

ROLE OF CIVIL SOCIETY IN THE PROMOTION AND PROTECTION OF RIGHT TO INFORMATION FOR THE REALISATION OF GOOD GOVERNANCE

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ABSTRACT:

The ethos of Good Governance demands that the Government, the Private Sector and the Civil Society work together in cross sectoral partnerships to advance social progress and equity. The Civil Society is one of the key actors in governance; a pro-active Civil Society is a key instrument for securing good governance. The Right to information is a tool for Good Governance, which was initiated and promoted by civil society group. The Civil society group started their movements from grassroots level. And become success to enact the law relating to right to information through parliament. In this research the researchers tried to define civil society and their role in the protection and promotion of good governance through an instrument i.e. Right to information in India.

PURPOSE:

This study aims to analyze the role of civil society for protection and promotion of Good governance in the country. It's historical development exhibits how the civil societies promote Right to Information to curb the malgovernance in the administration of the state. The functions and activities of the Civil society groups is to realise the good governance in the state.

Design/ methodology/approach:

The researchers followed analytical and historical approach in this study. The researchers have followed non-doctrinal method of study. They have gathered data from primary sources i.e. Books, journals, articles, internet web sites etc.

Findings:

- The Civil Society promotes Right to Information from grassroots level to Top level of governance system.
- It also protects Right to information movement through whistle blower mechanism.
- It promotes social and legal awareness among people and officials in the good governance system.
- It also helps the government to eradicate the lacunae in the Act.

Research Limitations:

Though this paper is based on analytical and historical approach, the researchers have not followed any field research work.

Practical Implications:

The results of this study would help the other civil society groups, i.e. NGOs, CBOs, Voluntary Organisations and Academics in relation to promote and protect Right to information for the realisation of Good governance in the country.

Originality/Value:

- This work may helpful for general public to know about right to information.
- It will helpful for the public Information officers of the different departments to know about the functions and their powers in this regard.
- It may helpful for other researchers for their guidance.

KEY WORDS: Civil Society, Right to Information, Good governance, Freedom of Information, Non-Governmental Organisation, Community Based Organisation, Grassroot level Movement.

INTRODUCTION

The enactment of the Right to Information Act, 2005 is a historic event in the annals of democracy in India. Information is power and now a citizen has the right to access information “held by or under control of” the public authorities. Concurrently, it is the duty of all public authorities to provide information sought by citizens. A sea change can be achieved towards transparency and accountability in governance by implementing the Act in letter and spirit.

The Act mandates a legal-institutional framework for setting out the practical regime of right to information for every citizen to secure access to information under the control of public authorities. It prescribes mandatory disclosure of certain information to citizens and designation of Public Information Officers (“PIOs”) and ‘Assistant Public Information Officers (“APIOs”) in all public authorities to attend to requests from citizens for information within stipulated time limits. It provides for appeal to officers senior in rank to Public Information Officer against the decisions of PIOs. It also mandates the constitution of a Central Information Commission (CIC) and State Information Commissions (SICs) to inquire into complaints, hear second appeals, and guide implementation of the Act.

In realising the objectives of the RTI Act, the role of Civil Society Organisations (CSOs) assumes considerable importance. As an important actor in the governance process and as a bridge between the community and public agencies, CSOs can not only play an important role in monitoring public service delivery by invoking provisions under the RTI Act but also in generating awareness and building capacity among the community on RTI.¹

Civil Society could be defined as those organisations found in the space between the state and the household, which are voluntary in nature, and which have significant autonomy from the state. In the context of welfare this includes trade unions, consumer organisations, Non Governmental Organisations (NGOs) and Community-Based Organisations (CBOs), religious organisations delivering welfare services, social workers in private practice etc. Therefore, any people’s association or organisation can be referred to as a Civil Society Organisation (CSO).

