was chaired by Shri H.D Shourie.

The Shourie Committee submitted to its report on May 1997, along with a draft Freedom of Information Bill to the government. The draft Bill was eventually deliberated by a Group comprised of Ministers constituted by the Central Government to make sure that the free flow of information was available to the public. It also ensured the draft bill was protecting the national interest, sovereignty, and integrity of India and also relations with foreign states. On the other hand, the bill put the judiciary and legislators under the remit of the new legislation.³⁶ On the negative hand, though, it broadened the reach of exclusions to allow public bodies to exclude 'knowledge from which release would not be in the public interest.' This one provision broke the whole piece of legislation. Also, it did not allow any tax clauses in case of default. Customer courts were empowered to consider appeals. The Act did not include the private sector

³⁴ *Supra* note 21

³⁵ DR. ABHE SINGH YADAV, RIGHT TO INFORMATION ACT, 2005-AN ANALYSIS 3-4 (3rd ed. Universal Publishers 2012).

³⁶ *Id*

and other non-governmental organizations that are not "substantially funded or regulated" by the government.³⁷

It was, therefore, to remove the grey areas of the Bill, the Press Council of India, the Press Institute of India, the National Campaign for People's Right to Information, and the Forum for Right to Information unanimously submitted the Resolution on February 20, 1998, to Government of India for amending the proposed bill.³⁸

The proposed Bill was in accordance with both article 19 of the Constitution and Article 19 of the Universal Declaration of Human Rights. The Bill seeks to achieve the objects³⁹

- Free information flux for citizens and non-governmental entities is subject to several bottlenecks in our current democratic framework. These are the prevailing legislative framework, the lack of grassroots infrastructure, and the primitive rules-focused secrecy of the Public Service. In order to achieve the goal of a stable, honest, transparent, and effective government, the government proposes to take all these aspects forward in a gradual manner.⁴⁰
- The Bill proposed will empower people on a statutory basis to obtain information. To achieve this aim, "Clause 3 of the proposed Bill states that all people shall have the right to freedom of information under the provisions of this act." Every public body under Class 4 is required⁴¹ "to provide information and record all operational requirements in a manner that is properly specified, indexed and published at certain intervals, and to preserve all records in compliance with its operational requirements."
- The Freedom of Information Act 2002 cannot enter into force for the Central Government's lack of notification. This Act only provided for freedom of access

³⁷ *Id*

³⁸ *Id*

³⁹ *Infra* note 44

⁴⁰ *Id*

⁴¹ *Id*

to information but did not grant any legitimate right to protected information.⁴² In any case, the act was poorly drafted and weak its narrowly drafted exceptions, the absence of any provisions for non-compliance, and the lack of an independent appeal process for a weak law. The NCPRI strongly criticized the legislation, which, together with CHRI, submitted amendments to the government to improve it.⁴³

- In 2004, campaigner's efforts were strengthened when the newly elected United Progressive Alliance (UPA) government specifically pledged the Common Minimum Program (CMP), the key document outlining the government's main target for its tenure, to make the FOI Act 2002 more "progressive, participatory and meaningful." The Congress Party, the largest member of the UPA coalition, established its own National Advisory Council (NAC) composed of eminent persons from the civil society to oversee the implementation of the CMP. The NAC included key figures from the Indian right in the information movement and members of the National Campaign for the Rights of People to Information (NCPRI). Based on submissions from the NCPRI, CHRI, and other civil society groups, as early as August 2004, the NAC sent a set of guidelines for the reform of the FOI Act 2002 to the Prime Minister's office. After almost a decade of intense campaigning, attempts to reform India's right to information eventually bore fruit. On 23 December 2004, the UPA government finally tabled the 2004 Right to Information Bill (RTI Bill) in parliament. The newly drafted bill was immediately referred to the Standing Committee on Personnel, Public Grievances, Law, and Justice for consideration. In February 2005, the Committee requested written and oral public presentation to improve the bill. Based on the submissions and evidence submitted before it, the Committee submitted its report (including a proposed amended version of the RTI Bill) On 10 My 2005, amendments to the Right to Information Act 2004 were tabled in the Lok Sabha(Lower House). The amendments made some improvements to

⁴² See Versha Vahmi , *Right to Information Act: A Critical Overview*, 183 Indian Journal of Political Science 185 (2013)

⁴³ HUMAN RIGHTS INITIATIVE (Oct, 25, 2019, 1:00 PM) http://www.humannghtsimtiative.org/programmes/ai/rti/news/india_foi_act-analysis_for_mps.pdf

the Bill, namely by reinforcing the penalty regime and amending the fee scheme to make information free for the poor. At the same time, however, the amendments weakened some of the critical provisions most prominently, the appointment of information commissioners will now be made by a government-nominated 3-person committee. The amendments were approved on 11 May 2005 by the Lok Sabha and successfully moved on 12 May 2005 through the Rajya Sabha(Upper House). The new Right to Information Act 2005 which repeals the FOI Act 2002 and provides for the establishment of a comprehensive scheme of rights to information for people to ensure access to information under public authority control in order to encourage transparency and accountability in the work of all public authorities.⁴⁴ This Right to Information Act,2005, is an attempt to achieve the objective of promoting transparency and accountability in the work of all public authorities. This Act makes the right of citizens to access information under the control of public authorities a reality.⁴⁵ However, with the developing consciousness in the associative democracy, the inbuilt urge to know and involve in the circumstances concerned about the country or own self reached a new breaking point which opened the way in which it could be determined and guaranteed was through bringing the intention of transparency and accountability in the administration.

RIGHT TO INFORMATION ACT 2005

Right to Information (RTI) can be considered as a token to measure the quantum of growth and development of a nation. The citizens In India, till 2005, had no entry to any information which was dealing with a public authority. Matters affecting the interest of the public were not easy for a common man to get access. Thus, without getting appropriate information, it was difficult for a citizen to take part in any social, political, or economic debate concerning the issues of interest of the nation. ⁴⁶

⁴⁴See “Effective Implementation Preparing to operationalize the Right to Information act 2005”, A Resource Materials on May 2005, New Delhi by Commonwealth Human Rights Initiatives, supported by British High Commission, Page 289

⁴⁵ *Supra* note 42

⁴⁶ *Supra* note 24

In the International arena, the need to spread information was hugely felt, and the first-ever RTI law was enacted by Sweden in 1766, primarily persuaded by the parliament in the interest of access to information was held by the King. The Swedish example was eventually followed by the US, which implemented its first law in 1966 and then by Norway in 1970. Likewise, several western democracies implemented their own laws. France and the Netherlands in 1978. Australia, New Zealand, and Canada in 1982, Denmark in 1985, Greece in 1986, Austria in 1987, Italy in 1990.⁴⁷

By 1990, the countries with Freedom of Information (FOI) laws reached a figure of thirteen in number. The European Union Charter for Fundamental Rights in 2000 was considered a big step forward, which comprised both freedom of expression and the right of access to documents. By 2010, national-level RTI laws or regulations reached more than eighty-five countries. In Asia, so far, nearly 20 nations have ratified Freedom Of Information laws in Afghanistan, Bhutan, Kazakhstan, Maldives, etc. are examples. In India, by virtue of Article 19(1) a of the Constitution divergently assured the right to know this right was concealed by the Official Secrets Act, 1923. Thus, the whole process of Government functioning was shielded in secrecy.⁴⁸

In such situations, the Indian judiciary played a vital role in upholding the spirit of democracy. The Supreme Court in *S.P. Gupta v. Union of India*⁴⁹ held that under a democratic setup, the people have the right to know about the government and its functioning. In *Bennett Coleman v Union of India*,⁵⁰ the right to information was held to be included within the right to freedom of speech and expression guaranteed by Article 19 (1) (a). In *State of Uttar Pradesh v. Raj Narain*⁵¹ The Court explicitly stated that covering with a veil of secrecy is in the public interest. In a common routine business, the official's responsibility to explain and justify their actions is the chief safeguard against operation and corruption. Again, in *Prabhu Dutt v. Union of India*⁵², the apex court held that the right to know about the news and information regarding the administration of the government is included in the freedom of the press. In *Secretary,*

⁴⁷ Briefing Paper, *Analyzing the Right to Information Act in India*, CUTS INTERNATIONAL, (Jan. 20, 2020, 02:00 PM)

⁴⁸ *Supra* note 32.

⁴⁹ *S.P. Gupta v. Union of India* (1993) 4 SCC 441

⁵⁰ *Bennett Coleman v Union of India* AIR 1973 SC 60

⁵¹ *State of Uttar Pradesh v. Raj Narain* AIR 1975 SC 865

⁵² *Prabhu Dutt v. Union of India* AIR 1982 SC 6

*Ministry of I & B, Government of India v Cricket Association of Bengal*⁵³, The Supreme Court held that the right to impart and receive information from electronic media was included in the freedom of speech. In *People's Union for Civil Liberties v Union of India*,⁵⁴ the right to information was further elevated to the status of a human right, necessary for making governance transparent and accountable. It was also emphasized that governance must be participatory.

In the case of *Khanapuram Gandaiah Vs. Administrative Officer and Ors.*⁵⁵ Supreme Court held that an applicant could get any information which is already in existence and accessible to the public authority under law. But he can not question any details as to why these views, suggestions, etc. were transmitted, particularly in matters relating to judgments. The public authority could not have had answers to those, nor could he have access to the information. The solution for a party lies in a request by way of appeal, investigation, or some other form that is lawfully permitted. In the case of the *Central Board of Secondary Education and Anr. Vs. Aditya Bandopadhyay and Ors.*,⁵⁶ Supreme Court provides the Right to inspect evaluated answer books under the Right to Information Act, 2005. On 13 September 2012, a Supreme Court division bench, chaired by Justice AK Patnaik and Justice Swatanter Kumar, passed an order that would fundamentally change the constitution and functioning of information commissions. The Supreme Court has concluded that the Information Commissioner's duties are judicial in nature and require a competent legal mind. The government wants to amend the Act. In the case of *Ram Jethmalani and Ors. Vs. Union of India (UOI) and Ors.*⁹²(A petition for disclosure of Swiss Bank account holder's name case) court held that: "*Right to privacy is an integral part of the right to life, a cherished constitutional value and it is important that human beings be allowed domains of freedom that are free of public scrutiny unless they act in an unlawful manner.*" "*Revelation of bank account details of individuals, without the establishment of prima facie grounds to accuse them of wrongdoing, would be a violation of their rights to privacy.*" "*State cannot compel citizens to reveal, or itself reveal details of their bank accounts to the public at large, either to receive benefits from the State or to facilitate investigations, and prosecutions*

⁵³ Secretary, Ministry of I & B, Government of India v. Cricket Association of Bengal, (1995) 2 SCC 161

⁵⁴ People's Union for Civil Liberties v. Union of India, 2004 (2) SCC 476,

⁵⁵ Khanapuram Gandaiah v. Administrative Officer and Ors., AIR 2010 SC 615

⁵⁶ Central Board of Secondary Education and Anr. v. Aditya Bandopadhyay and Ors, (2011)8SCC497

of such individuals, unless the State itself has, through properly conducted investigations, within the four corners of constitutional permissibility." **On June 4 last, while acting on an RTI application seeking details on the finances of political parties, a full bench of Central Information Commission (CIC) comprising its Chief Information Commissioner Satyananda Mishra and Information Commissioners ML Sharma and Annapurna Dixit had ruled that political parties should be brought under the ambit of RTI Act as they are answerable to the people. A Bench of justice R.V Raveendran and A.K Patnaik gave this feeling (briefly reported on August 10) while allowing disclosure of answer sheets of the student in public examinations. The Bench said RTI Act provisions should be enforced strictly and all efforts made to bring to light the necessary information under see 4(4) (b), which "relates to securing transparency and accountability in the working of public authorities and in discouraging corruptions."⁵⁷**

There were many more such decisions that emphasized the fundamental right to know and access to Information. The above judicial pronouncements led the government to enact the Freedom of Information Act, 2002. But significant restrictions in the Act became an obstacle to achieve the objectives of accountability and transparency. Thus, this Freedom of Information Act 2002 Act was revoked, and the Right to Information Act 2005 was introduced. This legislation enables every citizen to have access to information that is administered by authorities. Under the Act, it is mandatory upon the authority to provide information and maintain records consistent with its operational needs. These records would have to be duly cataloged, indexed, and published at such time intervals as may be prescribed by the competent authority or appropriate government.⁵⁸

RTI act as a fundamental principle in democratic functioning and the realization of all human rights. The main intention of the law on RTI are:⁵⁹

- To instigate the right to information as the fundamental right;

⁵⁷See THE HINDU (May 27, 2020, 10:25 PM) www.thehindu.com/news/nationals/rti-a-formidable-tool-tofight-corruption-supremecourt/article2354447ece

⁵⁸ J. N. PANDEY, THE CONSTITUTIONAL LAW OF INDIA 175 (46th ed. Central Law Agency 2009)

⁵⁹ See *Supra* note 35

- To set up mechanisms and systems that enable the public to easy access to information and to promote transparency.
- Accountability in governance; to ensure people's participation in governance and decision making and to minimize corruption and inefficiency in public offices.⁶⁰

Characteristics features of the Right to Information act are⁶¹

- The right to information is possessed by every citizen.
- The phrase information comprises any form of information in any mode of email, circular, press release, contract, electronic data, samples, record, document, etc.
- The right to information includes the inspection of work, document, record, and its certified copy and information in any other electronic mode.
- The applicant can obtain information within 30 days from the date of request in an ordinary case.
- Information can be obtained in a stipulated period of 48 hours from the time of filing the application if it is a matter of liberty or life of an individual
- Every public authority is responsible for providing information on written request or request by any electronic means.
- Certain pieces of information are prohibited for security reasons.
- The penalty for refusing information is amounting to 250, but the total amount of penalty should not go beyond 25000
- Central Information Commission and State Information Commission must be established by the Central Government and the respective Governments of the states
- No Court can consider any suit, application, or other proceedings in consideration of any order made under this statute

Right To Information thus became a tool for the promotion of participatory development, strengthening democratic governance, and facilitating effective delivery of socio-economic services. In the knowledge community in which we live today,

⁶⁰ See M. M. Ansari, *Impact of Right to Information on Development: A Perspective on India's Recent Experiences*

⁶¹ See Right to Information Act, 2005.

acquisition of information and new knowledge and its application have an intense and pervasive impact on processes of making informed decisions, resulting in overall productivity gains.⁶² Therefore, in a word, we can say that the sole motive of the Act is to foster openness, transparency, and accountability in the administration⁶³

The evolution of the Act may be traced to the following's developments and factors:

- Good Governance- Access to information is a central aspect of good governance, and access to information is a crucial component in meeting good governance goals. It encourages openness and public responsibility in the functioning of government.⁶⁴
- People's Participation- Governance in a democracy means that the voters must have the requisite information to make educated choices between possible alternatives in order to engage successfully in the governance process. Not only does the RTI aim to increase the efficiency of decision-making by eliminating undue discretion, but it also improves the policy development process on their problem issue.⁶⁵
- Democratization of Governance- Access to information is a basic necessity of government democratization. This aims to monitor the abuse of regulatory power for private benefits and to foster fairness, equality, and fair play in the process. Therefore, L.D. White noted, "Power needs regulation in a democracy, greater power would be regulation." RTI is one such tool to regulate power and ensure proper transparency.⁶⁶
- Public Accountability - The RTI encourages a system of transparency by making information pertaining to budgets, prosecutions, and actions available to all social stakeholders whose practices affect the public. This will track mismanagement, abuse of authority, misconduct, other misconduct forms, and malpractice.
- Checking the Misuse of Discretionary Powers- Since officers are granted discretionary powers to execute their duties efficiently, they may misuse their

⁶² *Id*

⁶³ See *Supra* note 35.

⁶⁴ See *Supra* note 55.

⁶⁵ See *Supra* note 55.

⁶⁶ *Id*

authority to match specific political or vested interests or misappropriate funds. The right to know is an important weapon for controlling the abuse of regulatory authority and ensuring justice.⁶⁷

- Administrative efficiency- -Administrative efficiency in government involves the administration without unnecessary delays and without any subsequent or corrupt motives. But it is quite frequently observed that citizens' grievances in the form of representations or statutory requests or appeals are kept pending for long periods, sometimes months or years, in several cases, without disposal. In certain other cases, applications are clearly disposed of by stating that the government of the jurisdiction concerned "finds no excuse" to accede to the application, etc. Now that the RTI Act requires information about the pendency of the applications, reasons why they were not disposed of, or the reasons behind their refusal, this is likely to improve the efficiency of different departments.⁶⁸
- Creating a More Democratic and Open Society - Without transparency and the sharing of information, there will be no public involvement in decision making. The free flow of information is important for the detection and resolution of problems. A secretive governing culture encourages suspicion against this and is resistant to change unless it is legitimized by informed leaders of opinion.⁶⁹
- Protection of Civil Liberties - The right to information is also essential to protect citizens' freedoms by making it easier for civil society groups to monitor wrongdoings, such as custodial deaths and abuse of legislation on preventive detention. The successful supervision of custodial institutions by society relies on access to information.⁷⁰
- To compact corruption- Corruption is a social evil that is degrading the spirit of the administrative system in India, which paves the way for various political, social, and economical fallbacks. In fact, corruption can be told as a crime that is done under the protection of the shade of competent authorities. But this Act in some way became the obstacle of such a corrupt barter system. RTI Act brings the two most essential tools' transparency and accountability' together for destroying the evil that becomes a barrier to the system of good governance.

