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RTI for Value Based Governance and Administration in India

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Abstract:

India's democratic experience has clearly established that good governance and administration are the need of the hour. India is witnessing the need for an accountable and transparent functioning of the government. An important pre requisite of good governance and administration is the access to information. Free flow of information encourages public participation. The Right to Information (RTI) act creates an environment conducive for the citizens to have access to information. The paper calls for synergy of efforts between government, the market and the civil society and proposes a framework for governance. This paper makes an effort to identify its essential features and shortcomings in its working and emphasizes the need for a systematic approach to attain value based governance and administration in India

Keywords: RTI, governance, administration, public participation

1. Introduction

India, a country rich in culture and tradition has emerged as a global power in its sixty years of independence. There is a growing need for value based governance and administration, the pillars to strengthen its democracy.

Governance is a cultural phenomenon. Culture comprises shared values of people living in a country or a region and these values govern the behaviour of people in formal and informal institutions in a society.

Modern India opted for democracy as a ruling pattern. The constitution of India is the world's largest written constitution which has declared India to be a sovereign, socialist and secular democratic republic. It has given right of equality to all. It is based upon the theory of no discrimination on the basis of caste, religion, language, race, gender, color etc. It defines a ruling pattern, a governance that safe-guards the interest of the weakest. India's democracy is at the centre of governance architecture. It creates opportunities, sustains leadership and generates hope.

For the last sixty years, our ideological frame of reference was determined by public choice. A bold decision was taken to introduce one person one vote system in the country. The adult suffrage has paid rich dividends and the subsequent devolution of power to grassroots levels has helped consolidate the gains. Election after election, the common people have begun to assert their voice, to ensure a change in government in the states and also at the Centre. This with the support of the civil society groups, the media and an active judiciary has ushered in demands for accountability of the executive. It is in this environment that Right to information is a milestone in the quest of an informed and prosperous society.

2. Review of Literature

2.1. Governance

The concept of governance is believed to have developed from Kautilya's Arthashastra written in the 4th century B.C. The essence of the Arthashastra is based on the traditional Indian thought where religion and culture play an important role in social cohesion. The religious attitude of tolerance, peace and cultural values of pluralism are conducive to good governance.

Governance was understood as synonymous to Government. However in recent years, the term Governance has acquired a new meaning. Governance now refers to new processes, methods or ways of governing society (Jolly, 2002; Stoker, 1998; Rhodes, 1996).

Governance is a concept which relates to the performance of a nation state with regard to its interaction with society through its institutions (i.e government , bureaucracy and judiciary) and public servants. Governance is used as a policy and administrative framework for conducting public affairs (Ray 1999, Campos and Nugent, 1999; Stoker, 1998) depending upon the cultural contexts for different countries.

What is 'good' governance in the Indian context? The central challenge before good governance relates to social development. The concept of good governance is undoubtedly linked with the citizens' right of life, liberty and pursuit of happiness. This could be secured in a democracy only through the rule of law.

The rule of law is expressed through the axiom that no one is above the law, not even the Government. This is secured through formal and procedural justice which makes independent judiciary a very vital instrument of governance. It is widely appreciated that human

factors i.e. the quality of political leadership, the executive and judiciary play important roles not only in upholding supremacy of rule of law and in efficient delivery of service but also in shaping traditions, customs and institutional cultures that are integral part of the liberal democratic machinery.

2.1.1. Delivery of Services

Governance to a large extent is to do with the aspect of effective implementation or the delivery of services. The principal feature of the scheme of effective delivery of services needs to be seen in the context of the fact that demands have to flow from the bottom up and not the top down.

The three institutions which have played remarkable roles in improving public service delivery in India are: (i) the media; (ii) the civil society; and (iii) the judiciary. The media, both electronic and print, have emerged as a source of pressure for change. It has brought to the fore aspirations of the common people, which have exerted enormous pressure on public officials to deliver goods.

Involvement of civil society in governance has become crucial. The emergence of a large number of non-governmental organizations in different fields ranging from environment to culture and to education bring forward the concerns of the public and are essential pillars of inclusive growth.

The independent character of the judiciary has allowed it to intervene in diverse matters to improve delivery of services, ranging from grant of pensions to supply of food grains.

2.1.2. Administrative Responses

It is being widely acknowledged that good governance is dependent not merely upon good policy but more importantly on the processes and incentives to design and implement these policies. Stable governments with mechanisms to navigate the system for timely and quality delivery of services are the key to good administration.