The RTI Act provides unique opportunities to tackle many corporate issues. The latter may cover exposing unlawful and unjust activities of corporates in the areas of banking, insurance and pensions, eliciting information on status of pollution control, pollution testing and disposal of hazardous/toxic wastes, asking about safety testing and consumer protection, getting information on the costs and quality of drugs, etc.

At the same time, NGOs substantially financed, directly or indirectly, by funds provided by the Government are recognized as ‘Public Authorities’ under the RTI Act and thus have an obligation to comply with all provisions mandated for public authorities under the Act including appointment of Public Information Officers (PIOs) and Appellate Officers, proactive disclosure of information etc.

There are a number of actions which would need the involvement of CSOs in furthering the cause of RTI.

OBJECTIVES OF THE STUDY:

- To Know about the meaning and Concept of Civil Society.
- To Know about the Functions and role of Civil society in promotion and protection of Right to Information in India.
- To identify role of Civil Society in the promotion of Good Governance.
- To Know about the Relationship of Civil Society with Right to Information.
- To know about whether Right to Information is a tool for Good Governance or Not?

¹ “The Right to Information Act, 2005”, A Guide for Civil Society Organisations, July 2006, Published by Capacity Building For access to Information-A GOL-UNDP Initiative.

Civil Society and Right to Information:

The Civil Society Declaration to the World Summit on the Information Society, held at Geneva on 8 December 2003 declared that:

“We are committed to building information and communication societies that are people-centred, inclusive and equitable. Societies, in which everyone can freely create, access, utilise, share and disseminate information and knowledge, so that individuals, communities and peoples are empowered to improve their quality of life and to achieve their full potential.”

“Everyone, everywhere, at any time should have the opportunity to participate in communication processes and no one should be excluded from their benefits. This implies that every person must have access to the means of communication and must be able to exercise their right to freedom of opinion and expression, which includes the right to hold opinions and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

The Right to Information Act, 2005 is an important legislation that provides opportunities to CSOs to be involved in governance and social transformation processes by using the Act as a weapon to monitor, review and evaluate Government policies, programmes and schemes. CSOs can protect and promote greater transparency and accountability in the administration of developmental programmes and curb the abuse of power and misuse of public resources with the help of the RTI Act. Some of the primary roles that the CSOs can play with regard to RTI are as follows:

- As CSOs are involved in basic service delivery, they can provide necessary institutional basis to the RTI movement when questions of effectiveness and responsiveness of the State arise.
- At the local level, CSOs as grassroots organisations can promote collective action using the RTI Act to improve access to basic services like health, education and welfare etc.
- CSOs can take up education and awareness programmes on RTI Act to help mobilise people and encourage groups to use the Act to access information.
- CSOs can become effective vehicles for representing and negotiating citizens’ interests vis-à-vis the State.
- CSOs can promote good governance and social equity by accessing information and also monitoring both state and market performance.
- CSOs can increasingly use the RTI Act in disseminating information on current legislations, public expenditure, policy implementation, achievements and drawbacks in promotion of the rule of law, good governance, and respect for human rights etc.
- CSOs can use various social accountability tools such as Social Audit in assessing the performance of a public authority.
- CSOs can assist in the demystification of the Act, Rules and procedural requirements concerning access to information which might deter people making requests.
- CSOs can systematically persuade Government Departments to prepare for mass divulging of information and address the saying that old habits die hard; they may work closely with ‘champions’ and ‘strategic partners’.
- The danger of the “Swiss cheese problem” that the exemptions under the Act bite holes in the information accessible, leaving very little left may render the Act a ‘closing down’ rather than ‘opening up’ law. CSOs may keep a vigil on how the law is being interpreted by PIOs, Public Authorities and Information Commissions.
- CSOs may disseminate important decisions of Information Commissions across the country so as to facilitate learning of lessons by public authorities and education among the citizens.

