

**RIGHT TO INFORMATION AND GOOD
GOVERNANCE IN MIZORAM**

*Thesis submitted in partial fulfilment for the Degree of Doctor
of Philosophy in Public Administration*

Submitted By

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October 2018

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CERTIFICATE

This is to certify that **Ms. Mary Lalngaihawmi** has prepared a Thesis under my Supervision on the topic ***Right to Information and Good Governance in Mizoram*** in partial fulfillment for the award of the Degree of Doctor of Philosophy (Ph.D) in the Department of Public Administration, Mizoram University, Aizawl.

This Thesis has been the outcome of her original work and it does not form a part of any other thesis submitted for the award of any other degrees.

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DECLARATION

I, **Ms. Mary Lalngaihawmi**, do hereby declare that the Thesis entitled ***Right to Information and Good Governance in Mizoram*** is a an original work carried out by me under the supervision and guidance of **Prof. Lalrintluanga**, Professor, Department of Public Administration, Mizoram University, Aizawl and this Thesis did not form basis of the award of any previous degree to me or to the best of my knowledge, to anybody else, and that the Thesis has not been submitted by me for any research degree in any other University/Institute.

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ACKNOWLEDGEMENT

My foremost gratitude goes to the Almighty for His blessings and guidance.

I sincerely thank my supervisor, Professor Lalrintluanga, Department of Public Administration, Mizoram University. I am indebted to him for his guidance and tireless efforts for the completion of this work.

I would also like to thank the Head of Department and all the faculty members of the Department of Public Administration, Mizoram University, for their support and good wishes.

I am grateful to the University Grants Commission for its Faculty Development Programme so that I could avail of three years leave to pursue my research work.

I am also thankful to the Principal and staff of Government T. Romana College, Aizawl, Mizoram, for their encouragement during the entire course of my study.

I also wish to thank the State Public Information Officers and other Public Officials of various Government departments of the Government of Mizoram for their cooperation and feedback while carrying out my field work for the study.

I am also indebted to members of the Civil Society Organisations for their support and feedback.

Dated Aizawl
14th March, 2018

(MARY LALNGAIHAWMI)

ACRONYMS

ACB	: Anti-Corruption Bureau
AH & VETY	: Animal Husbandry & Veterinary Science
ARC	: Administrative Reforms Commission
ATI	: Administrative Training Institute
ASPIO	: Assistant State Public Information Officer
BAFFACOS	: Bamboo Flowering & Famine Combat Scheme
BPL	: Below Poverty Line
CAG	: Comptroller and Auditor General
CBI	: Central Bureau of Investigation
CHRI	: Commonwealth Human Rights Initiative
CI	: Circle Interpreter
CPIO	: Central Public Information Officer
CSOs	: Civil Society Organizations
DAA	: Departmental Appellate Authority
DIG	: Deputy Inspector General
DM & R	: Disaster Management & Rehabilitation
DTE	: Directorate
DP&AR	: Department of Personnel & Administrative Reforms
EF&CC	: Environment, Forests & Climate Change
EU	: European Union
FCS&CA	: Food, Civil Supply & Consumer Affairs
FGDs	: Focussed Group Discussions
FIR	: First Information Report

FOI	: Freedom of Information
GOM	: Government of Mizoram
HR&LN	: Human Rights and Law Network
ICs	: Information Commissioners
IMF	: International Monetary Fund
IPO	: Indian Post Office
LE&IT	: Labour Employment and Industrial Training
LAD	: Local Administration Department
L&J	: Law & Judicial
MBSE	: Mizoram Board of School Education
MHIP	: Mizo Hmeichhe Insuihkhawm Pawl
MLA	: Member of Legislative Assembly
MNF	: Mizo National Front
MSCIC	: Mizoram Chief Information Commissioner
MSIC	: Mizoram State Information Commission
MKSS	: Mazdoor Kisan Shakti Sangathan
MPSC	: Mizoram Public Service Commission
MU	: Mizo Union
MUP	: Mizoram Upa Pawl
MZP	: Mizo Zirlai Pawl
NCPRI	: National Campaign for People's Right to Information
NET	: National Eligibility Test
NGO	: Non-Government Organizations
NRI	: Non Resident Indian

OECD	: Organization for Economic Cooperation and Development
OSA	: Official Secrets Act
PAs	: Public Authorities
PIOs	: Public Information Officers
PRIA	: Society of Participatory Research in Asia
PRISM	: People's Right to Information and Development Society of Mizoram
PWD	: Public Works Department
RaaG	: Research assessment and analysis Group
RD	: Rural Development
RTI	: Right to Information
SCES	: Samya-Centre for Equity Studies
Sectt	: Secretariat
SIC	: State Information Commission
SOSA	: Society for Social Action
SPIO	: State Public Information Officer
UN	: United Nations
UNGA	: United Nations General Assembly
UD&PA	: Urban Development & Poverty Alleviation
YMA	: Young Mizo Association

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INTRODUCTION

1.1. Background

The Right to Information (RTI) is an important instrument for bringing about transparency and efficiency in administration, containing corruption and holding the Government responsible and accountable to the people. The main idea behind RTI is to empower the citizens in terms of service and delivery on the part of Government. Stressing the importance of RTI for empowerment of the people, Saini and Gupta also rightly state: “As a democratic device to empower the common man in relation to the Government, the Right to Information has raised high expectations in India.”¹ In other words, RTI ensures freedom of information to the common man relating to governance.

1.2. A Brief Profile of the Land “Mizoram”

Mizoram, formerly the Lushai Hills, stretching across 21,081 in square kilometres is a hilly terrain full of ridges. The Tropic of Cancer passes through Aizawl, the capital of Mizoram. It is one of the smallest States in the North Eastern part of India. It is situated at 22°19’ North latitude and 92°16’ and 93°26’ East longitude. Though the whole of Mizoram was once a Scheduled District of Assam, it is now a Scheduled Tribe concentrated area.

