

RIGHT TO INFORMATION: AN END AS WELL AS THE MEANS

BY

Dr. RAO V.B.J. CHELIKANI

INTRODUCTION

Reactions to the Right to Information or RTI in India for the past few years and the difficulties encountered to internalize and make it operational for the society at large have ranged from revolutionary zeal on the part of the public and sadness on the part of bureaucrats particularly PIOs. But RTI must be viewed in its historical context of the evolution of the Indian society. It is an ongoing process since it is an end as well as a means. According to RTI, the civil society is required to become open and transparent in matters of public concern.

HISTORICAL CONTEXT

Primal fear of others is an innate atavistic reflex of the primitive man, as ably described by Hobbes, a nineteenth century English philosopher. However, as man started finding the fruits of kinship in groups, his degree of trust and faith in others has started to expand. Since then, the human being and civilization have been progressing with gigantic strides towards fraternity, liberty, justice and human progress based on mutual trust and cooperation. However, withholding information about others and mystifying it in order to keep them under domination and control has been one of the internal functions of the political power in all the traditional societies. The Indian society is no exception to it, since it remained under foreign rule for a thousand years and before that under internal monarchies for even a longer period of time.

One can accuse the present Right to Information Act of anything but not coming too late. The transition from colonial rule to political independence has taken place within a reasonably short period without much bloodshed. But the transformation of our traditional feudal society into a democratic open society, on the other hand, has been dragging its feet, as this is a very slow and painstaking process. Further, its apparent symbols of democracy are treacherous to a casual observer's eye. Our formalistic democratic traits are hiding the underlying and still persistent symptoms of ritualism, personality cult, hero worship, neo-feudal-*zamindari* political system, obscurantism, caste or minority prejudices, threat to life through power and money, enticing poor people with populism as benefactors, enjoyment of power, pomp and glitter at the cost of public exchequer, etc. Such symptoms do not welcome transparency in governance.

Medieval period was rightly called the dark ages because the individual was distrusted so much that he was kept ignorant of many things that concerned him and his development. He was considered unworthy of information and knowledge about himself and the world around, unless he was born in a predetermined caste and family. All others were to follow the social structures into which they were borne. All these social structures were supervised by the state, which for long in the history, had been personified by the absolute king or a tyrant or a military dictator.

It is a historical and traditional legacy in the evolution of modern societies, in the interests of the regime in power to cultivate exclusive and elitist attitudes and secretiveness in all spheres of the society. Against this historical background, since the renaissance movement in Bengal, there has been growing humanistic, humanitarian, liberal, rationalistic, socialistic and democratic trends which, in their cumulative effect, have brought enlightenment in different parts of India, just as renaissance and reformation brought enlightenment to modern Europe.

The declaration of Indian Republic, especially the Indian Constitution is a great manifesto for the modern India, where the individual and the people are recognized for their intrinsic worth and dignity, and the society is envisioned to be composed of empowered individuals, offers equal opportunities for all and provides harmonious and enriching goals for everybody. This proclaimed vision is to be achieved through democratic governance. Therefore, it is our political imperative to demolish the culture of secrecy in public administration as also provided in the letter and spirit of our Constitution. This requires transparency, accountability, responsiveness and citizen participation.

FOUNDATIONS OF THE RIGHT

Contrary to the dark ages, today implicitly, truth is an intrinsic value to be cultivated, since one does not hide truth or lie for the presumed social interest, much less against the interest of an individual's quest for knowledge. Everybody has the right to know about him and about the things that concern him. What we want to promote together is the ability of each and every individual to have a quest to know and to empower her so as to design her own destiny and contribute to the common destiny for the society around her.

It is in these perspectives of democratic culture of multiple opportunities to know, to acquire knowledge and to act as a responsible and empowered citizen that we should see the emergence of the right to information, rather than in a single constitutional provision, however vital it might be, such as, Article 19(1) a or a single central enactment or a few state legislations. It is undeniable, at the same time, that in the existing context, a legal text is of immense utility for the common man.

How many traditional professions in India, even today, think that the success in their profession depends not only on their hard work and professional skills but also on

their ability to maintain certain closely kept professional secrets? Transmission of knowledge has not been entirely based, in the past, on the interest of the seeker or ability to grasp, merit, worth or social purpose but has been based on monopolizing an opportunity, implicit trust in the superior, loyalty to the corporatism and facilities and privileges obtained by birth or succession. In our education, we were still told to learn by heart what was told by the faculty. Children are told that it is not polite to put questions to elders. Asking a question in order to understand something from somebody in power is considered as a challenge to one's authority. It has been the culture, where information is given not sought. However, we must hasten to add that all this is changing very rapidly, but unfortunately without voluntary social vision.