- CSOs must prompt government organizations towards a “right to know” approach to automatically publish all relevant information rather than waiting for information requests.²

Under the RTI Act, Civil Society Organisations can:

- Demand from the Government information pertaining to any of its departments
- Demand photocopies of Government contracts, payment, estimates, measurements of engineering works etc.
- Demand from the Government samples of material used in the construction of roads, drains, buildings etc.
- Demand to inspect any public development work that may be still under construction or completed
- Demand to inspect Government documents - construction drawings, records books and registers etc.
- Demand status of requests or complaints, details of time delays etc.

However the primary actions that the CSOs can embark upon are as follows:

Forming partnerships:

CSOs can form partnerships with the Government in promoting the RTI Act. Civic engagement and responsible governance both necessitate the establishment and strengthening of participatory mechanisms, including access to information. Further, CSOs can specifically support RTI by:

- Organising local, regional, and national consultations of partners;
- Establish and strengthen Non-Governmental Organisation (NGO) networks working on RTI;
- Strengthen new partnerships between Community Based Organisations (CBOs) and NGOs;

Strengthening participatory mechanisms:

CSOs, especially NGOs along with the government at local, national and international levels can facilitate and enable broad-based participation of community organizations in monitoring the implementation of provisions under the RTI Act. CSOs can promote RTI by:

- ✓ Organising awareness campaigns on Right to Information;
- ✓ Participating in the sessions of the Information Commission or in any such forum (court sessions) that would help in enhancing their information and knowledge base;
- ✓ Disseminating the RTI Act with emphasis on all the pro-people provisions and the commitments by Governments;
- ✓ Acting as a facilitator to monitor and promote the implementation of the RTI Act;
- ✓ Implementing mechanisms to monitor selected aspects of the implementation of the Act at the local, national and international levels;
- ✓ Continuously advocating for the right to access information;
- ✓ Improving modalities for collaboration of CSOs with Governments, local authorities and other partners;
- ✓ Mobilising media to increase public awareness on the RTI Act.;

Promoting capacity enhancement:

The effective implementation of the RTI Act requires strengthening of the local authorities, village organizations, neighbourhood committee and NGOs etc. CSOs can undertake capacity building programmes in critical areas like, participatory approaches, implementation and evaluation, research, information and advocacy.

CSOs can help build capacities by:

- Preparing model local agendas on RTI and facilitate their implementation;
- Providing training in participation and civic engagement through meetings, workshops etc., at all levels;

² “The Right to Information Act, 2005”, A Guide for Civil Society Organisations, July 2006, Published by Capacity Building For access to Information-A GOL-UNDP Initiative.

- Assisting in strengthening the capacity of the community in understanding RTI;
- Translating provisions of the RTI Act into local languages;
- Facilitating information exchange on all relevant aspects of access to information.

Initiate and promote enabling approaches:³

- CSOs can help retain transparency and accountability on the part of the Government. Under this strategy, CSOs can create a situation in which the potential and resources of all actors involved under the RTI Act can be applied. The CSOs can help to enable:
 - Information sharing among various civil society partners;
 - Identifying NGOs and individuals who have championed the cause of RTI;
 - Active participation of community in various RTI forums and initiatives;
 - Promotion of political and legislative means that will allow community to influence the concerned government departments/officials in implementing the RTI Act.

The Role of Civil society in the Promotion of Right to Information Legislation:

Efforts of the MKSS towards Right to Information Act:

The Mazdoor Kisan Shakti Sanghatana (hereafter MKSS) is active for the last 15 years in mobilizing the grassroots level people includes peasants and workers for the issue-oriented campaigns in rural areas of Rajasthan. The MKSS is a peasant-farmer's collective that questions governance and policy making processes as they exist and attempts to influence them by mobilizing public opinion among its main constituents – peasants and rural workers.