Mizoram is located in the North-eastern part of India and is bounded by Myanmar to the East and South and Bangladesh to the West and by the States of Tripura to the Northwest, Assam to the North and Manipur to the Northeast.² While Mizoram was made as a part of Assam, it was officially called “the Lushai Hill District of Assam.” On 20th April 1959, the name of Lushai Hills District was changed to Mizo District and in 1972, Mizoram ceased to be a part of Assam and was accorded Union Territory status. Fifteen years later, on 20th Feb 1987, Mizoram was granted Statehood and became the 23rd State of India. As per 2011 Census, the literacy rate of the people in Mizoram was 91.58 percent.

¹ Saini P.K. & Gupta R.K., (Eds). *Right to Information Act 2005: Implementation and Challenges*. Deep & Deep Publications Pvt. Ltd, New Delhi. 2009), p.3.

² <https://www.britannica.com/place/Mizoram>

Mizoram has 8 (eight) Districts namely Aizawl District, Champhai District, Kolasib District, Lunglei District, Mamit District, Serchhip District and 2 (two) Autonomous Districts, Lawngtlai and Saiha (Siaha) in the Southern part of the State. These two Autonomous Districts have 3 (three) Autonomous District Councils namely Mara Autonomous District Council, Lai Autonomous District Council and Chakma Autonomous District Council.

Of all the District Headquarters, only Aizawl has Urban Local Body (ULB) and the first democratic election to the Aizawl Municipal Council (AMC) was held in 2010. Initially, AMC had 19 Members, including 6 women, representing 19 Wards. After the elevation of AMC to the status of Municipal Corporation, the total number of membership has been raised to 23.

There are 40 (forty) Seats in the Mizoram State Legislative Assembly. Apart from this, the State has 2 (two) Seats in the Parliament, one in the Lok Sabha and another one in the Rajya Sabha.

According to the Statistical Handbook of Mizoram 2010, there are 23 Sub-Divisions, 26 Rural Development (RD) Blocks and 817 villages out of which 110 are uninhabited.

1.3. Indigenous Ethnic Tribes Constituting ‘Mizo’

A number of writers and scholars have written vastly on the origin of the term “Mizo.” According to the popular view of non-local writers, the term ‘Mizo’ is a compound of two words- ‘Mi’ and ‘Zo.’ While ‘Mi’ in Mizo language means ‘person,’ there is ambiguity about the precise meaning of ‘Zo.’ According to popular interpretations, the word ‘Zo,’ has been intended to mean ‘high hill,’ highland,’ ‘cold region,’ so on and so forth. Accordingly, the term ‘Mizo’ has generally been translated as “hill men,” “highlanders,” “people in the cold region,” and the like. If these interpretations of the term ‘Mizo’ are going to be accepted as true, all other hill men like Nagas, Arunachalis and Khasis, though they are not Mizos by ethnic originality, should also be accepted as Mizos. It is, therefore, out of question for the Mizos to accept the term ‘Mizo’ to mean all other ‘hillmen’ or ‘highlanders’ even

though the Mizos are of highlanders. Thus, all these interpretations have failed to reveal the real meaning behind the term ‘Mizo’ and hence the hurdle in identifying the precise meaning of the term ‘Mizo.’ On the other hand, the word ‘Mizo’ has been used as a generic term for all those original hill tribes such as Lusei, Hmar, Ralte, Paihte, Pawi, Lakher, Pang and their allied tribes.³ They are the original hill tribes of the Assam-Burman sub-group that branches from Tibeto-Burman group of the main Tibeto-Chinese race.⁴ These original hill tribes, according to L.B. Thanga, are of the Mongoloid stock.⁵ In brief, these various original tribes and clans including their allied tribes who are knit together by common customs, common traditions and common language and also identifying themselves as ‘Mizos’ are collectively known as the ‘Mizos.’ It is, therefore, evident that ‘Mizo’ is the generic term which stands for several major tribes and sub-tribes who out rightly identify themselves as Mizos within and outside Mizoram. As the generic term ‘Mizo’ has a political connotation since the beginning of the first democratic movement in today’s Mizoram and its surrounding Mizo inhabited areas, it is hoped that this literal analysis of the generic term ‘Mizo’ would enable the people living in other parts of the world to have a proper understanding of the term ‘Mizo.’

1.4. Culture and Traditions

Mizo society of the past was “a simple, close-knit and gregarious society where there was no caste system.”⁶ In the absence of caste system, the social relations that exists among them are distinct from those experienced among the plains-people and other tribes in the hilly areas of North-East India.

The Mizos are by nature, slow to talk but prompt to act. To the Mizos, verbal insults are reasonable grounds for physical retaliation. In other words, the Mizos are easily provoked by mere words or attitudes and hence, their outlook on life can be easily differentiated from those of the plains-people.

³ Liangkhaia, Rev., *Mizo Chanchin*, (Nazareth Press, Aizawl, 1976), Pp.9-21.

⁴ Lalthangliana, B., *History of the Mizos in Burma*, (History Department, Arts and Science University, Mandalay, 1975), p.2.

⁵ Thanga, L.B., *Op.cit.*, p.3.

⁶ Soppit, C.A., *A Short Account of the Kuki-Lushai Tribes on the North-East Frontier Districts*, (Assam Secretariat Press, Shillong, 1898), p.10.

The Mizos have their own ways of life and values derived from their ancestors. They are plain-hearted, simple and sociable but warlike. They are suspicious of outsiders and “cannot repose full trust in them when the latter try to win their confidence in various ways.”⁷ These ‘traits,’ ‘norms’ and ‘values’ are strongly evident in Mizo culture and traditions.