Capacity building at all levels is an important approach to achieve quality of services and customer satisfaction. An able leadership through professionalism of the bureaucracy remains to be the integral requirement for capacity building.

Access to information, participation, innovation and accountability are needed to build an environment for capacity building. It is in this context that laws like Right to Information (RTI) and the service delivery act prove to be a boon for citizens.

2.2. The Access to Right to Information

Freedom of information is a fundamental human right and the touchstone of all freedoms to which the United Nations is consecrated (UN General Assembly 1946). Article 19 of the Universal Declaration of Human Rights states "Everyone has the right to freedom of opinion and expression : this right includes freedom to hold opinions without interference and to seek, receive and impart information of ideas through any media and regardless of frontiers".

Information is the key component of any democracy. Enshrined in the Article 19(1) (A) of the Indian constitution is the Right to information which is an integral part of the freedom of speech and expression.

Information is required by every individual or section of society, be it, industrial, service sector or a farm, for effectively functioning in the knowledge and technology driven economy. The act becomes more crucial for the vulnerable sections of our society as they battle social and economic norms.

Several International Human Rights Treaties like the ICCPR (1999) established that the basic right of every person to freedom of opinion and expression included the right to seek, impart and receive information and ideas.

The Inter- American court of Human rights has recognized that the states are obliged to guarantee the right of access to information as a fundamental right. The court also emphasizes the significance in enabling citizens to be informed and to exercise their public opinion.

2.2.1. Relevance of the Right to Information

Sen (1999) has said that the country with a free press and open government will never face a famine. The relationship between Information and power is profound. It helps people make a choice about their Government, to participate meaningfully in the decision making process, to hold the governments accountable, to curb corruption, reduce poverty and to live in a genuine democracy.

2.2.2. Democracy and Participation

A pre requisite of democracy is to do with well-informed citizens who engage in public affairs and involve in public policies and are best suited to shape and advocate reforms. Information creates a platform for debate based on facts and truths about government performance, current priorities and future challenges (OECD France, 2003).

At the core of a democracy is an environment conducive for people to participate in and to influence the government through openly expressed public opinion. Without access to information, there can be no discussion on the range of available options, no voting in accordance with one's best interests and beliefs, no meaningful public policy decisions and no informed political debate (Calland, 2002).

2.2.3. Accountability

Access to information enables citizens to hold their government accountable. The monitoring of government performance is through access to information on annual reports or policy and legislative reviews. As the government demonstrates its accountability, trust in the government grows, creating a healthy relationship between the government and its citizens.

2.2.4. Anti-Corruption and Economic Effects

When the Government lacks transparency due to lack of information, people live in a society that becomes secretive leading to rumor, conspiracy and corruption. Corruption damages economic activity which discourages economic investments both foreign and local and deters foreign aid (Calland, 2002).

According to the World Bank, corruption halts the ability of the poor to fight against poverty. As Camerer (2002) observed, corruption takes its toll on the poor and bites into the moral fibre of the society.

2.2.5. Empowerment and Development

Empowerment is increasingly seen as a process wherein those without power gain greater control over material assets, intellectual resources and ideology. It involves power to, power with and power within (Rowland, 1988). Empowerment can also be regarded as a process of awareness which leads to capacity building and greater participation, making power and control, leading to transformative action. It is in this context that RTI can play a major role.

Development awareness addresses the question of people's awareness of development programs in general and for specific developmental activities (Narula, 1994). Rogers and other development theorists critiqued the dominant paradigm of development: people demanded alternative paths of development when the benefits of economic growth did not reach them (Rogers, 1971). People were aware of economic benefits of development but the discontent due to deprivation activated them to participate in defining their own problems of development and to demand alternative strategies to make programmes of development need-based and effective.

Narula and Dhawan (1982) argue that people express their felt and perceived needs among themselves as well as to the development functionaries when they are participative in the development. They demand need based programmes. People will be self reliant in development when they are able to define their own problems, demand cooperation from development functionaries by cooperating with them, and rely on local resources for development.

2.2.6. RTI and Governance

In the Commission on Human rights in its resolution 2000/64, good governance is linked to creating an atmosphere that would prompt growth and human development. The environment conducive for good governance has been stressed on directly or indirectly by the international community in a number of declarations and other global conference documents.