MKSS started its activities in 1987, but from 1990 onwards only one can see somewhat structured initiatives at the grassroots level. Among the important issues taken up and succeeded to some extent are minimum wages, right to work, right to food, right to information etc. MKSS is also having experience in contesting the local body elections for two times (1999 and 2005) and part of election watch in Rajasthan.⁴

Public Hearing is the genesis of Right to Information Movement: Public Hearing or *Jan Sunwais* is the origin point of the Right to Information Movement in India. The instrument of public hearing was initiated by the MKSS in some parts of rural areas of Rajasthan. In order to check the corruption with the involvement of the people the public hearing was begun. The public hearing is nothing but an open and democratic debate about the public issues. In this type of public hearings Elected Representatives, Government Officials, People, Local Intelligentsia such as lawyers, media persons, Non- Governmental Organisations, Community Based Organisations, External Observers, etc. will participate. In public hearings generally, after identifying issues for example, corruption in developmental activities further deliberations take place.

Public Agitations for the Right to Information: Along with the public hearings, the MKSS also launched the direct actions like *Dharnas* for the Right to Information in various parts of Rajasthan such as Beawar in 1995. The demand was to press for the issue of administrative orders to enforce the right to information of ordinary citizens regarding local development expenditure. *Dharna* witnessed an

³ “The Right to Information Act, 2005”, A Guide for Civil Society Organisations, July 2006, Published by Capacity Building For access to Information-A GOL-UNDP Initiative.

⁴ Slough P and Rodrigues, C (2005) Indian's Right To Information Movement Makes A Breakthrough, Open Government: A Journal on Freedom of Information. Volume 1, Issue 1 published on 21st March, P.1.

unprecedented upsurge of homespun idealism in the small town of Beawar and the surrounding countryside.

State Government Response to the Right to Information Movement:

In response to the public hearings organised by MKSS evoked widespread hope among the underprivileged people locally, as well as among progressive elements within and outside government. In October 1995, the Lal Bahadur Shastri National Academy of Administration, Mussoorie took the unusual step of organizing a national workshop of officials and activists to focus attention on the right to information. Meanwhile, responding to the public opinion that coalesced around the issue, the Chief Minister of Rajasthan on 5 April, 1995 announced in the state legislature that his government would be the first in the country to confer to every citizen the right to obtain for a fee photo-copies of all official documents related to local development works. However, a year later, this assurance to the legislature was not followed up by any administrative order. In Jaipur on 14 May 1996 on behalf of the Rajasthan state government. It stated firstly that the state government had taken a decision on the issue not because of the pressure of people's organisations, but because of the government's own commitment to transparency and controlling corruption.⁵

Parivarthan in Delhi State:

Parivarthan a NGO working in the urban slums of Delhi on awareness building on Right to Information Act and using RTI as the potential instrument for transparent delivery of services like Public Distribution System, infrastructure such as public roads and buildings and electoral reforms. The Parivarthan also used the right to information in conducting the social audit in the urban areas on spending of the public investment. Parivarthan being a part of the National Campaign for People's Right to Information put consistent effort for the National Right to Information.⁶

The movement for Right to Information can be traced back to the grassroots struggle of the rural poor, who have sought to fight against corruption in their areas affecting their livelihood and justice around them. The Right to Information got the legal support for the first time in 1975 in Supreme Court case of State of Uttar Pradesh. V/s Raj Narain (1975) in which Mr. Justice Mathew gave a landmark judgment, "In a government of responsibility like ours, where all the agents of public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know, every public act, everything that is done in a public way by the public functionaries. They are entitled to know, the particulars of every public transaction in all its bearing. Their right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor, which should make one wary when secrecy is claimed for transactions which can at any rate have no repercussion on public security."