The Mizos have a strong socio-cultural norm of *Tlawmngaihna*, which is the governing principle of their culture. In the past, the then Lushai Hills set themselves up like the Greek City States, each village being under the control of Chiefs. Each village maintained self-sufficiency in economy and administration. *Tlawmngaihna* was taught inside *Zawlbuk*, a bachelor’s dormitory, where all the unmarried males slept. The advantage of this was that people’s minds became imbued with the virtue of ‘*Tlawmngaihna*’. The word *Tlawmngaihna* “stands for that compelling moral force which finds expression in self-sacrifice for the service of others.”⁸ Every Mizo is expected to be “courteous, considerate, unselfish, courageous and industrious, he must always be ready to help others even at considerable inconvenience to himself and must try to surpass others in doing his ordinary daily tasks efficiently.”⁹ The spirit of *Tlawmngaihna* was strongly embedded in their life and a normal Mizo boy would never let others know when he secretly went as messenger to the neighbouring village even at night. In this regard, it is possible to establish that the Mizos were secretive in nature and not transparent. Even if a person does some good things for his fellow human beings, he would never like to divulge it to others unless they come to know it from other sources.

Some level of transparency was maintained among the lads sleeping together in *Zawlbuk*, where senior Bachelors gave them instructions regarding their responsibilities for safety of their village. However, it is necessary to note that the lads sleeping in *Zawlbuk* would publicise only those information meant for the village community. In the minds of the Mizos of the past, praising oneself was taken

⁷ Lalchungnunga, *Mizoram: Politics of Regionalism and National Integration*, (Reliance Publishing House, New Delhi, 1994), Pp.54-55.

⁸ Chatterji, N., *Zawlbuk as a Social Institution in the Mizo Society*, (Tribal Research Institute, Aizawl, 1975), p.15.

⁹ Parry N.E., *A Monograph on Lushai Customs and Ceremonies*, (Assam Government Press, Shillong, 1928), p.19.

as a shameful act. There is a Mizo saying which goes like “*mahni in fak leh sakhi ngal ah eng mah a bet lo*” literal meaning of which is ‘there is nothing worthy in self-praise or in a deer’s shins’. As such, Mizos by nature were hesitant to self-praise as well as to praise or bad name others. It was usually on a persons’ funeral that his or her good qualities were spoken out. Though this is still the case to some extent, Mizos have slowly learnt to practice the art of praising and flattering others but as far as smearing of names or defamation is concerned, what still prevails in the minds of most Mizos is that the person who insults or smears is rather the culprit instead of the person who does the wrongdoing. This also largely applies to the workplace as a person who is lenient and complacent is rather hailed as a good boss and a person who is every bit a good administer is regarded as a bad boss and labelled as strict and stern.

The Mizos regard their inherent character as based on the principle of *Tlawmngaihna*. One outcome of *Tlawmngaihna* is that it has produced in the Mizo people, unwillingness to intrude in other people’s affairs or do things that could result in slander of any kind. Because of the innate nature of the Mizos as defined by *Tlawmngaihna*, there is hesitancy among the Mizos to exercise their right to information which is, till today, considered a kind of shameful act to show up on the official corridors and making inquiries personally. Though RTI is an ensured right to obtain information relating to activities of the Government, there is caution among people of all levels to exercise their right for fear of being scorned and branded as a meddler or intruder.

1.5. Review of Literature

A number of books and articles have been written on “Right to Information,” “Civil Society” as well as “Good Governance.” The scholar has undertaken extensive review of a number of these books and Articles written by different authors, most of them theoretical in nature. With a view to doing justice to the objectives of the study, the review of literature has been organized under the following heads:

(A) Review of Literature Relating to Right to Information

In *“Implementing Right to Information: A Practical Approach”*, **Chadah**, (2009) argued that citizen’s right to access information is not limited to receipt of official information but it also requires that those who exercise authority must be made answerable for the way in which they discharge their public responsibilities. She expressed major concerns relating to implementation of the RTI Act like disclosure of file noting. She held that the entire process of the Act is to open Government’s decision making process to public scrutiny.

CHRI, (June 2015) studied *“State of Information Commissions and the Use of RTI Laws in India”* and pointed out that the actual number of RTI applications could be higher since many public authorities do not report their annual compliance, and the number of applications filed with them does not get accounted for. They studied 29 Information Commissions based on their Annual Report for a period of 2 years (2012-2014). They maintained that though Section 25 of RTI Act compels all public authorities under Central and State Governments to submit Annual Report of implementation to Information Commissions, compliance is very poor. They found, among others, that Mizoram State Information Commission (MSIC) is one of the Information Commissions with no pendency of cases but is also one of the States not displaying Cause Lists on their websites. They also established that MSIC, as per its Annual Reports, has never issued award of compensation to Appellants or Complainants and they feel that this could be due to the absence of Clause of compensation award Section 19(8) (c) of the Right to Information Act in Mizoram Right to Information Rules 2010. They also highlighted a good practice of MSIC which is insistence on Departmental Appellate Authorities (DAAs) to provide information about the number of instances in which exemptions were invoked to justify denial of access to information.

Tracing the *“Right to Information and Good Governance,”* **Dhaka**, (2010) pointed out that RTI is one device to discipline power and ensure better accountability, reduce corruption and increase administrative efficiency. He laid importance on the need to revise and review legislations contrary to the Act like the Official Secrecy Act.

Dokeniya, (2013) in *“Implementing Right to Information: Lessons from Experience,”* maintained that the performance of an RTI regime is usually measured by assessing the extent to which citizens exercised RTI (through the number of annual requests), and whether the existence of a legally–mandated right propelled officials to disclose information (through statistics of fulfilment versus denial of requests).

Dutt, (2013) found through his *“Right to Information for Inclusion and Empowerment,”* that for every success story that RTI Act throws up, there are many that have left citizens disillusioned and dissatisfied with the path-breaking legislation. He held that there are many stories of non-responsive SPIOs, evasive responses and harassment experiences of information seekers all over the country.