THE PRESENT CONTEXT

Added to this, we are unfortunately confronted with a very serious deficiency in our nascent democracy i.e. the poor performance of our political leadership. Interference in the functions of the Executive appears to be more satisfying than being a legislator. Recruitments, postings and transfers of public servants instead of being guided purely based on technical grounds are currently being governed by partisan political purposes and nepotism. Naturally, transparency will not be liked by those in power.

Supply Side

Our Administration is functioning as a bureaucracy: there is an opportunity to exercise illegitimate power; there are delays and there is corruption. Power exercised by a bureaucrat is the power to delay, to withhold or even to suppress information or dilute its quality. These are universal defects in governments of all the developing countries.

In India, it is all the more imperative, if we want to build a knowledge society in future, that we generate accurate, authentic, precise and updated information, and ensure its easy accessibility to all. Let us, for example, take the case of the electoral rolls or ration cards or lists of caste reservations. At every revision, these lists are degrading in their quality, partially due to political interventions. Similarly, our rural land records are the most manipulated official documents in the country. Tampering with the records is a very lucrative business. In a democracy, all these aspects of information affect the lives of the ordinary people. There is an immediate and urgent need to improve the quality of collection, maintenance and retrieval of information. This is a part of the social capital of the country. Governments are seeking computerization as a solution to it. Of late, several NGOs with a vocation for governance reforms have involved themselves in streamlining methodologies and operations.

There are, of course, those who are blissfully ignorant of the RTI Act, its procedures and their obligations. These psychological inhibitions, apart from the vested interests in not supplying information, are to be dispelled by giving training to officials, as prescribed by the RTI Act and rules. In Andhra Pradesh, the Centre for Good Governance

is performing this task reasonably well. These things would be set right in course of time, provided the Act is not modified without giving it a chance to succeed.

Demand Side

While the issues raised above naturally reflect the problems involved in the supply of information, there is a demand side of the problem. A man in the street is spontaneously cynical. He does not think that it would work; it would fizzle out like many other Acts that came or remained ineffective. Half of those who made the first request with our incitation would not persevere enough to write to the appellate authority, in case of not receiving the response. Some others do not subscribe to the philosophy of transparent information, though in a given situation they may obtain the information needed to solve their particular problem. We are noticing that the senior citizens, particularly the retired officials who are involved in the campaign for awareness of the RTI are circumspect, if not cynical. Their attitude is utilitarian; there is no particular adhesion to the concept as a value in itself on their part. According to them, demanding information and supplying information do not obey the same logic. It is a significant fact that at the initial stage, among the first wave of requests for information that came in the state of Andhra Pradesh, fifty percent of them came from the officials themselves regarding their service rules, pensions, etc.

On the demand side still, superficial understanding or misunderstanding led, in our opinion, some civil society activists to ask for information with no clear purpose or strategy as far as the public issues are concerned. They asked some information that misses the key point to make a case out of it later or too much of detail that would make the officer feel that he is being asked to dig a mountain to catch a rat. Many positive people, in general, think that it is a direct redressal mechanism for their grievances, straightway asked for explanations, rather than initially demanding information, a fact, a figure, a date, a note or a document containing them. Logically, somebody with a problem has two steps to take, firstly, to ask for information under the RTI Act, and secondly, to act to prove or disprove something on the basis of information obtained. However, in some instances mere writing under the RTI Act is, in fact, practically serving the redressal functions, since the very demand is pin-pointing at the problem and the office is forced to rectify the situation rather than confessing it on paper.

In some districts of Andhra Pradesh some national and state level social activists committed to and convinced about the revolutionary role of this Act, have organized campaigns to initiate the public into the right way of seeking information and have been following the same cases up to their successful logical conclusion i.e. till they obtain the right information demanded. People are to be convinced by a clear demonstration that the Act works. This is the only way to help ordinary people to keep faith in the public institutions. They are waiting to be proved that this time this Act will make a difference. Further, the dignity, independence and dynamism exuberated by the present first Central Information Commission in the fulfillment of its statutory obligations

sets high standards of conduct for the future incumbents as well as for the state level commissions.