Essentially, the Supreme Court was petitioned by environmental NGOs arguing that since a fundamental right to life was granted under the constitution of India, this right must imply a right to know when one's life was being threatened, by whom, and in what way. From this also follows the right to know what the government is doing to minimize such a threat, and what the individual can do. The Supreme Court was sympathetic and allowed access to various categories of information specific to the case, but no generic orders were passed.⁷

Soon afterwards, the Bombay Environmental action Group (BEAG) filed a case in the Bombay High Court demanding a right to know in advance, specifications relating to land use so as to ensure that bylaws related to land use were not being violated. They managed a favourable order from the court. Consequently, the BEAG filed a writ petition in the Bombay High Court seeking such inspection. However, as this process took several

⁵ Study report on Establishing Transparent, Accountable and Responsive Governance Through the Participation of Non-Party Political Organisations in Electoral Politics, Centre for Panchayati Raj, National Institute of Rural Development, Hyderabad, 2005.

⁶ Mander Harsh & Joshi Abha, People's Power for the Control of Corruption. www.chri.org.

⁷ Shekhar Singh, "The notion of Transparency", Seminar 551, July 2005, Page. 47

months. Some of the buildings under scrutiny were, in fact completed before the case was heard. Though the BEAG could not prevent these buildings from coming up. They won a larger battle as the High Court not only permitted inspection of the plans but also made some telling observations. The Supreme Court subsequently considerably widened this High court judgment. "We would also direct that any person residing within the area of a local authority or any social action group or interest group or pressure group shall be entitled to take inspection of any sanction granted or plan approved, by such local authority in construction of buildings along with the related papers and documents. If such individuals or social action group or interest group or pressure group wishes to take such inspection, except of course in cases where in the interest of security, such inspection cannot be permitted". However, it did not result in any systemic change.

Efforts to enact a national law on right to information have been going on for over a decade. In 1989, there was again a change of government at the national level, the ruling congress party once again losing the elections. In 1989 Virendra Pratap Singh's National Government came to power and declared its decision to make Right to Information as fundamental right. In April 1990 in 20th conference of ministers of Information and Cinematography he expressed, "An open system of governance is an essential prerequisite for the fullest flowering of democracy. Free flow of information from the government to the people will not only create an enlightened and informed public opinion but also render those in authority accountable. In conversations many years later, Mr. V.P.Singh revealed that though he had tried to get a suitable act drafted and introduced in Parliament, the bureaucracy had frustrated him at every step and finally, his government had fallen without any significant progress being made.

To intensify the process of paradigm shift from state from state centric to citizen centric model of development the Right to Information Movement in India came into existence in 1990s by resolving a major contradiction between the Colonial Acts, which recognizes the seeking information as a fundamental right to promote transparent, accountable, responsible, participatory and decentralized democracy.⁸

It was only in the 1990s, when grassroot movements around the right to information sprung up in various parts of the country, that there appeared some hope of finally making systemic changes. In 1990, Aruna Roy, Nikhil Dey and Shankar Singh, three people from diverse backgrounds together with a number of peasants and workers from villages around Devdungri in Rajsamand district of Rajasthan formed the Mazdoor Kisan Shakti Sangathan (MKSS). The MKSS evolved an innovative strategy of organizing Jan sunwais (public hearings) around issues of public concern. Information was collected from the government in advance, for example about expenditure on development works in a particular village and this information was publicly read out to all the inhabitants of that village. In this way a social audit was conducted that allowed even the illiterate to participate.

During 1990-94, the MKSS creates linkages between Denial of Rights and Access to Information.⁹ During the hunger strikes organized by the MKSS in 1990 and 1991 to demand statutory minimum wages, the group began to realize the significance of the right to information workers demanding minimum wages were invariably told that there was no record of their having waked at all. The demand to examine the records was denied on the plea that these were secret government records. But now the MKSS started demanding copies of the records of works done in the name of the people.¹⁰

A decision by the MKSS in late 1994, to use the mode of village based public hearings (Jansunwais) to conduct social audits based on information gathered from the government, revolutionized the use of right to information in India and energized the rural people. Using democratic slogans like 'hamara paisa- hamara hisaab' (our money, our accounts, the public hearings became platforms to publicly audit government

⁸ Dr. E. Venkatesu, Asst. Professor, Centre for Panchayati Raj National Institute for Rural Development, Hyderabad, in his Article "Right to Information Movement in India". Presented this Article in national seminar on 'Human Rights in the era of Globalisation' held on 3rd & 4th Nov.2006.