“Freedom of Information: Bridging the Gap Between the Citizen and State” by **Geha**, (June 2008) held that FOI constitutes of three phases; enactment of a law stipulating the rights of citizens to access government held documents, full implementation of the law, and evaluation and improvement in the law. The final phase is one that is ongoing and required continuous efforts to consolidate the practice of FOI. She emphasized that the phase of enactment as well as monitoring and evaluation should involve all of society’s stakeholders.

Goel, (2007) in *“Good Governance: an Integral Approach”*, laid emphasis on efficient and effective institutions and stressed the need on the part of institutions to function in a transparent, responsive and accountable manner. He maintained that secrecy in government is the most important cause of corruption, inefficiency and an enemy to good governance and that the Act can provide citizens with a vital tool to inform themselves about a government’s record in office.

In *“the RTI Act and Training-Brief Comments on Capacity Building at the State Level”*, **Hooja**, (July-Sep 2009) highlighted the importance of training in RTI for Government officials and their staff at various levels for the successful implementation of the Act. He laid stress on the need for them to be oriented and trained about RTI as there is a need to develop a culture towards transparency in Government and for the proper implementation of the Act.

HOOT, (2015) in an article entitled “*Are One Percent of Indians using RTI?*” found that ten years of RTI has not resulted in comprehensive updated statistics being available and asserted that both the Central Information Commission (CIC) to which the Central Government departments report and the State Information Commissions (SICs) generate usage figures but both are handicapped when the Government departments and Public Authorities reporting to them do not send the numbers on applications received.

In “*RTI Implementation at the District level: Issues and Challenges*”, **Jain**, (July-Sep 2009) established that the implementation of the Act at the District level is the most vital link in the chain of information sharing with the National and Sub-National framework. He discussed the various issues faced on the demand side like low public awareness, constraints faced in filing applications and inspection of records, poor quality of information provided and the like. He maintained that the RTI Act only confers right and does not prescribe any duty.

Jain, (Dec 2011) through her “*Access to Information within the Ambit of the Right to Information Act 2005: Loopholes and Possible Remedies*,” reported that the barrier to information is the single most important cause responsible for rampant corruption in society. It facilitates clandestine deals, arbitrary decisions, undue manipulations and well planned embezzlements. She holds that when a person files an RTI request/application, he/she consciously does three things, which are; invoking a political question of rights, an economic question of public spending of taxpayers’ money and a democratic assertion of transparency and accountability. She recommended that the SPIOs need to be provided with an adequate infrastructure and resources so as to ensure proper compliance with the Act and that the department concerned should ensure this as the burden of providing information should not only be on the information officer but also on the department concerned.

Kaushik, (2012) as a result of his study entitled “*Right to Information Act: a Tool of Good Governance*”, revealed the primary power of RTI as being a tool of citizen empowerment. He laid stress on the importance of RTI not only in determining policy but also in checking the Government in its implementation. He

also observed the need to look beyond the Right and devise appropriate mechanisms to safeguard the interests of the common man and ensure good governance in the country.

Monga & Mehta, (2008) in *“Right to Information Act 2005: Key for Effective Implementation”*, highlighted the importance of the Act particularly Section 4 which they described as the crux of the entire Act. They accentuated the need on the part of all officials to comply with Section 4 which makes it obligatory on their part to maintain its records in a set format and update it on a regular basis. They hold that Section 4 holds the key for effective implementation of RTI.

Neha, & Kumar, (2015) studied the *“Significance of RTI Act to Ensure Good Governance in India”* as well as the role played by major stakeholders or entities to improve the RTI regime in the country and importance of the Act to ensure good governance in India. They found that CSOs and social activists are enhancing the reach and awareness of RTI among the masses but due to the geographical size and population, the reach of CSOs and social activists is limited. They also pointed out that Media has played a vital role in generating awareness at a mass scale. They also identified the following problems inhibiting the success of RTI like lack of assistance in filing the application, low level of training, ineffective record management system, illiteracy and poverty, limited use of technology, lack of monitoring and review mechanism. They concluded that there are many anticipated and unanticipated consequences of the Act including contributions made by various stakeholders, impact of RTI on society and governance, corruption in India, awareness level among poor sections of the society, unnecessary queries, and limited use of technology.

OECD, (2016) analysed in *“Open Government: The Global Context and the Way Forward,”* how countries are implementing open government practices, the challenges these countries are facing and the untapped opportunities that is existing to enhance transparency, accountability and citizen participation both in policy making and service design and delivery. One of their findings is that countries are moving from an intrinsic to an instrumental understanding of open government

reforms, using them to achieve broader policy objectives such as good governance and inclusive growth, rather than as goals in themselves. The study stressed on monitoring and evaluation of impact and outcomes but at the same time admitted that there is lack of internationally recognised guidelines to assess impact indicators.

Palanithurai , (2009) remarked in “*Problems and Scope in Handling Right to Information from Grassroots Perspective*”, that of the many historic decisions in independent India, enacting a legislation to ensure RTI is a path breaking one towards empowering its citizens and making the government accountable to them. He pointed out that, so far, officials have not been oriented and trained to respond to the people in a responsible way but rather, they have been oriented to rule the people. He highlighted that the RTI Act is the direct outcome of the demands of the people. He studied the working of RTI in Tamil Nadu, which has maximum number of appeals in Information Commissions (ICs). He opined that the number of appeals may signify two things, firstly, people are interested in using RTI and secondly, officials are not responding well to RTI requests.