According to the Council of Europe (2008), the key feature of good governance is transparency. This is also an indicator of genuine democracy and acts as a measure to control corruption. This would encourage participation of citizens in matters of public interest.

2.2.7. RTI and Transparency

Fenster (2006) notes that transparency enables stronger, more peaceful international relations by allowing for more accurate verifications of nations' compliance with international agreements and standards and greater access to foreign investment for national markets through credible government oversight. Efficient regulation of market activity and global environmental agreements are more effectively enforced through accessible information.

2.2.8. RTI and Human Rights

Florini (2007) notes, human rights and democracy are two aspects that are intertwined with the freedom of information. As democracy thrives with informed citizenry, human rights violations can be constrained with the openness that the Right to Information brings.

According to Osterdahl (1994), Freedom of Information is to be exercised with no boundaries. Freedom of Information is related to the rule of law. Citizens need to understand their rights and know how to secure them. It is not enough that individual rights exist; it is to be made use of by the people.

In the words of Sen (1999), individual freedom is to be seen as a social commitment where the state plays an active role in promoting the freedom of the people, the primary reason being to value and understand its feasibility and for a person's ability to be or do something.

3. Proposed Framework

As per the framework proposed by Nath (2000), Governance is the way the society functions and is applicable at all levels from local governance to national and international governance. Information architecture therefore becomes one of the key building blocks to creation of governance regimes. Attributes such as access to information and dispersion of information in the society are critical to shaping of governance structures. They define the basic nature of governance mechanisms, the people who control them, and the openness and objectivity of the governance processes.

According to him, the conventional governance and information relationship remains within a confined group that creates hierarchical structures within the society. Power then gets unequally distributed along these hierarchical structures.

Explaining the inherent link between information and governance, Nath (2000) explains that Public opinion and informed decisions arise due to access to information. Judicious and well-informed decision-making is dependent on the quality and timeliness of information. The flow of information opens up avenues for propagating information equality.