⁹ Vivek Ramkumar "Union for Empowerment of Peasants and Labourers".

¹⁰ Aruna Roy and Nikhil Dey, in their Article- the Right to Information: Facilitating People's Participation and State Accountability".

spending. However it took a forty day dharna (sit -in) and the efforts of the poor people struggling for their livelihoods and survival, to finally establish that the right to information was central to democratic activism.¹¹

In 1996, a meeting was convened at the Gandhi Peace Foundation in New Delhi when the National Campaign for People's Right to Information (NCPRI) was formed. It had, as members, activists, journalists, lawyers, professionals, retired civil servants and academics. One of the first tasks that the NCPRI addressed itself to was to draft a right to information law that could form the basis of the proposed national act.

In 1996, one by one, eight state governments enacted their own bills, most of them full of loopholes enabling officials to deny access to information damaging to them or their masters.¹² In 1997 a conference of Chief Ministers resolved that the Central and State Government would work together on transparency and right to information. The Centre agreed to take immediate steps in consultation with States to introduce freedom of information legislation along with amendments to official secrets Act and the Indian Evidence Act before the end of 1997. In the mean time the Tamil Nadu government passed a very ineffective Right to Information Act, in October 1997 and Goa government passed one Right to Information Act, which was based on the press Council draft in October 1997.¹³ Madhya Pradesh passed a bill in 1998, which was inexplicably sent for assent to the president, rather than the Governor. The assent never came. And the governments of Delhi, Karnataka and Maharashtra have made commitments to place bills before the assemblies in the next session. The Central Government has made a similar commitment.¹⁴

In 1997, the Supreme Court in response to the assault on Bhanwari Devi delivered the Vishakha judgement to curb sexual harassment in the workplace, As part of this process, all state governments were instructed to set up complaints committees according to specified guidelines. Thus, representation and voices are critical elements of the right to information and must reflect democracy with which create another fume for right to information movement in India.¹⁵

The NCPRI drafted an RTI act which was further strengthened by the Press Council of India under the chairmanship of Justice P.B. Sawant. In 1995, the Press Council of India drew up the first blueprint for a freedom of Information Bill. It asserted that information which could not be denied to parliament or state legislature should not be denied to a citizen. In 1997 the government of India decided to introduce the freedom of Information legislation. It suggested that each state do likewise, to provide access to information in areas within its jurisdiction, as a result several states executed orders to implement this right. This draft act was then sent to the government of India for its consideration and the government referred it to another committee headed by H.D.Shourie. The H.D.Shourie committee, which had been set up formulate a draft of the legislation, submitted its report to the government in 1999. The Shourie report had suggested that the legislation be called 'Freedom of Information Bill' instead of 'Right to Information Bill', emphasizing on the word 'freedom'. The Committee had also suggested scrapping of the Official Secrets Act framed during British rule.

In the early 2000, another strong grassroots movement for transparency led by Annaji was initiated in the state of Maharashtra. Using Gandhian tactics, he forced the Maharashtra state government to repeat an earlier weak act and pass a much stronger right to information act and to secure presidential assent for this new act in contradiction to the stated government of India policy. Using this Act, various people in Mumbai and Pune have accessed information and exposed corruption within the bureaucracy and among elected representatives. Sailesh Gandhi, an active RTI user in Mumbai, has recently unearthed a scandal of enormous proportions with far reaching consequences. He used the RTI to discover that substantial public land in

¹¹ Amitabh Mukhopadhyaya in his Article "Social Audit" in Seminar 551-July 2005, Page.33.

¹² Ajit Bhattacharjee, "From Freedom to right", seminar 551-July 2005, page16.

¹³ Rani Advani in Article "The Right to Information Law In India- A Comparative picture".