PricewaterhouseCoopers, (June 2009) after studying “*Final Report: Understanding the Key Issues and Constraints in Implementing the RTI Act*”, found that the RTI Act has not yet reached the stage of implementation which was envisioned; that there is variance in role/ownership of State Information Commissioners (SICs) and State Nodal Department in implementation of the Act, despite the fact that the appropriate Government’s role is clearly defined in Sections 26, 27, and 28 and the Information Commissioner’s role is defined in Section 19. It also found that there is inadequate planning at Public Authority level to proactively identify and address the constraints and ensure that citizens are provided the requested information (as per Section 4 and 5). It pointed out that there is inadequate processes, infrastructure or resources with the ICs to measure the extent of implementation of the Act particularly Section 4 of the Act. The study also found that there is inadequate infrastructure, to measure the number of RTI applications filed/disposed and rejected on a real time basis for various Public Authorities and in the absence of any mass awareness campaign carried out by appropriate

Governments, the current public awareness is primarily a result of media, “RTI investigations” done by the journalists and efforts of CSOs.

RaaG & NCPRI, (2009) through “*Safeguarding the Right to Information*”, found that there is poor awareness about the RTI Act especially in the rural areas. They established that less than half the SPIOs and even a lesser proportion of other civil servants have been oriented and trained towards facilitating RTI. They also observed that despite a very strong provision for Proactive Disclosure under Section 4 of the RTI Act, there is poor compliance by Public Authorities, thereby forcing applicants to file applications for information that should be available to them proactively, and consequently creating extra work for themselves and for Information Commissions. They also accentuated that one major constraint faced by SPIOs in providing information in a timely manner is the poor state of record management in most Public Authorities.

RaaG & SCES, (2014) in their evaluative assessment, “*Peoples’ Monitoring of the RTI Regime in India 2011-2013 RTI Assessment*”, held that 80% of respondents in rural FGDs and 95% in urban FGDs wanted to use the RTI Act in order to seek redress of their grievances. They found the First Appeal process as ineffective. They highlighted the need to reduce RTI request for some departments like Police, Land and Building departments and recommended that common types of information be made proactively available. They established that less than 3% of imposable penalties are actually imposed by ICs. They drew attention to lack of training and lack of proper record management as big constraints in RTI implementation.

The study, “*Tilting the Balance of Power: Adjudicating the RTI Act for the Oppressed and the Marginalised*”, conducted by **RaaG**, (2017) is a detailed analysis of a random sample of nearly 2000 orders of the Central Information Commission (CIC) and ICs of Assam, Bihar and Rajasthan and found that Proactive Disclosure is a weak area, and focus is on online Proactive Disclosure and stressed the fact that nearly 3/4th of the Indian population has no internet connection but are the ones that needs information the most. The study found that Public Authorities are not

providing relevant facts behind formulation of important decisions which affect the public nor do they provide reasons for all administrative and quasi judicial decisions. The study pointed out a growing tendency to illegally “transfer” RTI applications to other SPIOs in the same authority and inventing exemptions; the need to properly define “Substantially Financed”, “Confidential”, “Disproportionate Diversion of Resources”; hesitancy to impose penalty by ICs as there is tendency of emulating their successors; unwillingness of ICs to put the onus of proof and justification on the SPIO both in appeals and complaints; a trend in the CIC in remanding Complaints back to DAAs and misunderstanding of Section 11 by SPIOs and ICs.

Singh, (2014) studied “*Right to Information and Freedom of the Press*”, and held that the main objectives of the RTI Act are to put into operation the fundamental Right to Information; to set up systems and mechanisms that facilitate people’s easy access to information; to promote transparency and accountability in governance; to minimize corruption and inefficiency in public offices and to ensure people’s participation in governance and decision making. He also held that the key concept of RTI is the right of the public to access information and the corresponding duty of the Government to meet the request, unless specifically defined exemptions apply. He laid importance on the right to ask questions and the duty to ask reasonable questions as the real purpose behind RTI is to make the Government transparent and accountable and aims to make the citizens an instrument of transparency and accountability thereby giving them empowerment.

In “*Implementing RTI Act 2005: An experience of Haryana*”, **Siwach**, (2009) found that the main problems relating to RTI are lack of awareness among masses, lack of elite usage, tug of war waged over information within administrative machinery, political insensitivity, leniency to penalise the erring officers and the like.

(B) Review of Literature Relating to Good Governance

Agarwal, (1998) studying “*Good Governance: Cutting Edge of Administration*”, outlined constitutional provisions reflecting the goals and

aspirations of good governance with emphasis on the Directive Principles of State Policy. He highlighted the dismal existence of life afflicted by poverty, disease and unemployment. He held that the reasons for deterioration are due to evaporation of the spirit of national service, ineffective social legislations and land reforms, corruption at all levels and the like. According to him, the Socio-Economic goals of good governance depicted in the Directive Principles of State Policy have not been realised till today.

In discussing “*Governance as Agenda: The Discursive Shift*”, **Arora**, (1998) talked about the recent major shift that has taken place from development and welfare concerns to good governance. Analysing the reform package adopted by the World Bank, she pointed out the importance attached to good governance by donor agencies. She maintained that the underlying agenda beneath this is to shift state power to the corporate sector. She analysed that effect of foreign aid has an adverse and positive effects and found that positively, there is improvement in the capacity of state in order to attract foreign capital and serve foreign markets and, negatively, state capacity is dependent on donor countries due to conditionality set by them as they can withdraw assistance any time.

Dey, (1998) in his article, “*Defining Good Governance*”, analysed the administration system as given by Kautilya in his ‘Arthashastra’ and the system of governance during the British rule. He characterized the features of administrative governance during the British rule as elitist, overlordist, authoritarian and status quoistic. He pointed out that in Independent Indian administration, welfare of the people was the first priority they gave but the last thing they bothered about. He also held that over population is a sure sign of breakdown of good governance.

Studying “*Political Stability and Good Governance*”, **Gaur**, (1998) defined stability as maintenance of conditions under which a governmental system can discharge its obligations towards its people in a fair and equitable manner to facilitate dilution and diffusion of social tensions and to promote social harmony. According to him, there are four pillars on which political stability rests; the machinery of Government consisting of three branches of Government, the

bureaucracy, the Army and the people. He accentuated the factors threatening India's political stability as illiteracy, mass poverty and unemployment, population explosion, rising inequalities, corruption, criminalisation of politics, politicization of administration and others which are factors rendering good governance a casualty. He criticised the threat posed by World Bank and others for introducing the market economy and endangering the social welfare programmes.