⁶⁷ *Id*

⁶⁸ Anshu Jain, *Good Governance And Right To Information: A Perspective*, 506 Journal of the Indian Law Institute, (54) 506 (2012)

⁶⁹ See *Supra* note 61

⁷⁰ *Id*

The Act acts as a tool for coordinating and promoting the interest of the public with RTI. However, there are some areas where the public interest demands some element of secrecy. Where it has been felt that a specific sector of governance have to be kept outside the reach of the RTI Act, the same have been excused under the specific provisions anticipated under the Act. Thus, a harmonious balance has been maintained between the two.⁷¹

SHORTCOMINGS OF THE ACT

Some of the main concerns raised from different sources about the enforcement of the RTI Act are discussed below⁷²

- Misuse of information-There is a concern that after cheating, certain unscrupulous individuals can misuse copies of documentation that they access under the RTI Act. In order to avoid the misuse of a document published under the RTI Act, the government will need to formulate a way to authenticate documentation published under the RTI Act to ensure that they are not misused. One recommendation is to mark each page of a document downloaded under the RTI Act with a rubber stamp impression stating, "Document published under the RTI Act that includes too many pages." If electronic files are required, the same may be made accessible on floppies or CDs in PDF or TIF format.⁷³ This would thus remove the need to independently approve the records if the requester wants to use the same in other litigations.
- Officers can be Influenced-There has often been expressed fear that blackmailing officials or organizations will exploit the information needed under the RTI Act. Officials or organizations can only appear as the official/organization is able to keep confidential information hidden. This is the confidentiality condition combined with authority control that generates a condition of blackmailing in favor of official status and not the other way round. Actually, the truth is that the Act mandates that as much information as possible be made accessible to public bodies in the public domain, so it will, in effect,

⁷¹ See *Supra* note 35

⁷² See *Supra* note 61

⁷³ See *Supra* note 53.

discourage extortion by truthful so conscientious agents. And the blackmailing or threatening issue may not emerge. A truthful and trustworthy officer simply must not be afraid of extortion. If someone has done wrong, let him be blackmailed and ashamed of his wrongdoings.⁷⁴

- Disclosure of noting's in file - One of the most important questions posed with respect to the RTI Act is the demand for the publication of file records, as it would adversely impact the elected officials' free and frank expression of opinion in the decision-making process and thereby weaken the principle of government transparency and accountability.⁷⁵ As the entire aim of the Act is to open the decision-making mechanism for public review by the legislature, the publication of notes will certainly guarantee that the decision-maker transfers his mind to the issues concerned. It will increase the consistency of the decisions, and in the end, would foster the overall culture of good management practice.
- Implementation costs-⁷⁶The cost of enforcing the RTI Act has been another big problem. Yet history shows that the government's gains by reducing the degree of corruption and mismanagement by enforcing the Act are greater than the expense of enforcing it. The net contribution to the nation's administration comes from the taxes the people pay to the government. The cost of introducing RTI would be marginal at the macro-level relative to the overall cost to administration. And, the people are entitled to know how their government uses its funds. The outrage over the cost of applying the RTI Act is also ill-founded and excessive.⁷⁷
- Choice of Information Commissioners-Another major concern was that the majority of information commissioners appointed at both the Center and the state level are high-ranking bureaucracy retired members. During their careers, they had been a part of the secrecy regime for a long time. Their mentality may not favor promoting transparency. The Act provides for the appointment of Commissioners from the category of persons with "eminence in public life with broad knowledge and experience in law, science, and technology, social

⁷⁴ *Id*

⁷⁵ *Id*

⁷⁶ See *Supra* note 38.

⁷⁷ *Supra* note 68.

science, management, journalism, mass media or administration and governance." Hence it might not be appropriate to name former officials. Rather it contravenes the Act's express provision. Moreover, this can also give the impression that all those responsible for the administrative secrecy culture are now trying to ensure transparency. Nonetheless, Haryana has set a positive trend by naming ex-military officers and practicing lawyers as Commissioners of Information.⁷⁸

Despite the deficiencies, apprehensions, and operational shortcomings, the RTI Act is a major step towards ensuring a participatory and transparent developmental process in the country. The RTI Act is, indeed, what Amartya Sen describes as "a momentous engagement with the possibilities of freedom."

RIGHT TO INFORMATION AMENDMENT ACT 2019

Right to Information (Amendment) Act, 2019, had obtained the assent of the President amid the protests owing to some contentious clauses of the amended Act. The aim of this Act is to enable the Center to determine the tenure, salary, allowance, and other provisions of the Information Commission and State Information Commission facilities. Giving these powers to the Center compromises this Act's basic intent—the integrity, and openness of the government. As all, we know the practical regime of the right to information was for the citizen to access information under the control of the public authority. It was to ensure transparency and accountability in the working of every public authority. In this part, I am trying to look into the changes brought by way of amendment.

What are the changes made in the Right to Information (Amendment) Act, 2019?⁷⁹

- The term of office: The Chief Information Commissioner (at the central and state level) may hold office for a period of five years, as per the RTI Act, 2005. The amended legislation replaces this clause and specifies that the government of the Union shall inform the Chief Information Commissioner and Information Commissioners of their term of office.

⁷⁸ *Id*

⁷⁹ Right to information (Amendment) Act, 2019

- Quantum of salaries: The Right to Information Act, 2005 specifies that the pay for Chief Information Commissioner and Information Commissioner (at the central level) should be equal to the salary paid, respectively, to the Chief Election Commissioner and to the Election Commissioners. The revised Act excludes certain clauses and specifies that the Central Government will assess the wages, benefits, and other terms and conditions of the Chief Information Commissioner and Information Commissioners Central and State government.
- Deductions in salary: The 2005 Act states that their income will be decreased by an amount equal to the pension at the time the Chief Information Commissioner and Information Commissioners are selected (at the central and state level) whether they earn pensions or any other retirement benefits for the previous government services. The revised Act of 2019 repealed this clause.

The government's justification for these amendments was

- When the right to information was passed in 2005, it had ignoramus technical flaws. These amendments will help in the reduction of those flaws.
- Chief Information Commissioner has been granted the status of a supreme court judge (in terms of salary), but the decision of the information commission can be challenged in high court's. The roles undertaken by India's Election Commission and Central and State Information Commissions are supposedly different. It was also considered as a technical flaw.
- India's election commission is a legislative entity, the Central Information Commission and State Information Commissions are statutory bodies set up under the 2005 RTI Act.

Those changes are included in the RTI Act, 2005 to correct those irregularities. These amendments are also argued to be able to strengthen the overall RTI structure.

Criticisms against this Amendment

- Threats idea of federalism: It empowers the Center to determine the appointment, salaries, allowances, and other terms of service of information commissioners, both at the level of the Center and at the level of the department arbitrarily. That intentionally opposes the principle of federalism. This amendment put a question mark on the federal autonomy as the act allows the center to fix the salaries and terms of state information commissioner.
- Constrains the autonomy of the Information Commission: it also diminishes the status of the Chief Information Commissioner, Information Commissioners and State Chief Information Commissioner's from that of the Supreme Court Judge and restricts their right to give orders to senior government officials, thus weakening the Right to information's fundamental concept. Such reforms could "destroy the Right to Information Act" and are an "affront to federalism, good government and, fundamentally, democracy" It would also meaninglessly make a free expression.
- Autonomy at issue: The changes will enable the Center to determine the information commissioners' terms, compensation, and payment at both the Centre and the state level. The Commission's integrity is vital to its smooth operation, and just that is what the amendments take away. Such reforms limit the Commission's freedom, which can only act as a Central Government Agency. For, e.g., a statutory term of appointment gives job security. But if the Information Commissioner has to serve according to the terms of government, the institutional autonomy is under threat.
- No public consultation: The Reform Bill was presented before Parliament without the public having met beforehand. For a democratic world, that is a big problem because it is against the wishes of the people.

CONCLUSION

The introduction of the RTI Act, 2005, is a laudable move forward. The Act, to some degree, protects not only the public sector but also the NGOs and the private sector. Beyond this, it has many other beneficial aspects, such as the inclusion of First and Second Appellate Authorities. It is also one of the toughest laws in the country since it is the only RTI Act that carries fines on any violation of the rule. The reaction to this Act has been very positive after nearly fifteen years since its introduction, and it has received a very large and warm welcome from the people. People realize the importance of intellectual strength in their pockets. That's why each section's people were searching for information from the different authorities. Local authorities and officers in public information are becoming even more mindful of their duties. For every person engaged in the operation of the law, it has been a learning experience.

However, pure right conferment isn't enough. Various apprehensions have been raised, such as abuse of the Act, blackmailing of officials, and pressure on the government exchequer. In addition, other procedural impediments have been found in the successful application of the Act, such as the non-designation of RTI functionaries in many organizations. Often, many public bodies, especially at the district level, do not show on their notice boards the names and information of PIOs, which tends to make it difficult for the public to know where to send the application. Moreover, too young officers are also named as PIOs who are unable to gather departmental details. Above all, while only PIOs can be penalized under the Act, they are not equipped with sufficient resources to perform their obligations and duties.

The right to information will be strengthened rather than reduced to the government's benefit. In truth, it is, according to the decision of the SC, an integral part of the right to freedom of speech and expression under Article 19 of the Indian Constitution. This revised Act has to be updated to bring on the government's integrity and responsibility because that is, in the first place, the very object of this Act. Both state bodies have to digitize their documents so that they are in the public domain, and the people have no need to seek information from the government officially. There needs to be visibility such that all human people are informed about the workings of the government and its effect on their lives. It is the public's responsibility to protect democracy at large. Hence, for it to be safe and stable, each of them should be active in political action. All people

also must regularly use the RTI Act for the common good. To ensure social justice, accountability, and to hold the government responsible for its acts, the RTI Act was introduced. This legislation does have other weaknesses and disadvantages, though. Steps must be taken to improve the RTI Act, as it plays an important role in Indian democracy.

CHAPTER 3

ORIGIN AND DEVELOPMENT OF RIGHT TO SERVICE IN INDIA

“Administration is meant to achieve something, and not to exist in some kind of an ivory tower, following certain rules of procedure and Narcissus like looking on itself with satisfaction. The test, after all, is human beings and their welfare.”

-Pandit Jawaharlal Nehru

In the neo-liberal era, post-globalization, the developing nations have the dubious distinction of emerging at the top ranks as far as corruption is concerned.⁸⁰ It is manifested through a lack of provisions for basic amenities to the common man. On the other side are strong resistances against aggravated levels of corruption and insurgencies in the third world countries. The bloodshed and bloodless revolutions against the totalitarian regimes finally led to the protection for group interests resulting in the enactment of individual entitlements guarantees, in the form of right based legislations. The Right to Information Act, 2005; Right to Education Act, 2009; Right to Food Bill, 2011 and Mahatma Gandhi National Rural Employment Guarantee Act, 2005 are some such legislative instances in India.

At the outset of the implementation of the right to information and the Lokpal and Lokayukta legislation, the Indian populace started turning their attention to the scope of maladministration in the public services sector. That resulted in the right to services law in India, for which initiatives came from the side of governments themselves.

Irrespective of its nature, one of the accepted tasks of any government is to provide a variety of public services to its citizenry, varying from issuing a passport to registering an autorickshaw. Therefore, assuring these services within a stipulated time and holding duty bearers accountable for it could be seen as renewing the pledge that a government makes to its citizenry, and is certainly laudable. However, the recent endeavor of a number of state governments to provide service guarantee is noticeable in a number of

⁸⁰ See, Abantika Ghosh, “Corruption Watchdog hails Bihar, Madhya Pradesh as the best Service Providers” The Times of India, June 15, 2011, at 14

ways: this chapter attempts to look at it from the perspectives of politics and governance in India.

The Right to Public Service derives its moral and ethical basis from the Gandhian philosophy. In this connection, Mahatma Gandhi's famous statement (In a speech in South Africa in 1890)

“A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption of our work; he is the purpose of it. He is not an outsider of our business; he is part of it. We are not doing him a favor by serving him. He is doing us a favor by giving us the opportunity to do so” is worth emulating by governments.

CITIZENS' CHARTER TO PUBLIC SERVICE LEGISLATIONS

The public services law in India owes its origin from the Citizens Charter of UK, promulgated in 1991. Though it is not a legal document in the strict sense of law, being an agreement of contract entered into between the citizens and the public servants, providing for competent and time-bound delivery of services. It sought to add consumer rights to those citizens' rights, equipping users with the means of seeking personal redress if the services they received were inadequate. The objective of the charter was to make public services accountable. That idea arose from a simple question in the UK that if the public service which people have paid for is not good, why should they not get their money back, as they would have the right to purchase it with any shop or service provider in the private sector. The then Prime Minister of the UK, John Major, explained the intention of the Citizens' Charter in the following manner:⁸¹

“It will work for quality across the whole range of public services. It will give support to those who use services in seeking better standards. People who depend on public services - patients, passengers, parents, pupils, benefit claimants - all must know where they stand and what service they have a right to expect.”

⁸¹ Speech by John Major MP at the Conservative Central Council Annual meeting on Mar.23, 1991, referred in the Twelfth Report of the House of Commons Public Administration Select Committee, From Citizens Charter to Public Service Guarantees ; Entitlements to Public Services United Kingdom , (2007-08), July 15 2008

The twelfth report of session 2007-08 of the House of Commons was third on the series of public administration reform in the UK. The first of that was the fifth report of session 2007-08, “When Citizens Complain,” and the second was the sixth report of the session on “User Involvement in Public Services.” Following the sixth report, a volume of oral and written evidence was published as “Public Services: Putting People First.”⁸² In the meantime, in 1997, the right to services moved from the “Citizens Charter Program” and its impact on how public services were viewed, to Charter Mark, in 1991, with the inception of the government headed by Tony Blair. The Charter Mark adopted by its successor scheme, the Customer Service Performance Framework, on standards of facilities in ensuring that public services deliver on the wishes and opinions of service consumers. By 2002, this changed to 'Public Service Assurances,' which, like the regional charters adopted under the Charter of Citizens, was meant to serve as a framework for determining the quality of service delivery these people would demand from providers and public services.

The Charter Mark Scheme, launched in 1992, in the UK and intended to work till 2011, laid down the then most recent criteria as follows:⁸³

1. Place standards and perform well.
2. Work closely with your clients, associates, and employees.
3. Be fair and accessible to all, and advance justice.
4. Develop and improve continuously.
5. Take the efficient and creative use of your tools.
6. Help improve opportunities and quality of life in the communities that you serve.

Supplementary to that, the fourth report of the 2007-08 session of the House of Commons, UK, added as the base for public services, the “Public Service Entitlements.” Accordingly, the minimum standards to which provision of public service would conform were:⁸⁴

1. Support policy outcomes.

⁸² *Id*

⁸³ “Charter Mark Standard Back,” Cabinet Office, UK (2004)

⁸⁴ See Public Administration Select Committee Report, Choice Voice and Public Services (2009).

2. Be precise as to the level of services to be expected (e.g., surgery in a time limit of six months, or a service of the passport within six weeks).
3. Have a clear statement that a provider of the user's choice can deliver the service and
4. Clear redress arrangements in case of default.

The Public Service Committee, 2007-08, finally recommended clear, accurate, and enforceable statements of people's enticements to public service should be made. That should be in the form of 'Guarantees for the public service.' The assurances should specify a minimum level of service that service users can expect, and set the redress arrangements should service providers fail to meet the promised standard.⁸⁵ Consequently, the situation changed from the 'People Charter' to 'Public Sector Promises' in the UK. The guarantee institution was taken by the committee as a very strong case for empowering users by allowing them to claim their services. It was also explicitly stated that it truly wanted to place "people first" in the delivery of public services.⁸⁶

The Citizens Charter of UK aroused interest worldwide, leading to establishments of such initiatives in Belgium (Public Service Users Charter, 1992), Canada (Service Standards Initiative, 1995), Australia (Service Charter, 1997), India (Citizens' Charter, 1997) and so on.