¹⁴ Aruna Roy and Nikhil Dey, in their Article- the Right to Information: Facilitating People's Participation and State Accountability".

¹⁵ Amitabh Mukhopadhyay in his article "Social Audit", Seminar 551- July 2005, Page.38.

Mumbai continues to be occupied by private institutions many years after their lease had expired. In some cases, these lands are being used for commercial purposes, very different from those envisaged in the original lease.¹⁶

The freedom of Information Bill passed by the Parliament evoked intense debate on the terminology of right to information and freedom of information. However freedom of Information Act came into force in 2002. The objects and reason clause of the Act speaks 'In our present democratic frame work free flour of information for the citizens and non-government institutions suffers from the several bottlenecks including the existing legal frame work, lack of infrastructure at the grass root levels and an attitude of secrecy within the civil service as a result of old frame works of rules. In December 2004, the UPA government introduced a new Right to Information Bill 2004 in parliament, which sought to repeal the Freedom of Information Act of 2002.

The Right to Information Bill of 2004 was based on recommendations made by the newly set up National Advisory Council (NAC) headed by Sonia Gandhi and which had the mandate of monitoring the implementation of the Common Minimum Programme (CMP) of the UPA government. The CMP specifically stated that, 'the Right to Information Act will be made more progressive, participatory and meaningful'. It was in fulfillment of this undertaking that the NAC had undertaken the exercise to suggest amendments to the Freedom of Information Act of 2002 and sought help from the NCPRI. The recommendations finally sent by the NAC chairperson to the prime minister, in August 2004, were based on the recommendations of the NCPRI, which were in turn based on consultations with groups and individuals working on the RTI. Therefore, the process of participatory evolving a socially relevant law had been started.

Unfortunately, by the amendments to the Freedom of Information Act of 2002, as suggested by the NAC, were introduced in parliament in December 2004 as a new act, they had been drastically watered down. There was, therefore, an immediate reaction from civil society groups across the country and the government was forced to set up a group of ministers and refer the bill to a parliamentary standing committee. Fortunately, after a long campaign, the revised bill has been passed by parliament.

Even as these battles were going on at the national level, many of the states were enacting their own right to information laws and, in some cases, moving well beyond the government of India. Unquestionably the best of the state acts is the Maharashtra Right to Information Act that was passed in 2003. The main moving force behind this act was the noted social activist Anne Hazare.

Perhaps another best state act is the one passed by the Delhi Government in 2001. Two of the groups that have effectively used this act in Delhi are Parivartan and Satark Nagarik Sangathan (SNS). Consequently, the Narmada Bachao Andolan (Movement for saving the Narmada River) decided to enforce transparency on the government in relation to the project being planned for the future. One such project is the Maheswar Project on the Narmada River. The NCPRI organized, in 2002, a public hearing around this project.

In December 2002 Parivartan, along with the NCPRI and with the help of local NGOs and residents of the area, organized a jansunwai on the amenities and facilities reportedly provided by the MCD. The Jansunwai was attended by about a thousand people and was presided over by a panel chaired by a retired judge of the supreme court of India.

The key developments have been (i) the Supreme Court judgments on 2 May 2002 and 13 March 2003 mandating disclosure of financial, educational and criminal background if any of all candidates contesting Lok Sabha, Rajya Sabha and legislative elections, (ii) the Election Commission directives to ensure access by voters of this information before casting their votes, (iii) the extension of disclosure norms by various states to the local body elections, (iv) the active involvement of civil society in monitoring elections and the emergence of a network of civil society organizations in our country, (v) media attention on criminalization in

¹⁶ Shekhar Singh, "The notion of Transparency", Seminar 551, July 2005, Page. 48-49.

politics and, (vi) a healthy working relationship between civil society, media and the EC to improve the electoral process.¹⁷

This movement has had other spin-off benefits as well. The two major political parties have asked tickets aspirants to disclose this information to party bosses before distributing tickets. A bill on electoral expenses has been passed. There are several PILs pending in the Supreme Court on electoral issues. The Election Commission recently wrote a detail 39 page letter to the prime minister asking for various electoral reforms. There are instances where ordinary people have used candidate disclosure to get undesirable candidates defeated. The judiciary at the highest level, the bureaucracy and the political system are now fully cognizant of these developments.¹⁸

Of course, it took 77 years for us to transform from a system legitimized by the colonial Official Secrets Act to one where citizens can demand the right to information.