THE POLITICAL WILL

A majority of the politicians as much as the bureaucrats have a similar ambivalence about the concept of RTI. If they are in possession of some information, they would like to use it as a privilege or power to the exclusive benefit of their party and for those who will be useful to them. Usually, people from other parties than from the party in power are always complaining that they are excluded from the benefits of a number of schemes. Particularly, at the village level and in the rural context, holding information for themselves and withholding it from the political opponents has very fatal consequences. Lack of information about multiple schemes, the distinction between effective and non-effectives ones, the criteria for deserving them, instances of formal and informal decision-making, have left much room for manipulations, arbitrariness and injustices

Residents of urban agglomerations escape, to some extent, from this fatality of the rule of the powerful to some extent. This advantage could perhaps be partially explained by the fact that they have easier and frequent access to information and communication technologies to know what is happening and to seek redressal. Websites with proactive information and the citizens' charters are increasingly helping citizens to assert themselves. In tune with the vision of the President of India, Dr. A.P.J. Abdul Kalam, with a project like PURA (Providing Urban Amenities to the Rural Areas), it is possible to bring relief to the rural areas.

In Andhra Pradesh, for the past six years, a number of civil society organizations have been trying to persuade the then ruling party, the Telugu Desam Party or TDP, to legislate an RTI statute in line with eight other states that have already passed the Act. Although the then ruling party leadership was credited with some qualities of political vision and with the introduction of e-governance that definitely improved the governance in the state, still they somehow could not make up their mind to pass the legislation on RTI either because the whole team of ministers did not see the far reaching consequences of such a revolutionary piece of legislation or because they did not see any advantage to the party by doing so. May be, they feared that some skeletons in their cupboards would be exposed to the opposition parties. Now, after the elections, the TDP sitting in the opposition benches are challenging the same acts of political patronage, which one does while in power and condemns while in the opposition. The same TDP is bitterly lamenting and condemning the motives of the ruling party in their manner of allotment of government lands or acquisition of private lands, about the procedures adopted for awarding construction contracts worth thousands of crores, etc. without having access to the official documents. Incidentally, during these debates, a minister advised the Assembly members to go and obtain any information they want under the RTI Act.

THE TASKS AHEAD

Thus, we are confronted with a double challenge to our national ethos: how to make the Right to Information an effective tool to maintain the rule of law in the governance and to promote an open society for human and social development.

As trends in the developed societies also demonstrate, it looks as though no political middleman would be an absolute player in future to solely represent the interests of the people in governance. In an epoch, where time and distance are largely conquered, our nineteenth century concept of representative democracy seems to have finished serving its useful purpose. Now we have to seek several alternative ways of peoples' direct participation. Current trend of penetration of communication technologies in the field of governance can facilitate this transformation. Decentralization, self management and associative movements and public private partnerships are some such known alternatives, which are already tested and tried.

The civil society itself is emerging in such a way as to take care of itself, thanks to the growing techniques of information, expression and communications. As Johan Galtung, a German thinker envisages, in future the power has to be a soft power of dialogue and communications. The kind of obsession we have with and the exaggerated importance we give to, politics in our country will have no reason to persist. The civil society representatives who are justly called the non governmental organizations and voluntary associations do not take over the exercise of power itself, but they control the exercise of power. Governance will be more a matter of management rather than of exhibition of power. At the UN level, in the international bodies and in the inter-governmental gatherings, we are already witnessing the impact of the international civil society. At this very moment in India, the RTI Act provides the best example. The entire concept is conceived, promoted, legalized and protected in its letter and spirit entirely thanks to the civil society organizations. It is a patented fact that no political party has come out in the streets to fight for the RTI.

CONCLUSIONS

Political expressions or ideologies express only half of the soul of a society. Since a sense of secretiveness exists in the hearts of many vital social structures prevailing in our societies, the attack against secretiveness should be directed first against these social structures. However, we may have to take up the governance challenges first, since they are immediately needed and also with the hope that the governance changes might help in social changes. That is why we call the RTI a means as well as an end.

We need many social reforms, many best practices and new legislations to curb the arbitrariness, discriminations, secrecies in many spheres including the private sector, social institutions and all professions. Oaths of secrecy of the ministers, lawyers, journalists, doctors, accountants, priests, etc. need to be reviewed with due regard to the right to privacy as well as the collective interest of the people. Truth is to be

rehabilitated as a concrete expression of divinity ad spirituality and not to be divorced from social life. New values are to be upheld, such as transparency and accountability to the tax payer, trusteeship management of the private companies in the interests of the consumers, deployment of personal talents, skills and wisdom for the benefit of customers and clients of the professionals, etc. Generating and sharing of knowledge should pervade and irrigate constantly all professions in their communications, in the delivery of better quality of goods and services and in achieving excellence. Perfection is nothing but excellence plus truthfulness. Scientific research and educational institutions should carry out proactive communication in the spirit of the RTI Act with the society at large as a part of our collective efforts to build an open society without enemy images, prejudices and superstitions. Human development should lead to a situation, where the human beings think and act without falsehoods, suspicions and fears.