Maheshwari, (1998) in "*Political Reforms for True Governance*," analysed the problems afflicting the Indian society and identified them as political instability, criminalisation of politics, proliferation of political parties and the like. He held that any change in the system must be preceded by first curing of politics in India. He criticised the culture of India in which politicians never retire from the practice of adopting politics as a life time career. He appraised the German practice of constructive vote of confidence. He emphasized the feasibility of alternative form of government, that is, the Presidential form of Government whose greatest virtue, he opined, is the stability of the Executive.

Narashah, (2000) through "*Management Training in India*", held that good governance is based on the observance of certain principles such as accountability of government leaders, transparency in the use of public funds, responsiveness of government to popular aspirations and room for people to participate in all spheres of social and economic life to produce, to organize their mutual assistance and to express their views on development decisions affecting their existence.

Parigi, et al, (2004) after studying "*Ushering in Transparency for Good Governance*," maintained that transparency is the core principle of good governance and essential for controlling corruption in public life. He drew attention to the main objective of Governments in providing information to its citizens which is not only to promote openness, transparency and accountability in administration, but also to ensure participation of people in all matters related to governance.

In "*Distilling Contributions of Administrative Law in Promoting the Culture of Good Governance*", **Singh**, (1998) held that there are five E's in good governance, namely, efficiency, effectiveness, economical, ethical and equitable. He

elaborated the need to record reasons for each administrative decision, checking misuse of discretionary powers and the need to uphold openness, impartiality, rationality and participation. He suggested several measures to promote good governance like making administration citizen friendly and citizen caring, responsiveness to citizen complaints, openness and so on.

Analysing “*Aspects and Relevance of Good Governance*,” **Saurabh, et al.**, (2009) held that the term governance means different things to different people. They contend that many Governments have undertaken broadly similar reform packages but there is significant variation in outcome. They argued that the main reason for this is the quality of governance, that is, the ability of Governments to implement effectively the policies they have chosen.

Tiwari, (2004) in “*Transparency and Accountability in Administration*”, remarked that the test of good governance lies in the goals and objectives of the government, in its policies and programmes, in the manner of their execution, in the result achieved and above all in the general perception of the people about the quality of functioning of various agencies, their attitude and behaviour towards the people, their sincerity, honesty and their commitment towards public duties.

In “*Good Governance: Concept and Approaches*”, **Yogendra & Baghel**, (2006) held that governance, good governance, bad governance and so on are terms which arose out of development studies. They pointed out that though the term governance has been in use since time immemorial, it was given a thrush in the 1980’s as a result of the World Bank’s drive.

(C) Review of Literature Relating to Civil Society

Berman, (1997) studying “*Civil Society and the Collapse of the Weimar Republic*”, held that the fall of German democracy to Nazism was due to too much civil society rather than too little. He pointed out that within the traditions of India are many components of civil society: attitudes of tolerance between social groups, conceptions of a self regulating society under a limited state and a kind of

individualism in the Hindu doctrine of responsible for one's own religious destiny through personal choices made on this earth.

Analysing "*Civil Society and its Institutions*," **Beteille**, (2003) held that the idea of civil society or at least the term civil society has acquired a certain currency in discussions of society and politics in India. He opined that the general impression conveyed in these writings is that civil society is something desirable, that it should be given room for expansion and protected from forces hostile to it. He stressed that there has hardly been any discussion of when and under what conditions civil society came into existence in India, and in the absence of such a discussion, the term is inevitably used somewhat promiscuously.

Gehlot, (2009) studied "*Right to Information Act: A Review of its Implementation*" and asserted that one of the outstanding features of the Act is the provision for setting up of ICs which are meant to be independent and high level bodies. He analysed the role of the CIC and maintained that complaints against the CIC were mostly of resort to exemption clauses, fiduciary nature of request. According to him, media has refrained from bringing widespread corruption to light and has failed to take up social issues which could result in bringing about systemic changes.

Through "*Implementation of Right to Information Act: A Challenge to Government*", **Gupta**, (2009) emphasized that information is the ultimate weapon in a democracy and is a potent tool for countering many of the social evils and for protecting the Fundamental Rights of the people. She identified the hurdles in the implementation of the RTI Act; the difficulties experienced by NGOs and social activists in getting information from officials who have deep vested interests in guarding information and working in secrecy. She also contended that there is low level of awareness of the Act particularly in the villages.

Mahajan, (1999) analysed "*Civil Society and its Avatars: What happened to Freedom and Democracy?*" and established that in the 13th century when the established Roman Catholic Church exercised considerable hegemony over social and political life, the concept of '*Societas Civilis*' was coined to depict a zone which

was free from Papal influence, and was governed by laws that were not of divine origin. According to her, civil society exists for the sake of securing the rights of men and within it the actions of the sovereign are supposed to create conditions by which individuals can enjoy their rights and liberty fully. She opined that civil society is a specific kind of political society, one where the rights of individuals receive primacy over all else. She concluded that it is this principle of primacy to rights that distinguishes civil society from other forms of political society, collective bodies, community institutions and associations.

Mander & Joshi, (1999) traced "*the Movement for Right to Information in India: People's Power for the Control of Corruption*" to the initiatives taken by a grassroots organization called Mazdoor Kisan Shakti Sangathan (MKSS) and how it has led to nationwide campaign for a law demanding RTI. They studied the significance of RTI particularly in empowering the citizens to combat State corruption. They asserted that information is power and every attempt by the Executive in withholding information increases its scope for control, patronage and arbitrary exercise of power. They highlighted the importance of RTI as it gives the right to question, examine, audit, review and assess Government acts and decisions.