In India, the movement for the right to information has been vibrant for a long time. The common man, academicians and the media have been raising the voice since independence, as many of the Basic and survival needs like food security, shelter and employment are closely linked to the right to information. Various sections of society, particularly media personnel, social activists and positive thinking people have always expressed that right to seek information should be a fundamental right, just as we have right to speech and expression. On the international plane also the citizen's right to information is described as freedom of information, access of information or right to information.

The constitution of India guarantees seven fundamental Rights to its citizens. The Right to freedom of speech and expression are enshrined in Article 19(1). In India, it is now seriously considered to give its citizens the 'Right to Information'.

The enactment of Right to Information Bill 2004 marks a significant shift for Indian democracy, since the greater the access of citizens to information, the greater is the responsiveness of the Government to community needs.

After the United Progress Alliance (UPA) Government, came to power in early 2004 the National Campaign for Peoples Right to Information (NCPRI) sent an exhaustive list of recommended amendments for the freedom of information Act 2002 the National Advisory Council (NAC) The council consisting of key persons in the Indian Right to Information movement and members of NCPRI under the chairmanship of Smt. Sonia Gandhi as an interface with civil society was formed. The NAC accepted most of the suggested recommendations and forwarded them to Government of India on August 16th 2004.

The Right to Information Bill introduced by the Government in the Parliament in Dec. 2004 was substantially worse than the freedom of information Act of 2002 sought for replacement. The NCPRI and NAC members appealed Smt. Sonia Gandhi and urged her to correct the anomalies in the Bill. Consequently the Govt. Set up a group of ministers to go into the objections raised by NCPRI and NAC. The Bill was referred to the standing committee personnel, public grievances, law and justice for consideration.

CONCLUSION AND SUGGESTIONS:

An organized civil society is an imperative condition for and an expression of democracy. It is an intermediary between state and society and a key element in good governance. It is not an alternative to the state but it complements its activities.

To play an integral part in bringing about a practical regime transparent and accountable in governance, CSOs may undertake the following:

¹⁷ Trilochan Sastry, in his Article "Disclosure norms", Seminar 551-July 2005.

¹⁸ Trilochan Sastry, in his Article "Disclosure norms", Seminar 551-July 2005.

- There is need for CSOs to gather information and undertake research that forms the basis of campaign that civil society organisations undertake.
 - CSOs must actually use the legislation – especially in the early days. And requesters must be assertive demanding good service under the law. The experience of freedom of information the world over tells us that the early few years are crucial in determining habits – on both demand and supply sides. After that, systems are created, and norms and habits are established.
 - They must encourage Government towards a “right to know” approach. In other words, to encourage government to automatically publish the majority of its information.
 - They will need to be vigilant to keep track of exemptions, time delays, updating of publication suo motu etc. by authorities to ensure that the state does not negate the positive impact of RTI.
 - CSOs will need to find both champions – in government and in the private sector and strategic partners, from the specialist civil society sectors, the media etc.
 - CSOs will need to work together, to promote better and more effective use of the Act by the people.
- The greatest challenge does not lie in making the legislation work and to penetrate age-old walls of secrecy, but in accurately identifying the information that the different communities need in order to bring about social and economic development. Civil Society Organisations must then act as a bridge to elicit information, using the new law that will serve the interests of the weak and the poor, because inequality of access to information reflects a deeper inequality of power. If civil society is active, then the RTI Act will be a useful instrument in the fight for social justice.