The citizens' charters in India, which were voluntary in nature, were established in 1997. Through central ministries and their local authorities and organizations, the charter progressively extends. A website for the consolidation of the progress and improvements resulting from citizens' charters was launched in 2002 by the Department of Administrative Reforms and Public Grievance (DARPG). The charter implementation of the Hyderabad, Jan Seva Rendras in Ahmedabad and Chennai Metro Water Supply and Sewage Board in 1997-2004 is noteworthy.⁸⁷ In 2005, the "Sevottam" Service Quality concept was launched with the goal of providing new momentum to implementing both the central and state citizens' charter. A web-based portal for lodging public complaints was launched in 2007 under the Central Public Grievance Redress and Monitoring System (CPGRAMS). In 2009, the report of the

⁸⁵ *Id*

⁸⁶ *Id*

⁸⁷ See Central Bill, 2011 Statement of Object and Reasons

Citizen's Centric Governance Administrative Reforms Committee recommended making citizens' charters effective by implementing charters for each unit with remedial procedures and regular charter evaluations. It also promoted transparency for the results for police. It also proposed an adequate mechanism to ensure the participation of citizens in the administration.⁸⁸

In light of the above circumstances, it was considered necessary to legislate on this contingency by the Government in India and the States. The law on entry 8 of the concurrent list had to be made, viz actionable mistakes. 14 States have enacted legislation on public service guarantee by this date.⁸⁹The Central Bill No. 131 of 2011, having been introduced in Parliament, the right to service law in India encompasses those central and state legal initiatives concurrent list, viz actionable wrongs. Public Service Guarantee Acts have been passed by fourteen states to this date. The Central Bill No. 131 of 2011, having been introduced in Parliament, the right to service law in India encompasses those central and state legal initiatives.

WHAT IS RIGHT TO PUBLIC SERVICES?

Legislation on the right to public services in India includes statutory laws that guarantee the delivery of various public services to citizens on a timely basis. These offer a procedure for prosecuting the erring public servant if he/she is delinquent in providing the provided services within the specified period. The Right to Services Delivery (RTSD) Act, as a matter of fact, is these states' commitment to standard, quality, and time-bound service delivery by providing an effective grievance redress mechanism, reducing government official corruption, and increasing transparency and accountability in government.⁹⁰

To achieve these formidable goals, statements of people's entitlements to public services should be clear, precise, and enforceable. This should be in the form of Public Service Guarantees that specify the minimum standards that users can expect for service provision. They also set out compensation mechanisms should service providers fail to meet the requirements agreed.⁹¹Therefore, the distribution of RTS content information

⁸⁸ Y.K. Sabhrawal, *Ethics in Governance - Moving from Rhetoric to Results*

⁸⁹ The States of Haryana, Kerala and Orissa have passed their right to service.

⁹⁰ See Singh, Prasad Baleshwar, *Ethics and Public Service in India*, 45 Indian Journal of Public Administration, 43 (2011).

⁹¹ *Id*

is important for creating awareness and creating a sense of responsibility and transparency among all stakeholders.

NEED FOR RIGHT TO PUBLIC SERVICE

In the latter context, an analysis of the reasoning behind the right to public service provision is imperative. It may be attributed, in the first instance, to the recognition of the harsh reality of the persistence of the undue delays to which the citizens were subjected while obtaining various types of services from the government due to the lethargy and lack of commitment among the service providers who perceived these as government doles rather than citizens' entitlements.⁹²

Secondly, it could be attributed to the widespread apathy and inertia that prevailed among the staff because of the persistence of colonial mindset in them that made them perceive themselves as rulers rather than servants of the public.⁹³ Third, the illness could be traced to the absence by the service providers of a clear cut and well-defined timeframe for service delivery. Fourthly, the existence of several entities to play this function and the lack of a single portal for this reason naturally contributed to the creation in the latter sense of a dismal situation.⁹⁴

Fifthly, in the cutting edge, too, widespread graft has made the job of service seekers all the more dangerous and thus required corrective action. Sixthly, the institutional set-up required correction of the path too to ensure the good governance to promote service delivery. Hence the development of a single control device was seen as the only option for this reason. Seventh, a broad consent has emerged around the world, requiring fixed timelines for each service to be delivered. Fixing accountability on a single official in charge of the service was therefore considered essential for this purpose too. Increasing the use of information/communication technology also needed to reduce the human interface. Eighthly, RTSD lawmakers were also made possible by the continuous demand and support of many activists and citizens' groups, who saw it as a useful tool for reorienting the language of governance—from patronage to the duty of the state and justifying citizens' claims to timely delivery of service.

⁹²O.P. Dwivedi, *'Ethics and Values of Public Responsibility and Accountability'*, 63 International Review of Administrative Sciences, 61 (1985).

⁹³ *Id*

⁹⁴ *Id*

In addition, all freedoms, including RTSD, have become synonymous with good government, and in these words, political and bureaucratic attempts to strengthen administration are also described. Moreover, these empower not only citizens but also politicians and senior bureaucrats to deal with the lower bureaucracy more effectively. Such privileges, so to speak, are an administrative tool that lets the government exercise power over its officials.⁹⁵ Moreover, when people see their rights abused, they will make a lawsuit against the government by alerting senior officials to the officials' errant actions during service delivery, which will then be taken to tasks.

Furthermore, the people had to be motivated as a matter of right to receive the facilities. The Right to Service Actions is part of a larger right-based social policy strategy that has been evolving in India over the past decade and a half. Throughout this context, the Supreme Court has recognized the right to food, health, lodging, and many other social and economic rights as aspects of the right to life.⁹⁶ What's most striking about these acts is the fact that all of these were initiated by state governments, reversing the Union government's earlier trend as the source of innovative policies and best practices.

PUBLIC SERVICE LAW IN INDIA-BACKGROUND AND OBJECTIVES

The law relating to public services in India sets out its journey from the “Doctrine of Pleasure.” Accordingly, the heads of governments enjoyed discretion in appointing and terminating the tenure of services of government employees. The employees were given the opportunity to be heard before getting removed from their services. That led to the passing of service rules by the governments concerned. The other authorities, though running with sufficient governmental control, cannot be brought within the purview of service rules.⁹⁷ Despite that, there were no claims provided for aggrieved citizens for services. Since the right to service was not yet a constitutional or legal right, the citizen applicants could not file a writ petition before the judiciary. The only option was to seek redress before the administrative tribunals, which has proved only to have a recommendatory power.⁹⁸

⁹⁵ See S.K Aggaiwal, *The Coalition Against Corruption Right to Public Service*, TRANSPARENCY INTERNATIONAL INDIA-

⁹⁶ Indian Constitution Article 21

⁹⁷ See Constitution of India, 1950 Arts. 309, 310 and 311; See also, Sukhdeo Singh v. Bhagatram, AIR 1975

⁹⁸ *Supra* note 92.

It is of late that the governments in India have embarked on law-making, on the right to services at the center and in some of the states. The Madhya Pradesh Lok Sewaon Ke Pradan ki Adhiniyam, 2010, is the first in that category, which has been followed by enactments in the States of Bihar Chhattisgarh, Delhi, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Punjab, Rajasthan, Uttar Pradesh, and Uttarakhand.⁹⁹ The States of Orissa, Kerala, and Haryana is also on the verge of implementing their Acts. The center has introduced the Right to Redressal of Grievances Bill, 2011, in the Lok Sabha on the 20th of December 2011.¹⁰⁰ A new bill on citizens ' rights to time-limited delivery of goods and services and redress of their grievances Bill 2011 was adopted by the Union Cabinet on 8th of March 2013. The bill is then referred to the Law, Home Affairs, and Personnel and Training Ministry and is subsequently referred to the houses of parliament.

Following the initiatives of several state governments and the response, the central government has now proposed the “Rights of Citizen for Time-bound Delivery of Goods & Services and Redressal of Their Grievances Bill 2011” drafted on similar lines. This is slated for introduction in Parliament. It intends to make the preparation of a citizen charter mandatory for local, state, and central governments and their respective departments. The charter must include the name of the service and the officer responsible, the time period, and the redressal mechanism. It also details a grievance redressal mechanism in the form of first and second appeal and a policy cum regulatory body like the Grievance Redressal Commission at central and state levels on the lines of the central and state information commission.¹⁰¹

⁹⁹ 3 The state Acts are the Bihar Right to Public Services Act, 2011; Chhattisgarh Lok Seva Guarantee Adhiniyam, 2011; Delhi Right of Citizen to Time Bound Delivery of Service Act, 2011; Himachal Pradesh Public Service Guarantee Act, 2011; Jammu and Kashmir Public Services Guarantee Act, 2011; Jharkhand Right to Services Act, 2011; Karnataka Right of Citizen to Time Bound Delivery of Services Act, 2012; Madhya Pradesh Lok Sewaon Ke Pradan Ki Guarantee Adhiniyam, 2010; Punjab Right to Service Act, 2011; Rajasthan Guaranteed Delivery of Public Services Act, 2011; Uttarakhand Right to Services Act, 2011; Uttar Pradesh Janhit Guarantee Adhyadesh, 2011. The States of Haryana, Orissa and Kerala have their state right to service bills, pending or awaiting assent

¹⁰⁰ The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011, It was introduced in the Lok Sabha, on 20th December 2011

¹⁰¹ *Id*

EVOLUTION OF RIGHT TO PUBLIC SERVICE IN INDIA

The evolution of the right to public service can be traced, in India, from the late 1990s and early 2000s Citizen's Charter movement. It witnessed hundreds of charters being promulgated by departments of government at the national and state levels. These spelled out what the government could expect of citizens.¹⁰² However, many felt that these charters lacked the necessary precision to be effective, as most of them did not indicate any timeframe for redressing public grievances and acknowledging public grievance receipt.

Moreover, these had neither the time frame for responding to the grievances of the petitioners nor mandated any penalties for their violation against the government or its officials. For more than 10 years now, the need to convert the Citizens' Charter established under an Executive Order into some sort of legislative arrangement has been a topic of discussion. The proposal was first mooted in 2009 and debated widely at all levels; the government of India, the Second Administrative Reforms Commission, had proposed a trouble-free provision of public services. The Government of India acknowledged this, and RTS started to be considered as one of the key instruments of good governance. Ideas and efforts to this end started to gather traction at the national and state level. By then, roughly 19 states have thus far implemented their Right to Services Acts under various terms, with five¹⁰³ stated intent:

- a) quality guarantee,
- b) quality within a prescribed time period,
- c) making responsible designated officials,
- d) a two-stage appeal claim resolution mechanism, and
- e) a sanction and fine mechanism for delay/denial of operation.

However, on 18 August 2010, Madhya Pradesh became the first state in India to enact the Right to Service Act, and on 25 July 2011, it was Bihar who enacted it.¹⁰⁴ More states such as Delhi, Punjab, Rajasthan, Himachal Pradesh, Chhattisgarh, Uttarakhand, Kerala, Uttar Pradesh, Jharkhand, Karnataka, J&K enacted RTS laws in 2011,¹⁰⁵

¹⁰² *Supra* note 94.

¹⁰³ *Supra* note 94.

¹⁰⁴ *Infra* note 105.

¹⁰⁵ *Supra* note 93

Odisha and Assam enacted RTS laws in 2012, Gujarat and West Bengal laws in 2013 and Haryana laws in 2014. In 2013, Goa introduced similar legislation to enforce the right to serve its citizen. Other state governments have similar laws at different stages of enactment.¹⁰⁶

Those Acts have common features. Following the initiatives of several state governments, the Central Government also proposed and introduced in Parliament the "Rights of Citizens for Time-bound Delivery of Goods & Services and Redress of Their Grievances Bill 2011." It lapsed, however, due to the dissolution of Lok Sabha, the 15th. It was meant to make it compulsory for the city, federal, and regional governments and their respective offices to draft a Public Charter.¹⁰⁷ The names of the services and the responsible officers, the time frame, and the redress mechanism were to be included in these charters.

These also detailed grievance redress mechanisms in the form of first and second appeals and a policy cum regulatory bodies such as the central and state level Grievance Redressal Commission on the lines of the Central and State Information Commissions. As part of the concurrent list Acts such as the Right to Information Act, the Central Bill sought to confer on each citizen the right to timely delivery of specified goods and services and to provide a grievance redress mechanism.¹⁰⁸ While the Right to Public Service Acts mandates that the services covered are clearly specified and must be finished within a stringent time frame. These also prescribe levying a monetary fine against the officials in charge if they do not complete the service within the time frame.

RIGHT TO SERVICES LAW IN INDIA

The 2011 Central Bill,¹⁰⁹ which was passed in Parliament, grants every person the right to provide goods and services on schedule and to address grievances. Every municipal authority is expected to publish a resident charter, the class of goods provided, and the form of services rendered by it, within six months of the proposed legislation. The time period for the supply or rendering of such goods, and the names of the person responsible for the delivery of the goods or the rendering of service, are also specified. All public authorities need to set up an information and facility which can include a

¹⁰⁶ *Supra* note 92.

¹⁰⁷ *Id*

¹⁰⁸ *Supra* n.105

¹⁰⁹ See Citizen's Charter and Grievance Redressal Bill 2011

customer service center, a call center, a support office, and a support center for people. It provides for the appointment of officers, as grievance remedies officers (GRO) in all administrative units or officers of the central, state, district, and sub-district levels, municipalities, and panchayats by all public authorities within six months of the date the legislation has been implemented. It is a duty to receive, enquire, and remedy any complaints from citizens in the prescribed way regarding goods or services supplied. The complaints were also remedied within a period of 30 days from the date the complaint was received. If the aggrieved person wishes to do so, the appeal may be preferred by a designated authority, in a period of 30 days from or upon receipt of the decision, within 30 days from the date on which that appeal is received, to the appeal of that designated authority.¹¹⁰

The bill provides for the establishment of redressal commissions for both central and state public grievance redressal commission comprising of chief commissioners and other commissioners. The person grieving the decision of the designated authority falling within the jurisdiction of the State Government may go for an appeal to the state public grievance redressal commission, and any person grieving the designated authority falling within the competence of the Central Government may go for a petition to the Central Public Grievance Redressal Commission.¹¹¹

The Bill confers the authority on the designated authority, the State and central public grievance Redressal Commissions to charge the designated public official responsible for delivering the goods and services, for failing to deliver the goods and services to which the applicant is entitled, a lump sum penalty including compensation to the complainant, This can extend up to 50,000 rupees, recovered from the official salary on which the penalty was applied. Such a portion of the penalty imposed shall be granted by the appellant, as it may deem fit, as compensation to the appellant. Where found guilty of any offense, disciplinary action against the public servant shall also be initiated. This includes the punishment and penalty, which may be decided by the disciplinary authority. In the case of non-representation of the complaint, the burden of proof shall lie with the GRO, who denied the request if the complaint is found by the appellant authorities to be part of the corrupt practice, which shall be referred to the

¹¹⁰ See The Central Bill No.131 of 2011, for provisions of stipulated time limits

¹¹¹ *Supra* note 84.

appropriate competent authority to take action in respect of such corrupt practice, under the provisions of this Regulation.¹¹²

As the third stage of appeal, the bill provides that any aggrieved individual may prefer an appeal to the Lokpal by a decision of the Central Public Grievance Redressal Commission. Any person grieved by the state grievance redress commission's decision may prefer an appeal to the Lokayukta, established under the Lokpal and Lokayuktas Act, 2011. The law limits the jurisdiction of other courts.¹¹³

In the dispute provisions for redress mechanisms, the central bill hasn't made clear provisions for the imposition of penalty and compensation. It only entrusts the appellate authorities to impose a lump sum penalty, including compensation, and states that on the imposition of penalty, the appellate authority may order such a portion of it to be awarded as compensation, as it may deem fit, not exceeding the amount of penalty. The norms for appointing designated authority remain vague. The scheme of appeal is complex with the third level, linking the aspects of anti-corruption and delivery of public services in the stipulated time limit.

IMPACT OF THE PUBLIC SERVICE GUARANTEE ACTS

The RTPS laws have had another extremely important effect on politics and governance, and this is a clear reminder of the promise of local governance through panchayat raj and the Panchayats Act . Within Schedules 11 and 12 of the Constitution, all of the services coming under the Acts are specifically under the scope of the 29 subjects. It is important to note that although many of the above-mentioned state governments have transferred these 29 subjects to the panchayats, the central sector schemes involving distribution through panchayats (like MGNREGA) and some state schemes have been transferred to the panchayats, but the majority of basic, financial, administrative and welfare services still remain under the competence of state departments.¹¹⁴

The RTPS Acts explicitly reinforce the dominance of the state and district administration over municipal governments. While the LGs are expected to adopt

¹¹² *Id*

¹¹³ *Id*

¹¹⁴ Ashok Kumar, *The Right to Public Services Laws*. EPW (Jan 14, 2020, 01:00 AM) <http://www.epw.in/author/ashok-kumar-sircar>.

schemes for the central and state sectors aimed at improving human and social resources, it is not the responsibility of the same local governments to provide the administrative, legislative, welfare, and critical services. Interestingly enough, in both of these Acts, very few of the challenges lie with local governments, and neither do the alternatives being produced have any substantial component of the local government's summary. Therefore, the roles of delivery, grievance resolution, and regulation are deliberately held out of the purview of municipal governments.

How can we explain that phenomenon in a framework of governance?