In "*Corruption and the Right to Information*," **Mander**, (2003) maintained that corruption by Public Authorities is an indicator of the rupture of institutions of governance. He stressed that lack of transparency within the bureaucracy is an important factor responsible for promoting public corruption and that RTI is an important means to increase bureaucratic transparency and check corruption. He concluded that an active, vigilant and assertive citizenry is the most reliable and sustainable barrier to corruption.

Mendel, (2008) after studying "*Implementation of Right to Information: Lessons for India from Canada, Mexico and South Africa*," revealed that Public Authorities including ICs can help maximize the impact of civil society initiatives in two key and closely related ways: by forming strategic partnerships with different groups to deliver common goals and by working to build the capacity of civil society to achieve these goals. He also laid emphasis on the fact that not only the civil

society and NGOs but also the media and academia can play a key role in promoting access to information. He laid weight on the need to ensure cooperation between officials and civil society and holds that implementation of RTI is a long term process requiring serious commitment and effort from different actors.

Oommen, (2004) through “*Nation, Civil Society and Social Movements: Essays in Political Sociology*” held that just as the State can be democratic or authoritarian, civil society can be a liberating or a coercive agent. He laid importance on the need to reduce disparity, minimizing discrimination and eliminating collective alienation.

Analysing “*FOI Laws Around the World*,” **Michener**, (2011) summarized three success stories for civil society campaigns, Mexico, India and Bulgaria - alongside continued defeat and delay in Brazil and Argentina. He found that for some countries, FOI laws were passed shortly before or after political transitions like Mexico, Guinea, Canada whereas others like Japan, and S. Korea passed their laws due to political competition. He opined that the test of effectiveness of FOI law depends on the strength or weakness of the President. He maintained that while most examples of FOI laws as tools of political monitoring involve their use by journalists, civil society groups and ordinary citizens, they are also used by politicians and parties seeking to expose wrongdoing or scandal on the part of their opponents.

In “*Modern System of Governance: Good Governance Vs E Governance*,” **Pani et al**, (2004) analysed the concept of good governance and stressed that it is a function of installation of positive virtues of administration and elimination of vices of dysfunctions. They applauded the role played by civil society in good governance as they not only render valuable supplementary services to governmental efforts but also play a major advocacy role in mobilizing public opinion and community action.

Patnaik, (2008) in his edited book, “*Mizoram: Dimensions and Perspectives*” stated that the reason for peace in Mizoram is due to the growing activism of the civil society and its synergy with the State. He maintained that the growing discontentment in the Mizo society has led to the evolution of a number of

CSOs to fight against corruption and injustice in Mizoram. He observed that these organizations have been making use of RTI in order to root out corruption.

In “*Civil Society and Governance: Draft Synthesis Report*”, **Tandon & Mohanty**, (June 2000) deliberated on important issues relating to the poor and marginalized sections of the society in different parts of India. They concentrated their attention to three governance areas like public policy, accountability and local governance. With these targets in view, they explored the role of civil society in the promotion of good governance. They hold that the agenda of good governance is multifaceted and involves on the one hand, reforming institutions of the State and on the other hand, creating a culture in society which is consistent with the democratic values and practices.

World Bank, (2012) in its study, “*Implementing Right to Information: A Case Study of India*,” found that CSOs, in particular, has popularized the law by mobilizing citizens to use it and by monitoring its implementation. It identified key gaps in the RTI regime like the need for greater training and capacity building among Government officials on the provisions of the RTI Act. It found that approximately 60% of both rural and urban PIOs have not received any RTI training, and approximately 40% of PIOs cited this as a constraint on their capacities to supply information to RTI applicants. With regard to record maintenance, it found that 15% of rural PIOs and 20% of urban PIOs cited poor records management as a key constraint to the swift processing of RTI applications. It asserted the need to revise records management practices.

(D) Review of Literature Relating to the Impact of Right to Information

Studying “*the Impact and Effectiveness of Transparency and Accountability Initiatives: A Review of the Evidence to Date: Freedom of Information*,” **Calland**, (2010) opined that before looking at impact, it is necessary to be reasonably clear about what impact you are looking for: what exactly is the social and economic change that it is reasonable to think that freedom of information might promote or deliver? He identified the following: very little evidence of the effectiveness of FOI generally or transnationally; no systematic assessment of the impact of FOI on social

change (and only limited amount related to institutional change). He pointed out that in order to adopt a bolder approach to examining the relationship between FOI and socio-economic impact; there is need for a far more rigorous approach to the evidence and a sound Research Methodology.

Calland & Bentley, (2013) analysing “*the Impact and Effectiveness of Accountability and Transparency Initiatives: Freedom of Information*” held that an online survey of FOI users and interviews with 56 officials in eight UK Government departments asserts that FOI increased transparency and accountability, but there was little evidence that it had improved government decision making, public understanding of decision making or public participation, neither, notably, had it increased trust. They further contended that the Indian case offers one of the best examples of FOI compliance and grassroots participation.

In “*making the Access to Information Law Work*”, **Calland & Neuman**, (2007) stressed that the success of an access to information law is a matter of co-responsibility and not all the burden lies with government as citizens, civil society and community organizations, media and the private sector must take responsibility for monitoring government efforts and using the law. In other words, they pointed out that the demand and supply sides must match, and where they intersect will determine the quality of the transparency regime. They hold that as far as FOI laws are concerned, it is preferable to keep cases out of court if possible. According to them, there is absence of a robust methodology to measure impact and there is lack of research on whether the supposed benefits of FOI have been forthcoming like increased trust, improved involvement in decision making and so on.

Dalal, (2009) through “*RTI Act 2005: Expectations and Constraints*,” stressed the importance of the RTI Act especially in the Third World countries. He contended that the Act has given huge powers to the citizens to check the administrative negligence, despotism, unaccountability and official secrecy. He found that the impact of the Act is still confined to a small section of the society and administration.

