

Operationalising Right to Information

While it is often said that we Indians are best at making laws but seldom show necessary gravitas towards their implementation. And of all the laws enacted recently, the Right to Information Act (RTI) is one which has really turned out to be a game-changer as far as governance is concerned. Completely in sync with our democratic ethos, this Act has slowly but surely come into its own. But, still a lot needs to be done to make it more useful and effective.

While it was Sweden which pioneered the Right to Information way back in 1766, the same was internationally recognised for the first time by its incorporation in the Universal Declaration of Human Rights (1948) and the Covenant on Civil and Political Rights (1966). But since then, only 72 countries including India have put in place any enabling legislation.

Even though it took a long while coming, still the Indian Act is considered exemplary. In 1975, the Supreme Court, in *Uttar Pradesh vs Raj Narain* case, ruled that 'the people of this country have a right to know every public act' and this was reaffirmed again in 1982 in *S.P. Gupta and others vs President of India and others*. With the civil society slowly finding its voice and wings, a movement started for toning down the provisions of Official Secrets Act, 1923 and for the right to information, in 1996 leading to the passage of a Freedom of Information Act in 2002, but this Act remained still-born and was never notified. Eventually, sustained civil society activism saw the enactment of a revised and spruced up version of the 2002 Act, now re-christened as the Right to Information Act-2005.

But even though almost eleven years into its operation, it is increasingly felt that this Act is not being implemented properly due to bureaucratic resistance and government's unwillingness to share information. But we need to appreciate certain things before being able to put the entire issue in perspective. While in the developed world, the laws relating to right to information are used to throw light on systems of governance, in India, most of the petitions under RTI relate to personal cases. Such petitions include those relating to individuals seeking to know the facts relating to their promotions, ACRs, examination copies, service details, etc.

One needs to appreciate that for proper vitalisation of a law like this in our country, an enlightened activism by the civil society is a must. But, here where people are still busy grappling with their daily problems of survival, they generally don't use the right to information unless and until it somehow relates to them. And believe me, when it does, many of these people would prefer underhand, but quick way of seeking the same rather than going through the rigmarole of right to information.

Moreover, the constraints of competitive parliamentary politics have also ensured the easy availability of all such information of public importance. The animated debates in state and national legislatures and decentralisation of power under the Panchayati Raj Act have further smoothened this flow of information. A vibrant civil society led by a more vibrant and independent-minded media have only strengthened an already evolving system of accessing information otherwise not easily available to the hoi polloi.

Against the background of a competitive, but active party system, proliferation of numerous interest groups and activism of civil society led by mass media of communication, today there is almost nothing which is concealed from the people. The sting operations and investigative journalism have made people more watchful of their rights, thereby also cautioning and shaking out of stupor the people in the government and administration.

Today, we all know as Abraham Lincoln said, 'you can fool some people for all the time, all the people for some time, but you cannot fool all the people all the time'. So, even though the requisite information has always been available in one way or the other to those needing it, but a need has always been felt for having a better system of accessing and sharing information otherwise secretly tucked away in government files, thereby for strengthening the extant system of governance. It is this void that RTI filled in.

Even though the Central Information Commission has brought file noting within the purview of RTI, one would hark back to a real story. Once, during a flood in one of the districts of Madhya Pradesh, the local District Magistrate was directed by the Chief Secretary to cut through the norms and rules to reach speedy relief to the people, as otherwise it was becoming difficult to obtain relief materials and select the requisite agencies to do the job without the normal routine of tendering and all. The DM in question did a neat job and there was a general appreciation for the good work done by him.

But again, later there was an audit objection to this practice and the DM was literally in soup. DM discussed the issue with the Chief Secretary. The Chief Secretary initiated a note to the Chief Minister saying that the 'DM carried out my instruction in cutting through routine to provide speedy relief to the people. The CM may kindly approve.' And the CM signed on the dotted line. Well, even though entirely defensible as done in good faith and in public interest, if such file noting are brought into public domain, it can literally open the flood-gates thereby discouraging many such well-intentioned actions, otherwise indefensible in terms of compliance with the obtaining norms and rules.

So, even though the public interest in the form of increased number of petitions seeking information under this Act is growing, there is also huge pendency as far as disposal of these RTI petitions is concerned. One, however, need not feel that people needing information are

not being allowed access to it or are being denied the same owing to bureaucratic resistance. It is simply that today there are many more channels of seeking and accessing information than the one RTI promises. And many of these channels including the underhand one are well-engrained in popular psyche and would take time before the new system strikes root.

But before RTI actualises its declared objectives, there is an urgent need to create massive awareness among people about this right. And this awareness has to result in dogged public determination to access information in honest way. We also need to tackle such problems as popular apathy to fight others' battles and for this we need a conscientised civil society with an enlightened sense of altruism. And an equitable economic development freeing people of their ontological concerns is a prerequisite before such a thing happens.

Also, as of now the same administrative machinery has been entrusted with the responsibility of entertaining and processing petitions for information. One feels that there is an urgent need to provide a separate manpower, equipped with requisite infrastructure to be solely dedicated for this purpose.

As long as information is flowing on its own, one should not grudge the receipt of less number of petitions under the Act. The existence of such an Act is not only the recognition of the popular right to demand any and every information (but for those barred in public interest), but it is also a pointer to the gradual strengthening of the democratic base of our country. Every law evolves according to its genius and so shall the Right to Information Act.

Salient Points

- In 1975, the Supreme Court, in Uttar Pradesh vs Raj Narain case, ruled that 'the people of this country have a right to know every public act'.
- Some believe that RTI Act is not being implemented properly due to bureaucratic resistance and government's unwillingness to share information.
- While in the developed world, RTI law is used to throw light on systems of governance, in India, most of the petitions under RTI relate to personal cases.
- Competitive parliamentary politics, debates in state and national legislatures and decentralisation of power, vibrant civil society, independent-minded media have only strengthened an already evolving system of accessing information.
- Abraham Lincoln said, 'you can fool some people for all the time, all the people for some time, but you cannot fool all the people all the time'.
- Central Information Commission has brought file noting within the purview of RTI. But sometimes it can be discouraging to many well-intentioned actions, otherwise indefensible in terms of compliance with the obtaining norms and rules.
- But before RTI actualises its declared objectives, there is an urgent need to create massive awareness among people about this right.
- Equitable economic development freeing people of their ontological concerns is a prerequisite too.

Glossary

Gravitas: seriousness or sobriety, as of conduct or speech

Rigmarole: an elaborate or complicated procedure

Stupor: suspension or great diminution of sensibility

Hark back: revert