India's three-tier municipal councils are troubled by the lack of policy-making authority and too little devolution, leaving them only a federal and state body. Many of the works the LGS undertakes are central sector schemes (CSS) aimed at developing human, cultural, and social resources. It is a high order provided that the LGS is suffering from structural efficiency, elite takeover, and lack of legal governance space based on the subsidiarity concept. In comparison, the challenge of providing the services mentioned here is relatively less complex as techno-managerial solutions can solve most challenges in the delivery process re-engineering process. So we see a fascinating difference here: LGs with significant vulnerabilities are trying to solve more basic structural challenges when the government administration pledge is using the comparatively simpler implementation.¹¹⁵

How do we do it better?

First and foremost, it is important that all forms of services be specifically specified, and this cannot be the prerogative of agencies regulated by the Government. To identify these programs, an overarching statutory unit is required by wide-ranging meetings with the political and civil society. Second, defining the nature of such services as to whether it is regulatory, managerial, basic or welfare is critical. Third, if the promises rendered by local governments under 73rd, 74th reforms, PESA, and 6th Scheduled Areas are to be met, then a substantial number of these services specifically have to be shifted to local governing bodies. And local governments need to have a mandatory overview function of these services to ensure that local democracy is not subverted by service delivery.¹¹⁶

¹¹⁵*Supra* note 95.

¹¹⁶*Id*

Finally, the programs targeted at maximizing physical, economic, and social resources must be provided under one umbrella in all situations. Only then will the internal picture accounting debate of the public sector develop to a catastrophic degree.¹¹⁷

IMPLEMENTATION OF THE PUBLIC SERVICE GUARANTEE ACTS

The nucleus of inefficient governance is known to India. Citizens were suspicious of and remote from the government because of the rapid corruption, inefficiency, and transparency in government affairs. For the disadvantaged, isolated, illiterate, and weaker classes, the condition was much worse. It is undemocratic to develop such behavior among citizens. In order to synchronize with a growing national emphasis on good governance and the critical role of government in development, there was an urgent need to make laws on services, a law laying down obligations of each public authority towards citizens, specifying the delivery of goods and services in a timely manner and providing a grievance redress mechanism for citizens' non-compliance.¹¹⁸

Law on public services in India includes statutory laws guaranteeing the delivery, in time, of services to a number of public services rendered to the citizen by the government and providing a mechanism to punish the wrongful civil servant in defective delivery of the statutory services. V. Narayanasamy, Minister of State for Staff, Public Grievances and Pensions, tabled the right of people to the time-bound delivery of services and the redress of their grievances bill for 2011.

The right to service bill is intended to reduce government officials' corruption and to enhance public integrity and transparency. The general system of laws in different states contains "the right to public services," which the appointed officer is to offer to the public during the specified time span. General notices by the Gazette are issued to public services and are to be provided as privileges under the legislation. Some of the common public services to be provided as a right under the Acts within the fixed time frame include caste issuance, birth, marriage, and home certificates, electrical connections, voter's card, ration cards, land record copies, etc.

In the wake of the enactment of the right to information, and right to services, globally, as hallmarks of corruption-free and accountable governance, the Government of India

¹¹⁷ *Id*

¹¹⁸ Shalini Rajneesh, *Guarantee of Services to Citizens: A case study of Karnataka*, 15 Indian Journal of Public Administration, 12 (2013).

set out for administrative reforms initiatives towards complementary capacity building. One such endeavour was the “Pathways for Inclusive Indian Administration” As a Project in collaboration with United Nations Development Programme (UNDP) aimed at citizen-centric administration. As a part of that project, a two-day national consultation was convened by the Government of Madhya Pradesh and UNDP on “Strengthening Accountability Framework under Public Service Guarantee Acts” in Bhopal on 8-9 December.¹¹⁹

The purpose of the consultation was to share the progress of the State public service guarantee Acts also known as the Right to services Acts, enacted by various states of India by then, as a key administrative reform. The consultation provided a common platform for interaction among states, for exchange of ideas, and for evolving consensus on the key areas of concern in the implementation of the Acts. The challenges identified at the national consultation was

- defining the scope of the Acts (the number of services covered in a scenario where complaints and grievances were also added)
- demand-side sensitization and awareness among citizens about the provisions of the acts and its functioning/ application.
- Supply-side sensitization, awareness, and training of service providers.
- Addressing capacity related challenges-shortage of workforce and financial resources.
- Lack of availability of an efficient management information system (MIS) with ready access to government records and data for monitoring and tracking of applications.
- Reduction of complexity in procedures and clarification on identification and documentation requirements for a particular service for the purpose of eliminating subjectivity.
- Incentives and disincentives for government officials including, but not limited to, penalties, impact on performance assessment, promotions, and rewards.
- Grievance redressal mechanisms/appeal mechanisms.

¹¹⁹ *Supra* note 105.

- Technology options and business models for efficient and timely service delivery/ tracking/ monitoring of service requests.
- Consistency of the legal framework.
- consistency with the state decentralization agenda and local self-government responsibilities

The national consultation evolved consensus on the fact that the PSGAs has gone one step ahead of the UK Public Services Guarantee Reforms through including the provision for time-bound delivery of services, failing which the erring public servant would be penalized as well.¹²⁰

Overall, the participants formed a general consensus that the Acts should not be punishment-centric, but motivation-oriented in order to facilitate attitudinal changes and to offer sustained reforms. The need to create awareness among citizens as well as strengthening the capacity of service providers was also highlighted. Further, the use of public-private partnership (PPP) business models for providing services and use of information and communication technology (ICT) based tools for tracking and monitoring service provisions was also encouraged for bringing about transparency, accountability, and efficiency in public services.

Addressing legal concerns, the members of the group accentuated the need to re-examine the legal framework of the right to service Acts. They expressed apprehensions about the varied nomenclatures of the Acts in various states, the scope of those Acts, redressal mechanisms, institutional provisions, and control mechanisms. As a suggestion, it was advocated that the oversight mechanism for public service guarantee should be internal because a self-corrective, self-disciplining bureaucracy was the need of the hour.¹²¹

The Government of India's Citizen's Right to Grievance Redress Bill, 2011, was looked at by the participants as the overarching framework within which one has to look at the provisions of the state Acts and expressed apprehension at the immense scope to the Act, from the perspective of implementation. The national commission recommended that the penalty provisions of most states Acts were harsh and could affect the

¹²⁰ R.S. Tiwari, *Good Governance: Populist Democracy to Quality Democracy*, 13 IJPA 10 (2002)

¹²¹ See, the Central Bill No.131 of 2011, for provisions of “stipulated time limit”

motivation of service providers, which need to be reviewed.¹²² There was also a suggestion that the applicants should not be allowed to file a case if the appellate authority under the Right to service Act has been approachable, or else there would be a surge of litigation possible. It was further recommended that the states would explore creating a trust fund (e.g., Torrens Compensation Fund in Australia) to compensate applicants in case of systemic delays,¹²³ As highlighted during the closing remarks, by the representatives of the states, Central Government and UNDP, administrative reforms and governance improvements were to be necessitated.

Thus, citizen-centric administration has to become citizen participatory as well. Establishing an entitlements-based approach in public service delivery not only empowers citizens to demand services but also offers an opportunity to the governments to provide services effectively. The consultation ended with the vision that the move to make public service provision legally binding on the government displayed a political will to make citizens active agents within administrative processes rather than as mere recipients of services.¹²⁴

THE STATE PUBLIC SERVICES GUARANTEE ACTS INITIATED BY STATE GOVERNMENT

The state governments have provided for nodal departments for the supervision and monitoring of the implementation of the right to public services within states. The only state that has a department for that is Madhya Pradesh, where the Department of Public Services Management (DOPSM) controls and coordinates the public service delivery mechanism. The States of Bihar, Delhi, Rajasthan, and Uttar Pradesh, respectively has revenue, general administration, administration reforms, and information technology departments as nodal departments.

Starting with Madhya Pradesh in 2010, another ten state governments (SGS) have so far enacted the Right-to-Public-Services (RTPS) Act,¹²⁵ albeit under different names, with five declared intents:

¹²² *Id*

¹²³ See the Central Bill No.131 of 2011, "Addressing Legal Concerns"

¹²⁴ *Id*

¹²⁵ See Deepali Singh, *Reforms in Governance: In the Era of Globalisation*, 85 Indian Journal of Public Administration, 77, (2011).

- (a) assurance of the service,
- (b) service within a stipulated time frame,
- (c) holding designated officers accountable,
- (d) a system of grievance redressal by two-stage appeal, and
- (e) a system of penalty and fine for delay/denial in service.

These SGS are of Rajasthan, Delhi, Jammu and Kashmir (J&K), Bihar, Punjab, Uttar Pradesh, Himachal Pradesh, Uttarakhand, Karnataka, and Jharkhand. More sgs are at various stages of enacting similar laws, and Kerala and Haryana are very close to promulgation. The model for all these Acts has common characteristics. The departments are free to declare a few or all of their services to come under its purview.¹²⁶ A department that wishes to declare that service would come under the legislation must designate a responsible officer to provide the service, a first appeal officer, and a second appeal officer for each declared service, determine the fine or penalty for failure to provide acknowledgment, delay in service or its denial. The citizen is required to submit applications with supporting documents and mandatorily get an acknowledgment. Only the J&K government has defined service deficiency, and the case for imposing penalties is.

Since the services that come under this Act are dependent on departmental willingness, their number varies from as low as 15 in Uttar Pradesh to 124 in Rajasthan. Kerala's proposed legislation covers only 13 services. The services may include documents (certificates-licenses-permits), cash (pension, stipends), and kind (electricity-water connections). The nature of these services can be classified as regulatory (trade license), administrative (birth, caste certificate), basic (water, electricity), and welfare (pension, stipend) services.

The most striking thing about these acts is that they are all initiated by the governments of the states. This contrasts sharply with the plenty of rights-based laws over the past decade or more that came primarily from a large number of advocacy efforts by civil society organizations with the union government and parliament. The Persons with Disabilities (PWD) Act 1995, Right to Information (RTI) Act 2005, Forest Rights Act

¹²⁶ *Supra* note 120.

(FRA) 2006, Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005, Domestic Violence Act 2005, Child Labour (Abolition and Rehabilitation) Act 2006, and Right to Education (RTE) Act 2009, can all be classified as central legislation pushed for by civil society. The National Food Security Bill is one such legislation in the making.¹²⁷ All of this rights-based legislation was enacted as central Acts with a clear mandate for the states to implement by framing appropriate rules. The states had no choice. In some notable cases, the central government is providing major financial resources to implement these Acts, the most celebrated of which is the MGNREGA and RTE.¹²⁸ However, in the cases of the RTI, PWD, Acts, the states have an obligation to finance their implementation. The following table represents the states which implemented

State	Act title	Status
Punjab	Right to Public Service Act, 2011	Enacted
Uttarakhand	The Uttarakhand Right to Service Act, 2011	Enacted
Madhya Pradesh	Madhya Pradesh Lok Sewaon Ke Pradan Ki Guarantee Adhiniyam, 2010	Enacted
Bihar	Bihar Lok sewaon ka adhikar Adhiniyam, 2011	Enacted
Delhi	Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011	Enacted
Jharkhand	Right to Service Act, 2011	Enacted
Himachal Pradesh	Himachal Pradesh Public Services Guarantee Act, 2011	Enacted

¹²⁷ See, the Report of National Consultation. Available at: http://www.undp.org.in/sites/default/files/PIIA_Fact_sheet.pdf. (last visited on Jan. 10,2020).

¹²⁸ *Supra* note 94.

Rajasthan	Rajasthan Public Service Guarantee Act, 2011	Enacted
Uttar Pradesh	Janhit Guarantee Act, 2011	Enacted
Kerala	The Kerala State Right to Service Act, 2012	Enacted
Karnataka	The Karnataka (Right Of Citizens to Time Bound Delivery Of Services) Bill, 2011	Enacted
Chhattisgarh	Chhattisgarh Lok Seva Guarantee Bill, 2011	Enacted
Jammu and Kashmir	The Jammu and Kashmir Public Services Guarantee Act, 2011	Enacted
Odisha	Odisha Right to Public Services Act, 2012	Enacted
Assam	Assam Right to Public Services Act, 2012	Enacted
Central Government	Citizen's Charter and Grievance Redressal Bill 2011	Lapsed
Gujarat	Gujarat (Right of Citizens to Public Services) Bill, 2013	Enacted
West Bengal	West Bengal Right to Public Services Bill, 2013	Enacted
Goa	The Goa (Right to Time-Bound Delivery of Public Services) Act, 2013	Enacted
Haryana	The Haryana Right to Service Act, 2014	Enacted

Maharashtra	Maharashtra Right to Public Services Ordinance, 2015	Enacted
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AN ASSESSMENT ON THE STATE PUBLIC SERVICES GUARANTEE ACTS

State governments have equipped nodal departments to monitor and oversee the execution of the right within states to public services. The only state that has a department for that is Madhya Pradesh, where the Department of Public Services Management (DOPSM) controls and coordinates the public service delivery mechanism. The States of Bihar, Delhi Rajasthan, and Uttar Pradesh, respectively has revenue, general administration, administration reforms, and information technology departments as nodal departments.¹²⁹

The officers in the machinery include the designated officers or their subordinate officers charged with the delivery of services.¹³⁰ The appellate authority would be the first appellate authority and the second appellate authority. In some states, designated officers from outside the public authority concerned are appointed as the appellate authority.¹³¹ A notified officer/ competent officer or a commission is also appointed by the government for the purpose of implementation of the Acts, as in Chhattisgarh, Karnataka, and Punjab. An officer nominated by the government is entrusted with the power of revision upon the final order or decision of the second appellate authority.

The designated officer (DO) is the lowest in the state machinery hierarchy, or the grievance redress officer (GRO). They are required to provide the service that is applied within the 30-day 'stipulated time limit.' With reasons written down, they may refuse the application within the time limit. An eligible person whose application is either rejected or who is not provided with the service within the time limit may, as the case may be, lodge an appeal with the first appealing authority within thirty days from the date of the refusal or at the expiry of the time limit. Within the thirty-day time frame,

¹²⁹ *Supra* note 94.

¹³⁰ The Acts uniformly provides for Designated Officers (DOs), which ought to be 'notified' by the respective states, for every unit of administration with an organisational state head for overall supervision

¹³¹ *Id.*

the grieved citizen may file a second appeal from the first appellate authority's order, or within 30 days from the date of rejection of his first appeal to the second appeal authority.¹³² The second appealing authority may rule on the appeal and issue an order either to approve the appeal or to guide the DO to provide the service or to refuse the appeal within sixty days of obtaining the appeal. Also, the second calling authority determines the penalty be imposed on the DO or GRO, or on the first appealing authority. The person grieved by the final order may submit to the Commission or an officer nominated in that regard, a request for revision of the said order within a period of sixty days from the date of such order. In the event of delay or default in the delivery of such services beyond the stipulated time limit, the citizen who has applied for such services shall be entitled to seek compensatory costs from the erring officer, say the DO or his subordinate public servant. Through decree, the Government shall appoint a competent officer to place costs on the incompetent public servant concerned.¹³³

The state Acts contain similar provisions regarding notifying "services" and "stipulated time limit."¹³⁴ The "right to service" is defined as the right to obtain service within the stipulated time limit. The penalty is provided for delay or default in providing service within the time prescribed in the Act. There are similar provisions on appeal, appellate authorities, revision, protection of action taken in good faith, a bar of jurisdiction of courts, power to make rules, and power to remove difficulties, if any, arising in giving effect to the provisions of the Act, by order by the state government.¹³⁵

Apart from similarities, each Act varies significantly in the number of notified services, in the provisions for compensation, monitoring mechanism, and in the use of technological tools in the process of implementation. The individual Acts too differ slightly in setting up the hierarchy of officials entrusted or designated to deliver services, in hearing appeals, for revision, and for receiving of orders. The provision for

¹³² *Supra* note 105.

¹³³ See s. 2 of the Act for definitions of "Designated Officer", "Eligible person", "First Appeal Officer" "Second Appellate Authority", "Service", "State government" "Stipulated time limit", "Right to service", "Public Authority"; See also, definitions clause for "Appellate Authority", "Commission", "Competent Officer", "Citizenrelated Service", " Designated Public Servant", in the Punjab, Karnataka, Chhattisgarh, Delhi and Bihar Acts, respectively.

¹³⁴ See s. 3 of the Acts. See also, s. 4 of the Karnataka Act, 2012.