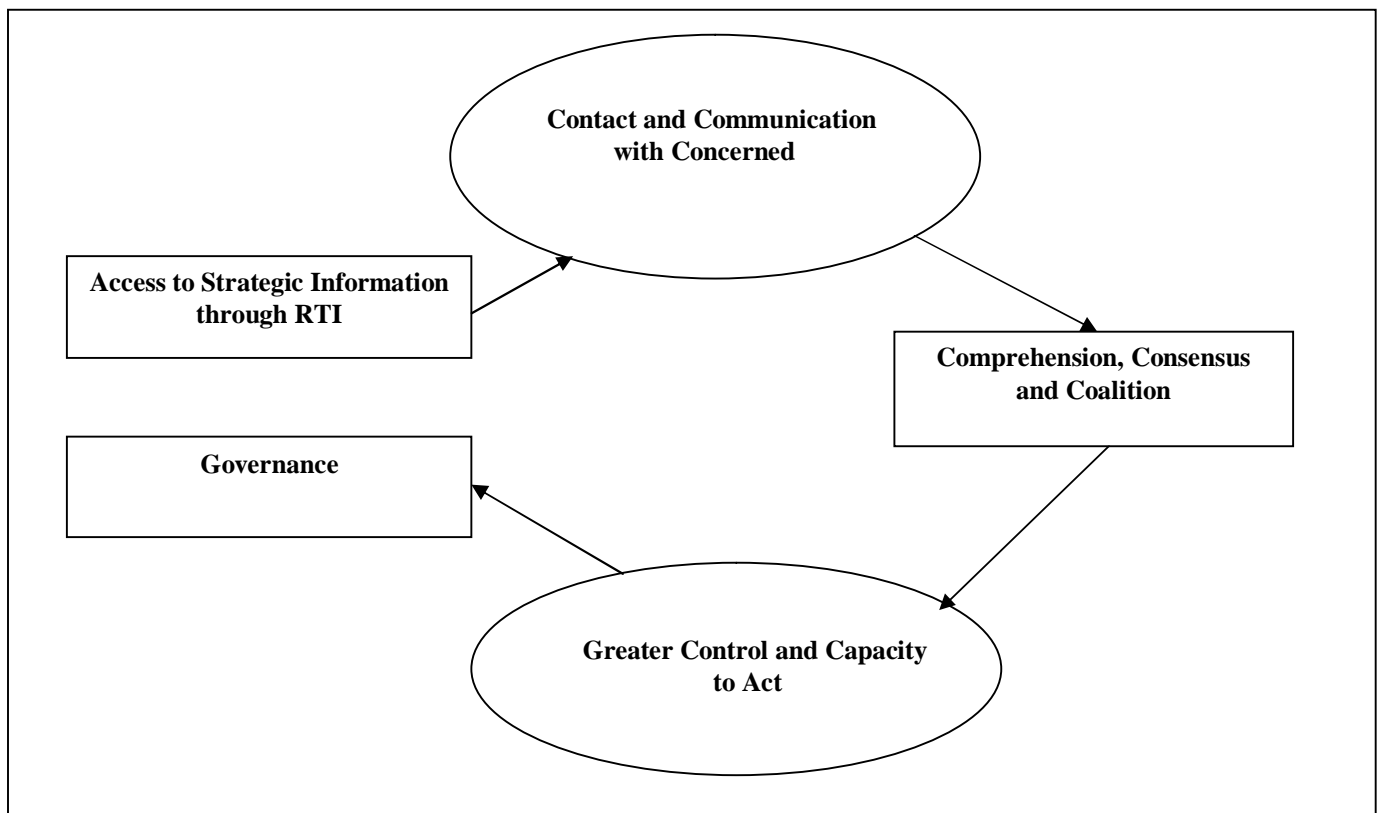


Figure 1: Proposed Framework

Extending this framework in the present context, when the access to information is through RTI administration and governance can be achieved through openness wherein information and the capacity to act upon does not vest in hierarchical structures.

The framework proposed in Fig. 1 hence illustrates the various stages of the governance process of individual and communities within the societies. The process can be a silent empowerment revolution in the governance processes. The information gathered through RTI ushers in accountability and transparency and an increase in public participation can bring about the necessary transformation.

4. Suggestions and Recommendations

Information is the key to democratic governance. Good policymaking requires up-to-date information on the economic situation; good policymaking requires the sharing of information for better coordination, analysis and monitoring. To achieve this, the focus should be on e-governance and systemic change. The rapid development, deployment and proliferation of the new and emerging information and communication technologies (ICTs) herald new opportunities for growth and development. Social media which has been recognised as a very powerful tool for eliciting public opinion needs to be used effectively to ensure that the benefits of good governance are realised.

In a pluralistic society like India, Women can be integrated into the governance mechanism as they have a major role to play as opinion leaders and are an essential cog in the wheel of social fabric. They are the key to good governance since women's empowerment and economic development are closely interrelated. While development itself will bring about women's empowerment, empowering women will bring about changes in decision making. Their increasing representation in democratic institutions has always provided stability to Indian polity. Women are capable of bringing constructive, creative and sustainable solutions to the table. Women participation in economic programmes needs to be augmented, for, in women we get expendable providers, educators, caretakers and opinion leaders which plays a role in achieving governance. Hence, the need of the hour is to create an environment providing more avenues to help women understand their potential and catalysing their participation.

Corruption is a hindrance to governance. Constant review of the prevalent institutional arrangements is essential where those vested with power should be made accountable and their functioning be made more transparent. They should be subject to social audit with a view to minimize discretionary decisions. This will address the growing permissiveness in the society and help check corruption. At the same time, social monitoring through empowered autonomous and credible structures will have to be established even for the highest of the public offices. Right to information has to be the starting point for some of these changes and can be an effective tool. The act came into force in the year 2005. With a combined effort from the government to necessitate proactive disclosure of information as well as the citizens to avail the benefits with relevance, it can be a boon for achieving governance.

Good governance must be founded on moral virtues ensuring stability and harmony. Righteousness is described as the foundation of good governance and peace. The art of good governance simply lies in making things right and putting them in their right place. This prescription for good governance is ideally suited for a country like India.

India, over the years has evolved to be a progressive country. With its limitations and the prevailing conditions, It has risen to be recognised for its values and innovative administrative mechanisms. With the passage of time, it is necessary to implement the existent mechanisms with a conscious effort. What this means is that 'We the People' are the government. In a democracy, people have the right to elect a government of their choice. But people and their institutions also have a duty to govern themselves ethically. This is what Gandhiji meant by Swaraj — not merely self-rule (swa ka raj), but rule over self (swa par raj). This is possible when 'self' of the raja as well as the praja is subordinated to the all-pervasive 'Self', the ultimate Truth. This path alone leads to Good Governance, Development and a Harmonious India.

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