¹³⁵ *Supra* n.105.

fixing the quantum of penalty imposed on delay or default in delivering services and in deciding appeals, within the stipulated time limit, shows little differences.¹³⁶

Among the state Acts, Karnataka Act covers 151 services from 11 department; Rajasthan spreads over 124 services from 15 departments, including power, police, health, and revenue, and in Bihar, as many as 50 services in 10 departments, up to the lowest of 15 services in Uttar Pradesh. In Jammu and Kashmir, it covers 45 services from 6 departments, and in Jharkhand, 54 services from 20 departments. In Madhya Pradesh and Delhi, each includes 52 services from 16 and 18 departments, respectively. The Government of Kerala has proposed to notify 13 public services and nine services separately from the police departments.¹³⁷

PENAL PROVISIONS

The penalty provisions are fixed by the final appellate authority on the DO and the first appellate authority. In the majority of states, the Acts prescribe a fixed amount ranging between INR 500 to INR 5000 for default and between INR 250 to INR 5000 for delay upon the DO. The first appellate officer would be penalized in the range between INR 500 to INR 5000 for failure in deciding the appeal or rejecting it without reasonable cause. In Jammu and Kashmir, the penalty for delay in delivery of service ranges between INR 250 per day or INR 5000, whichever is less. In case of deficiency in service, the penalty would be INR 2000, lump sum. For defaulting, the quantum of penalty ranges between INR 500 to 5000.¹³⁸

CHALLENGES IN IMPLEMENTATION

Since the program has only been in operation for years, definite challenges are difficult to ascertain. However, a potential challenge may develop at the local level from the program's current reach. The block is the lowest point the system actually runs . Given that the Act's primary objective is to provide a mechanism for accessing public services to the most remote and poor sections of the population, the program's limited reach as it stands today would defeat the purpose.¹³⁹

¹³⁶ *Id*

T.K Devasia, *Kerala Introduces Law on Right to Services*, The Hindu, July 25, 2017 at 12

¹³⁸ See provisions For quantum of penalty, see the provisions for implementing penalties.

¹³⁹See Girish Menon, *No fee for plea under Right to Services Act*, The Hindu Oct. 23, 2012 at 8

The experience of an actual implementation of these rights-based legislations tells us a different story. While these legislations have certainly raised public expectations, demand, and organized constituency action, they have not translated into any internal churning within the public administration. Neither have they improved the internal efficiency, accountability, or transparency of the system. It has also not improved the downward accountability of the departments/ authorities towards these constituencies. A case in point is the MGNREGA, where the program of providing work on demand has had mixed results. However, the provisions of the Act, like a supply of work within 15 days of demand, unemployment allowance if work is not provided in that time, wage payment within 15 days, etc. - (features that require improvement of internal efficiency and accountability) have not worked in any large measure.¹⁴⁰ The implementation of the remains abysmally poor across the country. Except perhaps the RTI, other such legislations have not really made the administration ordinarily accountable. A basic question can be legitimately raised now. Do such rights-based legislation that empowers citizens with economic, social, and civil rights have the potential to change the character and nature of the public administration and its structural accountability.

In contrast to these central legislations, the RTPS Acts have two distinctive characters. One, all of them are rights-based legislation of the states, enacted solely due to the state governments' own initiatives, without any imposition from the union government. Two, none of these Acts in any state are the results of any constituency action. In that sense, these are purely state-led legislations trying to make their own public administration internally accountable as well as towards the citizenry. It may be inferred that from a purely civil society discourse via central legislations, rights-based legislations have now seeped into the discourse of the state legislature and state bureaucracy. However, in doing so, the concept of public services and rights have taken a reductionist, inequitable climb down.

WAY FORWARD

The program's proposed changes include the implementation of tatkal (fast track) programs that will allow people to buy programs in a shorter period than the RTPS deadline. The specifics of this provision-charges, etc.- are still in the implementation stages. The Government of India has recognized the need to make improvements about

¹⁴⁰ *Id*

new structures and procedures in the current administrative structure.¹⁴¹ Thereafter, RTPS should be upscaled to cover more divisions and programs.

The rights-based legislation enacted by the Union government has a few features in common: in all cases, the citizen is given a legally justiciable entitlement, for which the state government (or panchayats/urban local bodies as the case may be) is accountable. None of these Acts make the union government accountable, barring some exceptional cases. The second feature of these legislations is that almost all of these are making an attempt to address the constituency of the poor, excluded, vulnerable, and marginalized. The RTI may intrinsically be an exception, though its genesis surely was the rural poor. The disabled, child laborers, women, tribals and other forest dwellers, the illiterate and hungry are all constituencies waiting to be included in the mainstream. The third feature is that the legislation by the very nature of their constituency focuses on, expect, and demand organized constituency action, which can bring success in realizing the rights.¹⁴²

CONCLUSION

In the last two and a half decades, the concept of public service has undergone a paradigm shift. Governance has been the buzz word instead of good leadership. From state-centric, it has been citizen-centric. Hence providing its citizens with a variety of public services has become their basic mandate. Ensuring they have taken the form of the primary obligation within a stipulated period. Consequently, problems faced by governments have been more daunting than these in the past. In reality, the governments have to cope with demands from an educated citizenry for improved facilities, critical of quality levels in this digital age. In this respect, India is no exception. The initiative by state legislatures to pass legislation pertaining to right-to-public-services has to be seen as a step in that direction. The goal is to include a variety of forms of guaranteed service. As more state governments are at different stages of enacting similar laws, a proper understanding of common characteristics is required in all those laws. Such regulations have to be seen not only as a step towards cleaning up the system to ensure

¹⁴¹ See Sirswal, Desh Raj, *Public Service Ethics in a Globalised World: The Duty to Serve and Responsibility to Care*, 59 Indian Journal of Public Administration, 50 Vol. LVII No. 1, (2011).

¹⁴² Id

seamless service delivery, but also as an attempt to reinforce confidence in participatory, people-centered, and inclusive democracy among all groups of citizens.

The Millennium Development Goals of the United Nations concentrate on improving state service delivery. The quality of the public service delivery and delivery mechanisms has been brought into contact with the government by a gradual paradigm shift in recent years. In contrast to its conventional task of regulating and managing institutions, the change to citizenship based on governance is clear. This centrality is the key catalyst of the governance and institutional reforms worldwide. The Citizen Charters or Client Charter declaration and adoption was a precursor to a more defined approach that is based on rights. The main feature in our current quest to increase the quality of governance by upholding the citizens' right, among others, to express their choice, to be heard, to be consulted, to obtain public services information and an equal or equal approach to these services is the recognition of citizens' aspirations and rights. An important landmark in India is the recognition of the right of citizens to public services through legislation: the pursuit of governance reforms and the optimal use of public resources.

This chapter tracks the steps in the implementation of this paradigm shift in government policy and explores the evolving role played by political leaders, bureaucracies, and other actors in the delivery of services.

CHAPTER 4
RIGHT TO INFORMATION AND RIGHT TO SERVICES AS TOOL FOR
GOOD GOVERNANCE

'Righteousness is the foundation of good governance and peace.'

– *Confucius*

The inalienable features in any democratic system is accountability, transparency, freedom of speech and expression, etc. The preamble to our Constitution itself states that 'democracy calls for informed citizenship and disclosure of information that is necessary for its function and to prevent corruption and to make governments and their instruments accountable to the governed. 'The prerequisite for democracy is good governance. Good governance. This governance includes certain aspects like transparency, accountability, the rule of law, and the participation of citizens. Indeed, there is a need for good governance and transparency in every democratic country, especially in India. Good governance is not coincidental. The national state must be specifically and intentionally take the initiative in enlightening the people. The participation of civil society, including a free press and an independent judiciary, are preconditions for good governance.¹⁴³ According to the World Bank

“Good governance entails sound public sectors management (efficiency, effectiveness, and economy), accountability, exchange and free flow of information (transparency) and a legal framework for development (Justice), respect for human rights and liberties.”

The transition from simple Governance to Good Governance is only possible when the country's people have the right and access to information and government involvement. So, good governance can be termed as a system under which their people are served by their representatives and not led by their representatives. People must be included in the democratic process in their democracy, freely and completely.¹⁴⁴ Over the past three decades, the waves of administrative reforms have produced intense political and

¹⁴³ T.H GREEN, LECTURES ON THE PRINCIPLES OF POLITICAL OBLIGATION 93-141, (Longmans 1921).

¹⁴⁴ See S.S. CHAUHAN AND MUNISH DULTA, CHALLENGES IN GOVERNANCE 180 (Anamika Publishers & Distributors 2010).

administrative debates and fundamental changes in directions and outcomes that captured much of the governance discourse. There have been several paradigm shifts, and new developments have arisen with new ideological statements and organizational structures as a result of those changes.¹⁴⁵

BASIC PRINCIPLES OF GOOD GOVERNANCE

Governance is usually defined as including government, civil society, and the private sector in administering a nation's affairs, meaning that obligation for handling a nation's affairs is not confined to government alone, but involves a broad range of stakeholders including government, local governments; the private sector; non-governmental and community-based organizations the media, professional associations and other members of civil society.¹⁴⁶ So each actor has a special role to play, depending on their credibility basis, so competitive advantage.

In any discussion on good governance, emphasis must be based on the government's primary obligations. This will include maintaining law and order, enforcing justice and welfare to politically and socially disadvantaged members of society in terms of providing them with a safety net. Once again, it is seen that these main obligations have been overlooked over the years of his desperation to do thousand and one other things.¹⁴⁷ It can honestly be said that the best is he who rules the least! Had this idea been followed in governance all these years, India would not have portrayed such an image of squalor, filth, analphabetic, and deprivation even 50 years after independence. The key question is how we are prepared to draw lessons for the future from our experience of the past.¹⁴⁸ In the beginning, it needs to be understood that the idea of good governance in the modern sense of the word is far broader than mere administrative reforms. This also covers much more land and substance than administrative reforms. Good governance has a great deal to do with the ethical basis of government, and it must be measured with respect to particular standards and objectives as may be set. Through the point of view of its known stakeholders and beneficiaries, and consumers, it looks at the functioning of the defined segment of the

¹⁴⁵ *Id*

¹⁴⁶ Swati Mehta. *Importance Of Disclosure And Transparency For Good Governance*, 41 Madras Law Journal, Vol 4 Issue 25 (2011).

¹⁴⁷ *Id*

¹⁴⁸ Anshu Jain, "Good Governance And Right To Information: A Perspective", 39 Journal Of Indian Law Institute, Vol 54 No 4 (2012) P 39.

society. For all social standards and ideals, it must have solid moorings. Good governance, as a term, extends to all sectors of society such as the government, the legislature, the judiciary, the media, the private sector, the public sector, cooperatives, businesses incorporated under the Societies Registration Act, properly registered trusts, organizations such as trade unions and, lastly, NGOs. Public integrity and openness are similarly important to both.

SALIENT FEATURES OF GOOD GOVERNANCE

The development of a country relies on the free flow of information within the government and to the citizenry.¹⁴⁹ The RTI is considered a fundamental human right and is a powerful tool in the hands of the general public who can use it to control the institutions that regulate it. 'Sunlight is the best disinfectant,' and an educated citizenry forms the bedrock of the new democratic world. Armed with facts, the people are able to engage in the process of making political decisions and formulating policies, thereby adhering to the true meaning of democracy.¹⁵⁰ It is important to remember that, in one of its early resolutions 59(1) of 1946, the United Nations General Assembly (UNGA) declared that "Freedom of information is considered as a fundamental human right and the benchmark of all the freedoms to which the UN is committed."

*"Open Government is the new democratic culture of an open society towards which every liberal democracy is moving, and our country should be no exception. In a country like India, which is committed to the socialistic pattern of society, right to know becomes a necessity for the poor, ignorant, and illiterate masses."*¹⁵¹

When we talk about good governance, transparency, accountability, people's participation, informed citizens, etc. are the basic and the first issues we think about, and these are the core principles about good governance. In order to achieve these objectives, the aims and intent of the RTI Act and RTS legislation itself is aid as a tool for good governance.¹⁵²

¹⁴⁹ "Transparency and Open Government: Memorandum for the Heads of Executive Departments and Agencies" 74 Fed. Reg.4685 (Jan. 21, 2009) USA

¹⁵⁰ See *Infra* n.154.

¹⁵¹ SP Gupta v. UOI, (AIR) 1982 SC (149)

¹⁵² See "Promoting and Practising Good Governance as a Means of Advancing Peace and Security: Drawing Lessons from Recent Events in the Middle East and North Africa", Inter Parliamentary Union, 125th Assembly and Related Meetings, 16-19 Nov.2011. Available at. www.ipu.org/conf/e/125/ICmt-dr-rpt2.doc (last visited on 07/02/2020)

The objectives which lead the way to good governance are:

Greater Transparency: The rights found in different parts of the RTI Act undoubtedly render the role of public authorities clearer. For example, the citizen has a right to: under section 2(j) of the act:

- Inspection of work, records, and documents
- Taking notes on extracts or copies of the records or documents
- Taking a certified sample of material, and
- Acquiring information in electronic form, if it is available

By virtue of sec 4(1)(d) of the Act, an administrative and quasi-judicial judgment of the public authority is expected of the persons concerned.

Under section 20(1) commission has the power to impose fines or recommend disciplinary action against the providers of information if it is found to be stone in the direction of the free flow of information. In other words, the framers of this Act plan to ensure that the free flow of information to the public does not take place in the bottleneck. People are also better informed about the success of the elected officials and the contribution they bring to a stable democracy and democratic project governance.

One of its most important features of the Act is that a person seeking information does not need to provide him/herself with any reasons and many irrelevant details that promote further RTI filing, thereby fostering increased transparency. Nevertheless, this feature also has its own drawback. A few people abuse this privilege, but it's far less than its benefit.

Greater Accountability; One of RTI's great characteristics is that it makes public bodies accountable to the general public, which strengthens participatory democracy. Every public authority is mandated to provide explanations for its administrative and quasi-judicial decisions to the persons affected under 4(1)(d) of the Act, and thus to a large extent, reduce the risk of arbitrariness.¹⁵³

The internationally recognized good governance metrics are over time are

- The rule of law

¹⁵³ See *Supra* note 146.

- Control of corruption
- Government effectiveness
- Voice and accountability
- Political stability and absence of violence
- Regulatory quality

Rule of Law: Good governance includes equal legal structures that are impartially implemented. A fair, consistent, and secure legal structure is necessary to allow businesses and individuals, without the threat of any arbitrary intervention or expropriation, to assess the economic opportunity. This calls for rules to be known beforehand, for them to be accurate and enforced faithfully and equally, for disputes to be resolved by an impartial judicial system, and for processes for the modification and abrogation of rules to be defined and made public.¹⁵⁴

Participation: Good governance involves the involvement of society in the creation of policies, rules, tactics, etc., because all of these policies impact society as a whole or tell a specific part of society, whatever the case may be, but people's involvement is very important in deciding the direction of policy, and if a certain segment of society has the secondary impact of a specific program or policy, consultation processes should be in place so that their opinions are taken into account. Governance that lacks these components inevitably transforms into maladministration. The road without such components being implemented results in misuse of authority, corruption, aloofness in administration.¹⁵⁵

RIGHT TO INFORMATION AND GOOD GOVERNANCE

The importance of every freedom depends on the degree to which people may enjoy it. The fact that our people have a right to be aware of the affairs of a government that they have elected aims at formulating such government policies aimed at their welfare is a constitutional democracy. This freedom has limits, however, like any other right. It is a settled claim that under Article 19(1)(a) of the Constitution of India guarantees the right to freedom of speech and expression protects the right to communicate and obtain information.¹⁵⁶ One of the main facets of good governance has been the right to

¹⁵⁴ See Shilpa, *RTI: A Tool to Strengthen Good Governance and Tackling Corruption*, 121 International Journal of Humanities and Social Science Invention, Volume 2 issue 2 117 (2011).

¹⁵⁵ See *Supra* note 148.

¹⁵⁶ *S.P. Gupta v. Union of India* AIR 1982 SC 149.

information. This definition has evolved over time, not only in the legal field but in its application. It has also reached new dimensions. The participation of people is necessary for any democratic form of government in attaining the ideas of good governance, and RTI act as a tool step towards this goal. RTI not only conveys transparency, accountability in governance but also acts as a deterrent against the arbitrary actions, policies, and decisions of public offices. Therefore, RTI absolutely supports governance and makes it easier.¹⁵⁷

In order to prepare the proposal for a reform of the public administration system, the Second Administrative Reform Commission was constituted. In its first report, the committee agreed to examine and propose freedom of information as a consequence of the implemented Right to Information Act, which is a paradigm shift administration.¹⁵⁸ The Act on the Right to Information is a law that opens a course from the anonymity of secrecy to accountability. This illuminates the mentality of public authorities, which, in exercising public authority, is clouded by suspicion and confidentiality; legislative or judicial authorities are a culture that should be nurtured, with privacy and confidential exceptions. The right to transparency is also an effective way to counter corruption. Good implementation, in helping to facilitate the activity of a more participatory society, would create an atmosphere for participatory democracy.¹⁵⁹

Dr. A.P.J. Abdul Kalam states that many countries of the world consider good governance as a significant objective. They have pursued unique open government programs and are actively working to make the individual the center of governance.¹⁶⁰ Good governance has essential characteristics, such as participation, the rule of law, transparency, responsiveness, fairness and inclusion, efficiency, accountability, strategic vision, and consensus. o This ensures that corruption is reduced, minority opinions are taken into account, and the decision-making and implementation for listening to the voices of the most disadvantaged in society. This also responds to the current and future needs of society and balance development and distribution, existing and potential usage of resources.¹⁶¹

¹⁵⁷ See *Supra* note 149.

¹⁵⁸ Second Administrative Reforms Commission (first report) Right to information master key to good governance, June 2006

¹⁵⁹ *Id*

¹⁶⁰ Goel S.L :Right to Information and Good Governance, 2007

¹⁶¹ *Supra* note 148

The right to information and good governance are complementary, and one's performance depends on the other. The idea of welfare, which has caused the number and variety of government programs to increase exponentially, is a part of our strategy. Under the official secret Act of 1923, the confidentiality of government and government agencies is a source of intimidation and abuse, thereby enshrining the whole cycle of creation into confidentiality. People who voted to form freely elected governments were not allowed to access information to the public. The journey in India towards open, transparent governance started in the early 1970s, and India's Supreme Court has played an important role through its judgments. By reading Article 19(1)(a) of the Constitution as inherently requiring freedom of information, the Supreme Court of India gave the status of a "fundamental right" to access information.¹⁶²

NEXUS BETWEEN RIGHT TO INFORMATION AND GOOD GOVERNANCE

The Right to information is a necessary ingredient and have an important role in achieving the following objectives

Transparency and openness

Renowned Indian jurist, Soli Sorabjee, stressing the need for the right to information, says that if we want to maintain accountability in administration and public life, "lack of openness was one of the key causes of all corruption, the right to information leaves open, accountable and integrity."¹⁶³

Transparency and transparency are the main mouthpieces of governance that are used freely not only in India but around the world by governments and foreign bodies. They have long been a part of India's discourse on constitutional change. The government's openness and responsibility are the sines qua zero of participatory democracy. The access to knowledge of the individual is the soul of transparency, which increases the consistency in which fairness of policy taken by the institutions involved. It is perceived to be the safest means of ensuring that such officials use the forces fruitfully.¹⁶⁴ Participation in political and economic systems and the opportunity to make educated decisions have historically been limited to the tiny elite in India. Consultation on critical

¹⁶² *Id.*

¹⁶³ National Documentation Centre on Mass Communication Research, Reference and Training Division (Ministry of Information and Broadcasting)

¹⁶⁴ MARK .G.YUDOF, WHEN GOVT SPEAKS: POLITICS, LAW, AND GOVT. EXPRESSION 24 (University of California Press, 1983)

policy issues was scarcely the norm, except though they specifically affect the public. On the contrary, knowledge is needed in every way of life in today's changed scenario. Without knowledge, people can not properly exercise their rights and obligations as citizens or make educated choices. Transparency, as it is commonly used in technology, engineering, industry, the humanities, and within a social context, means transparency, communication, and accountability.¹⁶⁵

It is a metaphorical continuation of being one clear entity that can be seen, though. Transparent processes include open hearings, annual disclosure records, fiscal review freedom of information laws, and audits. Transparency is seen in elections as a way of keeping accountable elected authorities and is hailed as a method of combating corruption. When a government's sessions are open to the press and the media, everyone can review its budgets and debate its rules and policies, it is seen as honest, and the authorities have little ability to manipulate the mechanism for their own ends.¹⁶⁶ There is no clarity as military officials identify their plans as classified. It can be seen as positive or bad; positive because it can improve national stability, bad because it can lead to violence and, in certain situations, a military dictatorship. While a liberal democracy can be a plutocracy, where choices are taken behind closed doors, and voters have fewer chances to control politics between elections, participatory democracy is more directly related to people's will.

In a parliamentary system, there are several ways in which information can be made available to members of the public. Members of the public should ask their elected officials for details. Annual monitoring requirements, commission reports, records dissemination, and administrative law provisions also improve the accessibility of official information to the citizen.¹⁶⁷ Current advancements in technology often help reduce the disparity between the 'knowledge-rich' and the 'knowledge poor'. The government, however, only publishes the material that fits it, until someone pressures it to provide a full image of the facts, on the basis that transparency will harm the actions of the government.¹⁶⁸

¹⁶⁵ See *Supra* note 146.

¹⁶⁶ See *Supra* note 148.

¹⁶⁷ Stephen Breyer, *Making Our Democracy Work: The Yale Lectures*, 199 Yale Law Journal, Vol 120 No 8 (2011)

¹⁶⁸ JEFFERY JOWELL AND DAWN OLIVER, *THE CHANGING CONSTITUTION* 436(3 ed., Oxford University Press, 1996)

People's Participation and Empowerment

Effective participation by the people is the soul of the representative process of government. Developing sentiment is a must in developing nations before legislation is enforced. In a democracy, engagement in political and economic systems and the capacity to make informed choices are critical. Enlisting community interest and engagement is deemed essential. In absolute language, we can never get anything like "full engagement." Yet engagement in various aspects of the decision-making process and the establishment of forums for meaningful dialogue and discussion should be part of the government's decision-making process. Participation comes from the cycle of allowing people space to express in a structured and rational way what they believe is the required bottom line of creation, freedom, or of some other matter. Finally, this material must be combined with underlying, competent means to shape governance instruments. Democratic systems have a wide variety of participatory structures, from daily elections to institutions that regulate residents. For example, they are created to use incentives, economy, schooling, health care, report on draft legislation or regulations, etc. for different purposes.

Successful involvement is based on very sure details. It is not feasible to grow a large and varied nation such as India unless participatory government management is made real. This involves getting open the right kind of information to the people hiding in the government's archives. People need to be interested at any point and to be educated. They like to know exactly how things are going. Meaningful participation of people in big issues impacting their lives is now a critical component of democratic governance, and such engagement can hardly be successful unless people have knowledge about how government performs their business. This can be achieved by making official information more available to the public.¹⁶⁹ People's Participation is no longer viewed as an occasional exercise of franchise rights. Democracy involves making educated decisions, getting the right to learn the government's actions and activities, resolving citizen concerns, finding answers to officials' ignorance. It needs efficient and responsible activities that are very vital to the more successful functioning of civil culture.¹⁷⁰

¹⁶⁹ HEARM GORDON, OUR PARLIAMENT 129 (Casell and Company 1999)

¹⁷⁰ Sebastian Paul, Let the veil be removed'16, Niyamasmeksha, Legal Literacy magazine, Niyamasmeksha trust, 2000, at p. 85.

To promote social justice, the Freedom of Information must raise the curtain of secrecy. Efforts by non-governmental organizations and advocates will only inspire the individual on the street by information technology if non-governmental organizations and other social advocacy groups, together with the fourth estate's investigative journalists, funded by socio-economic intelligence associations, file class cases, political suits, public interest lawsuits or social action lawsuits, only successful justice are possible for the vulnerable. Often in the process of litigation, the need for a critical paper is uncovered, and the parties will not be able to obtain these documents. Such knowledge, if it is permitted to stay beyond the court's or suitors 'control, would hinder their right to justice. Depriving public officials or corporate administrators with evidence may make social justice a target.¹⁷¹

A recent example of People's involvement can be seen in the campaign for the Lok pal Bill¹⁷² It seems the anger-volcano has finally exploded in Indians 'hearts. The nation's people have been drained by government institutions 'abuse of greed and callousness. Allegations of wrongdoing against most of the political figures and government indifference prompted the "aam admi" to support the anti-graft crusader Anna Hazare's campaign. With numerous controversies now facing the country,¹⁷³ the social activist Anna Hazare has vowed to take things in his hand and take on the corrupt "babus" by fasting against corruption to death. Hazare's decision to keep the indefinite fast came over his desire to bring in Parliament a new Lokpal bill to counter corruption that has hollowed the foundations of Indian political scenarios. Hazare claimed to launch his protest¹⁷⁴

“like Supreme Court (SC) and Election Commission, an independent body called Jan Lokpal should be set up at the Centre, and at/a Lokayukta should be set up in each state to receive complaints of corruption, investigate them within six months and prosecute the guilty.”

The Lokpal Bill is a law creating an autonomous authority to investigate crimes under the Prevention of Corruption Act, 1988 to identify wrongdoing by prompt investigation and prosecute offenders, and to ensure timely resolution of some forms of public

¹⁷¹ See *Supra* note 148.

¹⁷² . INDIA AGAINST CORRUPTION, www.indiaagainstcorruption.org

¹⁷³ 2G spectrum scam, CWG, Adarsh housing scam and so on

¹⁷⁴ Times of India, April 5, 2011

complaints, and to provide safeguards to whistleblowers.¹⁷⁵ The law would provide people with fast, equal justice. The Lokpal bill will not wait for the High Commission's approval to begin investigating the suspected violations and corruption allegations against government officials, judges, or even Chief Justice of India (CJI). In the system introduced, politicians would have no say in chairperson and member appointments of Lokpal. The harm incurred to the government by the accused will be restored.¹⁷⁶ The sentence now, if found guilty under the new scheme, would be five years to the full life term. The punishment right now is six months to a limit of 7 years. Lokpal Bills, though, have been presented many times in Parliament (1969, 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005 and 2008), which have not been implemented for apparent reasons.

Despite demands from several leaders, including Prime Minister Manmohan Singh, not to continue with his indefinite fast decision, Anna Hazare launched his agitation. The above 300 persons took part in a complete hunger strike within 24 hours to demonstrate their solidarity with Hazare, which is an outstanding example of involvement by the public. The campaign has annoyed numerous political groups who have had to face the brunt of the explosive politics of Hazare, which doesn't seem to spare anybody. In addition to 40 or more groups expressing strong support for the 36 cause¹⁷⁷, other celebrity campaigners have supported the movement as a result of all protests in March 2019, and ever since, the related Act of Parliament was passed in India. The institution of Lokpal has been a landmark move in the history of Indian polity. There is a long way to go to ensure transparency, and the crusade against corruption is still on and yet to reach its destination. Anyway, it will act as a tool towards good governance in the country.

Eradication of Corruption

Corruption poses a significant threat to growth. It threatens stability and good governance in the political domain by flouting established procedures and even subverting them. Corruption in elections and in legislative bodies decreases transparency and distorts participation in policy-making, corruption in the judiciary

¹⁷⁵ . Draft of Jan Lokpal Bill (Civil Society), Jantantrajantanttra.com/2011/08/23/draft-of-janlokal-bill-civil-society/23 Aug 2011

¹⁷⁶ *Id*

¹⁷⁷ *Corrupt India: Why is Anna Hazare fasting? What's Lokpal Bill?* (April 6, 2020, 15:48) www.oneindia.com

jeopardizes the rule of law, and corruption in public administration contributes to unequal delivery of services.¹⁷⁸ More broadly, corruption erodes government institutional capability as processes are disregarded, resources are snuffed out, and public offices are bought and sold. Around the same time, corruption threatens official authority and democratic ideals such as trust and tolerance.

The right to information is an effective tool to fight injustice, arbitrariness, and power misuse. RTI has played a crucial role in democratic governance and development.¹⁷⁹ The right to information is an integral resource for good governance. The history of the fight for the right to information suggests that it is the product of attempts made in the wage system at Devdungri Village in Rajasthan for transparency and the exposure of corruption. MKSS {Mazdoor Kissan Shakti Sansthan} launched this attempt to counter grass root-level corruption.¹⁸⁰ There are several occasions where the right to know is used in one way or another to expose corruption. Social activist Aruna Roy described India's RTI Act as "the country's most fundamental law since it can be used from a village without description to posh Delhi and from ration shop to 2 G scam".

Vodafone tax Scandal¹⁸¹ involves Rs 11,000 crore tax controversies. In the Railway promotion scandal, CBI booked Union Railway Minister Pawan Kumar Bansal's nephew for allegedly taking a bribe of Rs 90 lakh from a member of the Railway Board, and he is now arrested.¹⁸² In other big corruption cases in India, RTI is a tool in the hands of RTI activists to expose the corrupt. In January 2013, in India times, it was reported that the Information Right (RTI) Act is a very effective instrument for enhancing the government's functioning. Leena Menendale,¹⁸³ a former IAS officer, made this observation at an event titled 'Role of PIO and RTI practices in good governance.

¹⁷⁸ "Transparency and Open Government : Memorandum for the Heads of Executive Departments and Agencies" 74 Fed. Reg.4685 (Jan. 21, 2009) USA.

¹⁷⁹ Caesar Roy, *Right To Information And It's Significance To Ensure Good Governance In India*, 45 Nyaya Deep Vol 13 Issue 2 (2012)

¹⁸⁰ Ansari MM , *Importance of Right to Information on Development: A perspective on india's recent experiences* Paper Presented at the UNESCO Lecture, Paris, May 15, 2008.

¹⁸¹ *Revealed: Vodafone's new tax scandal*, The Sunday times,10 June 2012 ; Shrutu Srivastava,*Law ministry does U-turn, agrees to conciliation in Vodafone tax case*, Times of India ,Wed May 15 2013.

¹⁸² *Railway Minister Bansal's nephew arrested by CBI for accepting Rs 90-lakh bribe* Indian Express Saturday may, 04, 2013

¹⁸³ *RTI is a good tool to improve govt. functioning*, The Times of India Jan 20, 2013.

Eventually, filing an application for a Right to Information (RTI) could only be a phone call away. The Recruitment and Training Department has accepted offers to set up an 'RTI call centre and portal scheme.' When this initiative hits the light of day, people will be able to request an RTI from anywhere in the world by merely dialing a number, and an operator can do the required. The operator will then formulate the right query and then sign on to an RTI on behalf of the applicant. The caller will receive SMS notifications as to how their application progresses and a reply by email. Additionally, a person can file an RTI on a dedicated web site and get the response online.¹⁸⁴

The need for such a project emerged when the government discovered that many people did not know whether or not to write to the appropriate authority.¹⁸⁵ The legislation provides a major contribution to reducing corruption, enhancing the efficiency of public goods and services, motivating residents, and destroying public officials' knowledge privilege. We, as individuals, have the capacity and duty to bring about good governance through the use and distribution of the right to information.¹⁸⁶

Accountability

It means a person or organization's duty to account for its actions, to take responsibility for them, and to report the effects transparently. It also requires responsibility for assets or any properties assigned to it. Otherwise, transparency alone would mean a whole host of issues, that officials have to justify or apologize for their acts, that officials have to 'take responsibility' for their acts and hold elected leaders responsible and constituent's by-elections, etc. "Power corrupts, and absolute power corrupts absolutely, Power exists with those institutions that govern the communication network, and ultimately information gathering, processing, delivery, and storage. The Access to information seeks to relax certain institutions dominance complex. If intelligence is passed to common citizens from the political classes, they will lose control. The notion of democracy is well-defined that governance is for the good of the general population, not the few selected.¹⁸⁷ The democratic government follows a wider and more straightforward definition of accountability, which goes beyond the executive's historically well-established theory of responsibility against the legislature.

¹⁸⁴ See *Supra* n.148.

¹⁸⁵ *RTI to be Just a Phone Call Away*, May 15, 2012.

¹⁸⁶ *Id*

¹⁸⁷ See *Supra* n.178.

In a representative democracy, they are expected to represent, and the movement is for transparency to public institutions, efficiency quality, and service provision to the people. This transparency is only possible because the public has access to information on the operation of these agencies.¹⁸⁸ Transparency, combined with information, allows individuals to carry out social audits. The information would help people to expose officials and politicians to corruption and misdeeds. It will encourage honest administration, leading to good governance. The RTI Act is currently going through a critical process, and much more needs to be done to promote its growth and progress.¹⁸⁹

Limiting the discretionary powers given to Officials

Authorities may misuse their discretion to match various political or other purposes, as well as to misappropriate funds. In the absence of laws on the right to information, they continue to be shielded from disclosure. Though it is possible to request the intervention of the court to oblige the disclosure of this information, this is not feasible for poor citizens or peasants, given the expense and distance involved. Another concern is the lack of accountability in the appointment of public positions. The recruitment of incompetent government employees leads to administrative inefficiencies and ills.¹⁹⁰ Consequently, the right to information is critical for checking misuse of administrative power and maintaining a fair process. Thus, it paves a way towards good governance.

Protects the Civil Liberties

The right to information is important for defending citizens' rights and making it possible for civil society organizations to track offenses such as custodial deaths and violations of laws on preventive detention. Detention facilities remain two of the country's most inaccessible locations where violations of incarceration occur from deaths to detention, holding convicts of prison even after completing their terms, to harassment of inmates. Effective community oversight in these facilities relies on access to records. Some jurisdictions also recommend specifically granting prisoners the right to information.¹⁹¹

¹⁸⁸ *Adarsh Society: Army setting up court of inquiry*. The Hindu, 1 November 2010.

¹⁸⁹ See *Supra* n.180.

¹⁹⁰ See *Supra* n.176.

¹⁹¹ *Id*

Proper and Effective Implementation of Schemes of Government

In rural areas, the central and state government-run various schemes to provide food, shelter, jobs, and schooling. These policies are meant for the poorest of the poor in rural areas. There is a strong concern that such funds have been systematically misappropriated or misused on a broad scale. In most instances, people don't know about the nature of these programs, even if they know they don't get their entitlements under the system, opening the way for them to consider less than their allowance. In fact, documents are also corrupted, and no one in the government can view them by offering the public with accurate knowledge on these systems make the administration more accountable.¹⁹²

Ensure the Strengthening of Public Opinion

So, if the government guarantees the right to information, the citizen turns into medias such as newspapers, radio, television, etc. for day-to-day on government operations. The media establishes a link between the people and their government. Thus, the media must be able to access information. The freedom of the media to access does not grant the right to access. Media and people combined would make the government more responsible as a special privilege, but more as a part of the public's right to know.¹⁹³ The lack of the right to access official information of government is creating a lot of media issues. Objective coverage is impossible as key intelligence sources are withheld. In the absence of reliable facts, they have biased news, withhold, or misrepresent the evidence. By ensuring the right to information media and people together will make the government more accountable.

According to the present context, the right to information is an essential concomitant of the Democratic government.

“A popular Government without popular information or the means of obtaining it is but a prologue to a farce or a tragedy or perhaps both.”¹⁹⁴

The right of people to learn the facts, the true truth, about the country's government is also one of the foundations of a democratic republic. Much as judicial scrutiny has become a safeguard against unreasonable decision-making, the promise of

¹⁹² See *Supra* n.170.

¹⁹³ *Id*

¹⁹⁴ S.P.Gupta v. Union of India, (1981) Suppl, SCC 87

accountability and the public eye will inevitably force the decision-making body to report specific reasoning to guarantee that the decisions are just only rational to logical but still tend to be so. In any case, a society suffering from arbitrariness and corruption, openness and public scrutiny are the only ways to guarantee fair protection of the right to information, and as Louise Brandies put it, “sunlight is the greatest disinfectant and power is the best policeman.”¹⁹⁵

Good governance relies on constructive, attentive, and compassionate administration. This is a philosophy of value-laden, which stresses public benefit, health, public service, and the public good. The Government's goal to achieve good governance is to pursue transparency, conviction, compassion, and consistency in governance that are prerequisites for achieving the values and dream of good governance. Clarity encourages accountability, constructive, and participatory government. Conviction encourages efficient and accountable governance. Compassion supports the consensus-oriented, equitable, and inclusive government. Consistency endorses responsive governance, follows the rule of law, and modernizes itself according to societal needs and changes that uphold the constitution's guiding principles. The government must serve as a citizen, business, and civil society facilitator and remain a responsible regulator to ensure social justice and equal competition in society. The changes in the government's position should be well-identified and expressed so that people realize that they are involved in improvements.¹⁹⁶ Decentralization is a crucial aspect of the government in making it more competitive and sensitive. Through devolving regulatory and economic powers and duties, the Government shall improve the municipal government and administration. The Government must include people actively in running the resources that they use. The Government is committed to public communication with government agencies by incorporating Internet, Cloud, and groupware technology that can be used to establish regional online highways and networks at all points of interaction with the citizens and the government.

The RTI Act 2005 is an important instrument that can easily be used to help bring about more efficiency and openness in the operation of government. The RTI Act has

¹⁹⁵ See *Supra* N.178.

¹⁹⁶ D.P. Singh, *Right to Information Act, 2005 - A Result of Community Movement* 110 Nyayadeep 80 (2012).

guaranteed public access to the darkroom of government by putting a light in its side, by means of every citizen's right to obtain copies of records or jobs, there is, of course, the scope for change, but we will all strive to use the act as far as possible for the good of citizens.¹⁹⁷ Thus it can rightly be said that RTI as a whole is a positive development in a democratic set-up such as India. This is an effective instrument that can offer essential social benefits. It will provide strong support for democracy and foster democratic governance by enabling the capacity of people to vote actively and keep government leaders accountable rather than a mere source of information.

However, there are difficulties in the successful execution of the Act, but the same can be overcome by taking adequate steps and achieving the objective of good governance through RTI, i.e., openness, accountability, enhanced involvement, etc. Above all, it can be said that the effectiveness of the RTI Act (2005) can be made only through people's active involvement. Much would depend on the seriousness of Central and state governments and public authorities in fulfilling their obligations under the Act and in ensuring removal of difficulties in the operationalization of the Act. Finally, it can be said that the enactment of the RTI Act is true, a bold step, and will forgoing a long way in creating an enabling environment for the maturation of our constitutional mandate by empowering the citizenry.

RIGHT TO SERVICES AND GOOD GOVERNANCE

In the past two and a half decades, the definition of public service has undergone a paradigm shift. Governance has been the buzz word, instead of good government. By state-centric, it has been citizen-centric. Hence supplying its residents with a range of public services has been their fundamental mandate. Ensuring they have taken the form of its primary obligation within a stipulated period. Consequently, problems faced by governments have been more daunting than these in the past. In reality, the governments have to cope with demands from an educated citizenry for improved facilities, critical of quality levels in this digital age. In this regard, India is no exception.¹⁹⁸ The unprecedented initiative by 19 state legislatures to pass legislation pertaining to right-to-public-services has to be seen as a step in that direction. The goal is to include a

¹⁹⁷ *Id*

¹⁹⁸ See Prasad Baleswar, *Ethics and Public Service in India*, 79 *Indian Journal of Public Administration*, 74 (2013)

variety of forms of guaranteed operation. When more state legislatures are at various levels of enacting identical legislation, a thorough interpretation of specific characteristics is needed in both of these regulations¹⁹⁹. Such reforms have to be seen not only as a step in cleaning up the system to ensure seamless service delivery, but also as an attempt to reinforce confidence in participatory, people-centered, and inclusive democracy among all groups of citizens.

Legislation on the right to public services in India includes legislative laws that guarantee the delivery of various public services to people on time stipulated basis. They offer a procedure for prosecuting the erring civil servant if he/she is negligent in supplying the provided services within the specified period. The law on the right to service is, in essence, the dedication of these states to consistent, reliable, and timely service delivery by offering an efficient grievance redress system, reducing corruption among government officials, and increasing openness and accountability in government.²⁰⁰ To accomplish these daunting aims, declarations of people's entitlements to public services should be transparent, accurate, and enforceable. These will be in the form of Public Service Agreements, which define the minimum service delivery requirements that service users may expect. They also set out compensation mechanisms should service providers fail to meet the requirements agreed. The dissemination of information on RTS content is, therefore, necessary in order to raise awareness and build a sense of duty and transparency among all stakeholders.²⁰¹ The right to services very well play a role in developing the process of good governance. In this writeup, I am focusing on The Kerala State Right to Service Act for focusing the study on how far this act played a vital role in achieving the goal of good governance.

NEXUS BETWEEN RIGHT TO SERVICE AND GOOD GOVERNANCE

In the above sense, analysis of the reasoning behind the right to public service provision is imperative. It can be attributed, in the first place, to the awareness of the harsh reality of the prevalence of unnecessary delays that people were subjected to when receiving different types of services from the government because of the lethargy and lack of

¹⁹⁹ *Id*

²⁰⁰ Greene, Ian, Canada (2006). 'Commission of Inquiry into the Sponsorship Program & Advertising Activities, Restoring Accountability: Recommendations. Ottawa: Public Works and Government Service Canada'.

²⁰¹ *Supra* n.196.

dedication among service providers who viewed them as government doles rather than people entitlements. Secondly, it may be due to the pervasive apathy and indifference that existed among the workers because of the prevalence of colonial mentality in them that made them see themselves as rulers rather than servants of the state.²⁰² Third, the disease may be traced to the absence by the service providers of a straight cut and well-defined timetable for service delivery. Fourthly, the existence of several entities to play this task and the lack of a particular window for this reason naturally contributed to the creation in the above sense of a dismal circumstance.

Fifthly, in the cutting edge, too, widespread corruption has made the job of service seekers all the more dangerous and thus required corrective action. Sixthly, the institutional set-up required correction of the path too to ensure good governance and promote service delivery. Hence the development of a single control device was seen as the only option for this reason. Seventh, a strong consensus has arisen worldwide that the delivery of each service needs set timelines. Fixing responsibility on a single official in charge of the operation was then deemed necessary for this reason too. Through the use of information/communication systems, user interaction too had to be decreased.²⁰³ Eighthly, the implementation of the RTSD law was also made possible by the continuous call and encouragement of many campaigners and citizens' organizations, who saw it as a valuable instrument for reorienting the language of governance—from the language of privilege to the responsibility of the state and supporting citizens' claims to timely service delivery. In addition, all freedoms, including RTSD, have become synonymous with good governance, and in these words, political and bureaucratic attempts to strengthen administration are also described. Moreover, these motivate not only people but also politicians and senior officials to deal with the lower bureaucracy more efficiently. Such privileges, so to speak, are an administrative tool that lets the government exercise power over its officials. Moreover, when people see their rights abused, they will make a lawsuit against the government by alerting senior officials to the officials' errant actions during service delivery, which can then be referred to their task.²⁰⁴

²⁰² *Supra* note 87

²⁰³ Shalini Rajneesh, *Guarantee of Services to Citizens: A case study of Karnataka*, 80 *Indian Journal of Public Administration*, 72 (2013).

²⁰⁴ *Supra* note 175.

Therefore, the people had to be authorized as a matter of right to receive the services. The Right to Service Acts was part of a larger rights-based social policy strategy that has been emerging in India over the past decade and a half. In this sense, the Supreme Court has recognized the right to food, health, housing, and many other social and economic rights as aspects of the right to life under Article 21 of India's Constitution.²⁰⁵ What's most striking about these actions is the fact that all of these were introduced by state governments, countering the Union government's earlier trend as the center of progressive policies and best practices.

KERALA STATE RIGHT TO SERVICE ACT²⁰⁶

The Kerala State Right to Service Act, 2012, came into force on November 1st of 2012 as per G.O (P) No.55/2012/P&ARD. It provides free, time-bound redress of citizens' complaints, provides services to the public, and makes government servants responsible in the event of default. Through the enactment of the legislation, government officials are made responsible in terms of their roles, tasks, contributions, and responsibilities towards the nation. The Kerala State Right to Service Act, 2012, act as a tool to ensure the delivery of service to eligible persons within the prescribed time limits.

MAIN PROVISIONS OF KERALA STATE RIGHT TO SERVICE ACT

- The act covers 13 services of various departments of the Government of Kerala.
- The term 'Service' means any service to be given to the general public by or under any Department of Government, a local self-government agency or a State Public Sector Undertaking or a Statutory Body under any law for the time being in effect or in compliance with governmental orders provided from time to time. Its be notified under section 3 of the act
- Section 3 of the act *Power to notify services, stipulated time limit, designated officer, etc.*- Save as otherwise provided in any other law for the time being in force, every Department of the Government, every head of Department, every Local Self Government Institution and every statutory body shall within six months of the commencement of this Act, notify in the Gazette the services that will be rendered by each of them, the designated officers.

²⁰⁵ *Id.*

²⁰⁶ The Kerala State Right to Service Act, 2012

- The Act provides on the recommendations of the state government of Kerala may notify the services and time limit from time to time.
- Individual Designated Officer (DO) has been made accountable for the delivery of services in the prescribed time limit.
- It provides for the supply of a receipt for the acknowledgment of application by DO.
- It prescribes a two-tier Appellate Forum. The First and Second are departmental appellate authorities, both matters of requiring the production and examination of records, granting summons for hearing the appointed officer and the appellant, and any other matter that may be required, the two appealing authorities shall have the power of the civil court.
- From the date of the refusal of the application or the expiry of the notified time limit for appealing to the First Appellate Authority called First Grievance Redressal Authority (FGRA), a maximum of 30 days has been prescribed. The Appeal will be disposed of by the FGRA within 30 days.²⁰⁷
- An aggrieved party may appeal to the Second Appeal Authority, known as the Second Grievance Redressal Authority (FGRA), within 60 days of the date of the denial of the notified application or expiry of the notified time limit. The challenge needs to be disposed of by SGRA within 30 days. Unlike the RTI Act, it provides to review its decisions, directions, and orders.²⁰⁸
- It provides that in case a designated officer rejects the application, she/he is bound to give reasons for the same.²⁰⁹
- In the case of a violation of the terms of the bill, the appointed officer is liable to pay a fine not less than Rs. 500 and not more than Rs. 5000.²¹⁰
- Where any difficulty arises giving effect to the provisions of this Act, the Government may, by order published in the Gazette, as occasion may require, do anything which is considered necessary for them and not inconsistent with the provisions of this Act or the rules made thereunder, for the purpose of removing such difficulty.²¹¹

²⁰⁷ The Kerala State Right to Service Act, 2012 Section 6

²⁰⁸ The Kerala State Right to Service Act, 2012 Section 6(2)

²⁰⁹ The Kerala State Right to Service Act, 2012 Section 5

²¹⁰ The Kerala State Right to Service Act, 2012 Section 8

²¹¹ The Kerala State Right to Service Act, 2012 Section 12(1)

IMPACT ON RIGHT TO SERVICE LEGISLATION IMPLEMENTATION OF GOOD GOVERNANCE

Preparation and Implementation of the Citizens' Charter

Every public authority should be ordered, within a reasonable period, to plan and enforce the Citizens Charter. Not only should these records outline the public authority's responsibilities to residents, but they will also define the person responsible for this role within the specified time frame. After an in-depth review, the charters of Residents will be updated every year. The Lokpal may be empowered to make such changes in their Citizens Charter, as are stated in her / his order to all direct public authorities. Implementation of through RTS will accountability of government officials to the citizens, which pave the way towards good governance.

Wide Coverage

By virtue of Section 4 of The Kerala State Right to Service Act, Every eligible person shall have the right to obtain the services, and it covers around 13 services of various departments of the Government of Kerala. As it brings greater public participation, it improves the participatory government management is made more realistic. As it improves the participatory government, the features of good governance that are transparency and openness in government services can be hence achieved.

Compensation and Penal Provisions

The penal provisions in the act that is a violation of the terms of the bill, the appointed officer is liable to pay a fine not less than Rs. 500 and not more than Rs. 5000.²¹² It creates a fear factor for the employees who are designated for services. For not giving the service within the stipulated time limit, he may, along with the direction to provide the service, impose a penalty as provided in section 8.²¹³ That creates the merit of accountability among the employees towards the citizens very well. Compensation that to be deducted from the salaries of the concerned officer.

²¹² *Supra* note 178.

²¹³ The Kerala State Right to Service Act, 2012

This alone will make them deliver the specific service time and make them accountable for the delay or denial of that service.

Public Hearing of Grievances

It may also be a tremendous benefit to engage in other grievance redress and accountability mechanisms such as public hearings by top-level officials, grievance redress officers, auditors, and anti-corruption officials. Services are then successfully delivered. A blend of these parties will certainly represent a legitimate threat of enforcement as an important mechanism for strengthening compliance. This will also increase the accountability of government officials to the citizens, which pave the way towards good governance.

Reinforcing the Doctrines of 'Duty to Serve' and 'Responsibility to Care

Government officials need to be inspired to make sure their derogatory picture is turned into the identity of the pro-citizen. The non-performers will not be considered to be marginalized because the task of faithfully representing the public has to be the most important virtue for the civil servants. They will have something inculcated in them. For this reason, the concept of the obligation to serve and the responsibility to care must also be applied themselves by the officials. So once again, I can't go without saying that the process of service delivery is at the very heart of governance.

Proactive Role of Civil Society

The society also plays a well-versed role in the achievement of good governance in the society. The development of civil society from the primitive way of societal interest also plays a significant character. The civil society also encourages them to take a closer look at their contents. They should also be given incentives for acting as watchdogs in this context. As the watchdogs, they have the right to bring upon the injustices against them, for that the RTS legislations will become an efficient tool. These laws enable citizens to demand public services as a right.

Need for Sustainability

The formulation of a statute is not enough to guarantee its implementation in both letter and spirit. There is a need for the sustainability for monitoring and automated

checks and balances of implementation of the statute. The administrative heads are bound to supervise the implementation on a day-to-day basis. No system can be made sustainable exclusively by external powers. Employees' internal motivation to boost their brand identity in the eyes of the public must be constantly improved by training, conferences, lectures, etc. by engaging both officials, people, and media in this involvement of citizens in training programs, etc. will improve the public participation to a huge extent.

CRITICAL ANALYSIS ON RIGHT TO SERVICE LEGISLATIONS

Of course, while going through, I came to understand that the service delivery cycle is at the very heart of governance. Worldwide experience has demonstrated that an enabling environment, supportive political leadership, and civil service are prerequisites for reaching the optimal level of delivery of public service. In this sense, the RTSD Actions are an excellent move by the state government to curb corruption in the provision of public services. Such laws require people to seek public services as a privilege and also provide a provision for civil action against authorities who refuse to deliver the services within the specified period. The aim is to create competition for utilities and to provide a forum for people to address their grievances.²¹⁴

However, the RTSD Activities are curiously quiet on the issue of corruption. Perhaps notably, these regulations have not made it necessary for all service providers to fall under their remit. This contributed to such a large difference in the number of informed providers amongst state governments. Another field of concern is the first and second attractions scheme. In nearly all legislations, the first challenge rests with a district-level judge and the second challenge with a state-level judge, which restricts disadvantaged people's right to contact first and second Appeal Authorities. Notwithstanding all these drawbacks, it is important to notice that the State administration is very passionate about moving its adoption. It is demonstrated by the fact that all these state governments take aggressive measures to digitize portions of the whole service delivery network related to these systems.

²¹⁴ *Supra* note 110

In fact, the simple structure of internal monitoring and accountability was integrated into it.²¹⁵

Although the effort to pass the Right to Services laws is commendable, it needs to accompany legislation that adds real teeth to the statute. Deficiencies in networks and e-governance need to be tackled for this. Adequate staff will need to be hired, and a machine literate workforce will need to be developed. Data and information infrastructure is essential to providing programs in a timely manner and is also important to streamline e-governance processes through government departments. The lack of uniform automated workflow would be a stumbling block in adopting the new regulations. The use of technology in executing the system should work to ensure that manual paperwork is kept to a minimum, that applicants are given immediate receipts for their applications a compiled report, and that regular records are preserved, that approved public officials have easy access to the applications submitted and that the data fed is reviewed at various rates.²¹⁶ Language and alphabetism obstacles must also be solved, attributable to human contact at the time of application request. No question, the scope of the RTSD Acts has an enormous capacity for an extension to include a greater number of people.

The legal structure for citizens 'right to be given time-bound services is now well defined. Still, making any inferences about its successful execution would be premature. Wherever good effects are shown, most of them were attributed to sincere human actions. However, large-scale beneficial outcomes for people have yet to achieve the desired point, particularly for the poorer parts.²¹⁷

The full scope of the RTSD law has yet to be completely understood in terms of successful service provision and meaningful changes. There is a need to goad the bureaucracy to strengthen reward, monitoring, and resourcing systems. Legislators and administrators must always be inspired to understand how policy formulation impacts the implementation of public service. More changes targeted at the organizations providing public services and those keeping them in place are also the need for the hour. In addition, consolidation and re-engineering of public sector

²¹⁵ *Id.*

²¹⁶ Ashok Kumar Sircar, *The Right to Public Services Laws*, EPW (May 15, 2020, 10:00 PM) <http://www.epw.in/author/ashok-kumar-sircar>

²¹⁷ *Supra* note 214.

organizations are required to ensure that the institutional structure will respond to developments and new demands.²¹⁸ In reaction to increasing public and customer demands, the public sector of the future will be able to recognize and develop the individuals, processes, and frameworks that can deliver outstanding public service.

The law itself is never successful at achieving the desired outcomes. Time-bound programs to residents can not be provided in the present sense simply by legislating delay fines. Although the penalty clause will allow frontline workers to offer higher priority to timebound service, real delivery on time can only occur where the law is followed by accompanying governance changes that create processes and capacity to execute on a daily basis on a timely basis. Capability requires numerous initiatives such as simplification and standardization of implementation systems, the use of e-governance technologies, effective and productive network funding, capacity development, and front-line employee attitudinal change.²¹⁹ If adequate attention is not paid to these enabling interventions, the energies of government employees will be directed towards planning on "how to escape consequences of delay when a citizen complains" instead of "how to ensure timely service so that citizens don't have to complain."

Administration changes are a smooth process. Public administration provides a lasting role for improving the civil sector. If these are not to be simply a paper exercise, the follow- of improvements is of enormous importance in the reform scheme. While going through the right to service legislation, most of them were enacted during mid to end 2011. Whether the implementation. Does this have to do with growing public disgust over systemic corruption, lack of governance, and decreased confidence in the bureaucracy, particularly at the lower level? Interestingly, with the exception of Karnataka, all the laws were enforced in the heartland of Hindi, where the absence of government in many facets of social and economic indicators is evident.²²⁰ In this scenario, I felt that Kerala is one notable exception. It has been providing many services to local governments (lgs) for over a decade and a half now, and almost in parallel, through the Kudumbashree

²¹⁸ *Supra* note 203.

²¹⁹ *Id*

²²⁰ *Supra* note 216

initiative, has established a fruitful partnership between them and womens community- organizations. And now it's just recommending 13 programs to be put under this Act. Another noteworthy argument about Kerala is that all the services given to lgs are intended to raise human, social, and financial capital.²²¹

CONCLUSION

Transparency refers to the accessibility of information to the general public, and transparency regarding the workings of government agencies, in the sense of governance. The right to information opens official documents to public inspection, thus providing people with a critical resource for educating themselves of what official is doing and how effective it is, thus making the latter more accountable. The right to information celebrated as an indispensable prerequisite of good governance has provided extra accountability for the governments, and their institutions entrusted the duty of enforcing the Right To Information Act 2005.

The focus of the Millennium Development Goals of the United Nations is on sharpening state roles in the provision of services. A steady paradigm change in recent years has increased the consistency of the distribution and implementation systems for the public sector as a touchstone of governance. Contrary to its conventional position as a governing and regulating body, Jn distinctly moves toward the citizen-centeredness of governance. This centrality is the prime mover of changes in government and governance around the world. The declaration and adoption of a Citizen Charter or Client Charter was a reference to a more developed approach focused on citizenship. Recognition of the interests and entitlements of people is the main tangible factor of the ongoing effort to enhance the standard of governance by upholding the right of residents, inter alia, to express their preference, the right to be informed, to be consulted, and to receive information on public services and fair or reasonable access to these services. A significant milestone in India is the acknowledgment of the right of people to public services by legislation: promotion of governance reforms and efficient use of public resources.

²²¹ *Supra* note 203.

Thus, this write-up on the topic of the Right to information and Right to services as a tool for good governance discusses the impact of this legislation and how it can be achieved as a typical form of good governance. This write-up in case of the Right to information takes a summary of the series of events that have led to the final implementation of the welcome legislation. It zeroes on the fields that need further resources and reflects on the operational issue before enforcing it. In the case of the Right to services, this write-up focuses on the paradigm shift in state policy and addresses the changing role of the executive, bureaucracy, and other actors in the provision of delivery of service scenario.

Chapter 5

CONCLUSION AND SUGGESTIONS

“In the end, we come up with a conclusion that we need to start from somewhere.”

- Deyth Banger

The research analysis has been taken into consideration with this viewpoint in mind that both the right to information and the Right to services can offer considerable social benefits; it can provide a considerable underpinning of society, enhancing the capacity of citizens to vote actively and keep policymakers to account. The participation of citizens is important in decision-making for rational and sound growth. A right to access to information and right for the delivery of public services will also serve to create a more equilibrated participatory area of play. Unequal access to information allows politicians to implement initiatives that are of more concern to them than to the people. Improvements in information and the distribution code will reduce the potential for these abuses.

The legislation concerning public services in India lays out the path from the "Pleasure Doctrine." Consequently, department heads exercised discretion in hiring and dismissing department employees' contracts in services. Upon being removed from their facilities, the staff was given a chance to be heard. This has contributed to the governments involved changing the laws on service. While the other authorities have adequate legislative oversight, they cannot be put under the authority of service laws. The recognition of the citizens' right to public services through legislation is an important landmark in India's pursuit of governance reforms and optimum utilization of public resources. These laws have to be seen not only as a step towards cleaning up the system to ensure seamless service delivery, but also as an attempt to reinforce confidence in participatory, people-centered, and inclusive democracy among all groups of citizens.

Democracy is about transparency and good government. Mahatma Gandhi wanted Suraj along with swaraj, i.e., good governance with self-governance and only people's participation, policy responsibility, and openness in decision-making, and their processes can be assumed in good governance. The research project was based on the premise that the citizens' right to knowledge is essential to allow them to exercise their democratic citizenship obligations; the most significant ones are their involvement in

governance by sharing their opinions and understanding the facts of policy decisions. Informed citizenship thereby promotes transparency in governance and helps it to eradicate corruption and keep governments and their resources accountable to the governed.

The principal objectives and scope of the study were to clarify the concept of Right to Information and Right to Services and how can it be used to achieve good governance, know the history and evolution of the RTI and RTS movement, to know the status of implementation of both Right to Information and Right to Services works for the achieving the goals of transparency, accountability, participation, and the rule of law. All of these aspects were discussed in the chapters before, which led to the completion of the study. The research emphasis was on enforcing the Acts, which enhances the standard of governance to function for the good of the society rather than the individual. Since introducing the provisions of the RTI and RTS Act, it was examined how improvements in officials' actions have arisen and how forms of administration have evolved.

FINDINGS AND SUGGESTIONS

CHALLENGES IN RTI WAY OF GOOD GOVERNANCE

The following challenges have been identified on the basis of diligent perusal of RTI legislation and scrutiny of RTI's work:

- Level of Awareness is very low: Through section 26, the Act itself states that the proper government may create and coordinate educational programs to promote public awareness, particularly the vulnerable population, of how to exercise the right contemplated under the Act. Nevertheless, only 20 percent of the respondents were aware of the RTI Act, according to the surveys. Sources of this awareness were:

- (1) Mass media channels like television channels, newspapers, etc
- (2) Word of mouth

This level of understanding among marginalized groups such as women, the rural population, and backward classes such as SCs, STs, and OBCs is even lower.

- Inconvenient submission channels for RTI application: In compliance with Section 6(1) of the Act, a person can send a request 'in writing or by electronic means in English or Hindi or in the official language of the region in which the request is made. Nonetheless, inadequate attempts have been made to submit RTI applications by online means, i.e., on the email/website, etc., which may be accomplished by the relevant government using Section 26(3c).
- Protection of Whistleblowers: That is one of RTI's most disturbing problems. The latest statistics and polls clearly demonstrate the rising number of RTI activists being attacked and murdered worldwide. The whole object of the Act would be of no benefit until such acts are stopped, and stringent sanctions are not enforced on the wrongdoers.
- Lack of Uniformity: RTI act is applied unevenly. It's not being applied fairly for both nations. Hence the extent of consciousness often varies from one state to another. In states like Arunachal Pradesh, Uttarakhand, and Punjab, the level of awareness about the RTI act is high, while people's awareness in Gujrat, Madhya Pradesh, Jharkhand, and UP is not high. But different laws on payments and expenses, in particular, make RTI filing ineffective for various states.
- Favoritism: It is commonly noted that former administrators are appointed to the highest-level post of RTI officers, i.e., the central and state government information commission. Such commissions are government exempt. Activists believe these officials also express sympathy for their fellow persons.

CHALLENGES IN RTS WAY OF GOOD GOVERNANCE

The following challenges have been identified on the basis of diligent perusal of RTS legislation and scrutiny of RTS's work:

- The level of Awareness is very low: Lack of awareness and information of these persists due to insufficient ads. Most service users, especially in Kerala, seem to be unaware of either RTS legislation or any notice of any service with time limits for delivery.
- Lack of training to officials: Operational and supervisory workers tend to lack the resources they require because they have not earned the training they need. Save for a few such as ATI Mysore and YASHADA, Pune, most

state administrative training institutes have not yet shown any particular interest in conducting any RTS-focused training program.

- Lack of infrastructure and staff: The operations of the RTSD system were also negatively impacted by the shortage of resources and personnel. A lot of vacancies are open, and the governments of the state are not very keen to fill these jobs. Departmental resource gaps are still a matter of concern.
- The hierarchical gap between the Officers: The hierarchical divide between the Officers and the Operating Staff culminated in a complete loss of team spirit. Differences between officers and staff mindsets have resulted in insensitivity on their part. They remain ignorant because no effort has been made to sensitize them so far. Owing to a lack of incentive and commitment, workers are still not qualified to bear the burden.
- Training on good governance: Training will be compulsory for all workers on good government and, in particular, citizen-oriented services.

RECOMMENDATIONS FOR PROPER IMPLEMENTATION OF RTI ACT

- Since, as mentioned above, lack of awareness is the biggest obstacle to enforcing the Act, so the Act's "publicity" is quite essential. Adequate government funding must be distributed to implement the RTI Act, and such funds can also be invested by CIC.
- NGOs and civil society organizations should take steps apart from the government to undertake awareness drives to teach rural people about the Act. Preferably, such programs will be aimed at disadvantaged communities such as women, fishermen, middle-class and working-class people; the explanation for the same is that these classes of people are the communities most impacted by the abuse of public authorities who suffer.
- With the Right to Information (RTI) Act, which completes a decade and a half after its enactment in 2005, it is high time that our judicial fraternity revisited its previously adopted conservative approach to presenting itself before this revolutionary piece after legislation aimed at ensuring openness and accountability in the workings of each body, so as to give a direct and powerful signal to all those who oppose it.

- It is also vital to incorporate the RTI Act in the school syllabus so that children who are considered the country's future leaders can get a quick understanding of the Act and can be inspired to know more in the future.
- Public officers such as district collectors and deputy commissioners who are responsible for district-level administration must be granted responsibility for overseeing and administering the Act by different departmental agencies within their respective districts.
- It's clear from the past few years that whistleblowers' lives in this country are not secure. The number of attacks is increasingly rising, and several even results in the death of these activists. It is the government's moral duty to defend RTI activists and consumers and take legal action against attackers; prosecution of those criminals needs to be increased
- Officials of public bodies must be qualified to be made aware of their duties and obligations under the RTI Act.
- Political control on public authorities can impede the effective functioning of such institutions, such that they must preserve credibility by disregarding the interests at hand.
- Lastly, the democratization of information and expert services is vital to the empowerment of individuals to understand the entitlements as well as to expand incentives to improve the possibilities for enhancing the quality of life. Consequently, improving the knowledge system is a sine qua non for the advancement of democratic government and the right to growth.

RECOMMENDATIONS FOR PROPER IMPLEMENTATION OF RTS ACT

- Establishment of Service Commission: There is no provision for the establishment of a state-level services commission in our state. The establishment of the same will act as a third appellate authority to address the grievances.
- Awareness and consultation: Since many of the planned recipients remain ignorant of the nature of the RTSD laws, the RTSD Act will be widely publicized in both rural and urban areas. The service standards should also be seen prominently at the entrance of the department concerned in English and

Malayalam. This will be printed and made available at the door so that any person who goes to the Department can have free access to them.

- **Training and Capacity Building:** To encourage various departments to carry out services across their implementation area, State Training Academies such as HTPA and other Departmental Training Institutes should develop a comprehensive training plan to ensure that at least DOs obtain adequate training not only on the requirements of the Act but also on the ethical aspect of service provision.
- **Using ICT in Services Delivery:** E-governance will become a central element in the assessment and improvement of the efficacy of the regulations on public facilities. It would help provide government programs everywhere and, at any moment, at the residents' doorstep. It would be popular the hassle of residents' lengthy journeys to District Headquarters. Not only can it reduce costs, but it can also save time, boost performance, increase comfort levels, and increase citizens' trust. Therefore, the developments in information technology should be taken to the fullest benefit.
- **Minimum Documentation:** The size and quality of the form to be filled out for each service should be minimal, and the language should be clear. When the relevant details such as proof of residency, certificate of birth, etc. have already been sent, it will not be requested once again. For example, The Personnel, Public Grievances & Pensions Ministry has given directions in its circular No. Dt K-11022/67/2012-R On 10 May 2013, both Central Governments and State Governments demanded that they follow the requirement of self-certification of documents such as marks-sheets, birth certificates rather than demanding copies of the documents approved by a Gazetted Officer or requiring the filing of affidavits. In the process of self-attestation, the initial records will only be generated at the final level.
- **Mission-Mode Projects:** To ensure that the Act is applied effectively, task style programs are developed to support the Department of Administrative Reforms, as they were in Karnataka. This is led by a senior IAS officer in Karnataka, who serves as an Ex-Officio Mission Director assisted by another All India Service officer such as the Addl. Manager of the mission. She/he is helped by another

State Service All India Police officer. Moreover, the private sector also employs a Marketing Consultant and an IT Consultant.

- Use of Call Centre: A 'Call Center' may be set up to provide support to anyone who may not be able to access either the SMS mode or the Website. A single call from the affected person offering a certain number of requests is adequate to begin the rolling of the appeal process; the call center should act as a forum for gathering grievances, supplying information, and acting as an input platform for knowing our citizens' pulse. These will even resort to grievances being answered online. The grievances can be addressed by the contact Nodal Officer of each department by e-mail in real-time, and they should be closed after confirming delivery from the complaining person
- Roping in the Employees' Associations: Employee associations in the states usually remain on the road to conflict with governments to address their claims. But they can be persuaded of the need to boost the government's brand value, as was achieved in Karnataka. Workflow maps may also be created to measure the time taken by each government officer to provide the service and to ensure that the administrative structure is designed to perform well in advance of the specified date. That sort of bottom-up strategy may help build a feeling of ownership at the level of cutting age. This should be made binding on any government functionary. Associations and cutting-edge workers should be encouraged to understand that they are the first residents and then employees.

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APPENDIX

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