Dhaka, (2009) studied *“Right to Information Act and Good Governance: Operational problems and Road Ahead”* and held that a major deficiency in the RTI Act is the lack of provision for ensuring the fulfilment of obligations on public authorities as the obligations set out in Section 4 have no penalty clause and expressed fear that the Act will remain only on paper. He emphasized that there is no description of the powers and functions of the first Appellate authority which leads to confusion. He laid emphasis on the need to empower ICs with Contempt of Court.

In *“Right to Information and Good Governance”*, **Goel**, (2007) highlighted that the impact of the RTI campaign has gone far beyond its immediate context and its effect on the prevalent modes of brazen corruption is dramatic. He laid weight on the need for transparency, to empower people at the right time and place at all levels but at the same time voiced the need to design Code of Ethics for Public Services to avoid too much information.

Lallianchunga, (2015) studied *“Transparency and Good Governance: A Study of the Right to Information Act, 2005 in Mizoram”*, and pointed out a trend in variation in the number of reporting Public Authorities with the years between 2013-2014 projecting the highest number of reporting Public Authorities at 191. He also found that large number of information is given on ground of larger public interest. He accentuated on the need for more awareness generation among the common citizens and the need for observance of RTI Week conducted by MSIC to be all inclusive especially for the common people.

In his study *“Freedom of Information: A Comparative Legal Survey,”* **Mendel**, (2004) stressed that democracy is about effective participation and must begin with information. He pointed out that the FOI goes beyond having the right to access information. He emphasised that it is also about accountability and good governance and laid stress on the importance of RTI as a key tool in combating corruption in Government.

Mukhopadhyay, (2009) through *“the Right to Information Act: a Critical Assessment,”* emphasized that informed citizenry is an asset of democratic

governance and that information is power in a democracy. He opined that there is really no meaningful value in the right to choose the Government through Adult Franchise unless citizens enjoy RTI. He found that in most cases, RTI has proved helpful in checking the administrative irresponsibility and tyranny of small bureaucrats and politicians indulging in political and administrative corruption. He emphasised that access to file noting is the heart of RTI as the noting part of Government files reflect the deliberations on the papers under consideration and through a series of comments of several officers, help the authority to arrive at decisions.

Analysing “*Good Governance: The U.K. Experience*,” **Lewis**, (1998) reflected the present commitment to a free market global economy and the importance of corporate governance to restructure government institutions. He revealed that the United Kingdom deals with administrative problems as and when they arise but without recourse to legislation. He laid weight on a ‘Contracts Ombudsman’ to oversee the whole process as one way of responding to the perceived deficit. According to him, the FOI Act would go some way to repairing the situation.

Singh, (2009) tracing “*the Genesis and Evolution of the Right to Information Regime in India*” accentuated that it is not the growth of democracy but rather its failure in India which gave a new impetus to the need for transparency in India. He found that RTI movements make the systems face up to its own contradictions and force the State to respond to the demands of the people. According to him, at the time of writing, it is too early to assess the impacts of RTI as there is little evidence leading to fundamental systematic changes in the functions of Government. He laid stress on RTI as not just about receiving information but more about empowering people.

In “*Analysing the Right to Information Act in India*”, **Simi et al**, (2010) found that in India, the Act has produced a better impact on the quality of the life of the poor and the marginalised. They held that during the past five years, the Act has brought positive changes in the levels of corruption and accountability. The study

pointed out that there are quite a number of cases, where the CIC has given orders to provide the details of the decision making processes including file noting, Cabinet papers, records of recruitment, selection and promotion of staff, documents pertaining to tender processes and procurement procedure, lists of beneficiaries of Government subsidised schemes, such as food grains supplied through ration shops, water and electricity, domestic gas, educational and health facilities, shelter for poor, muster rolls under employment guarantee schemes, and so on.

A survey of literature reveals that though there are a number of books and articles and a few studies including unpublished dissertations relating to RTI, only one study which is a part of a group study has been made in relation to Mizoram State. Another article has also been written about the implementation of RTI. Therefore, there is dearth of knowledge about the present study which is relevant for all stakeholders.

1.6. Statement of the Problem

In India, the veil of secrecy handed down by the British in the form of the Official Secrets Act has had its repercussions. The administration went from being secretive to corruptive, inefficient and irresponsible. In Mizoram too, corruption, bribery, delays, secrecy, inefficiency and the like are common indicators of the system of governance. Though the State boasts of an 'open society' where men and women mingle and interact freely, the same cannot be said of the Government in its relation to the public. There are lots of apprehensions on the part of the common citizens to approach the Government departments. Inefficiency, red-tape, delays, unresponsiveness, not to mention corruption, are some of the dilemmas facing Public Administration in Mizoram.

The discontentment of the public towards the Government has manifested itself in many forms. Civil society including the Church has often raised their voices but to no avail. The RTI Act was also passed under heavy pressure from the public particularly the civil society. The use of the Act has uncovered a series of events in various aspects of governance. Acts of injustice, corruption and so on has been revealed as a result of RTI. As such, it is necessary to find out as to how RTI has

been interpreted and made use of by various stakeholders in Mizoram and how far it has contributed to good governance.

The RTI Act has been heralded as the most important piece of legislation in India. It is expected to be an innovative law to change various aspects of mal-administration like secrecy, corruption, delays, misinformation and others. An in depth study of its working is very significant.

1.7. Objectives of the Study

The main objectives of the present study are:

- (1) to study the evolution of the Right to Information with special reference to Mizoram
- (2) To study the Government institutional mechanisms responsible for implementation of the Right to Information
- (3) To study the role of the civil society vis-à-vis the Right to Information
- (4) To analyze the impact of the Right to Information on Good Governance
- (5) To examine the problems in implementation of the Right to Information.

1.8. Research Questions

The present research attempts to study the following research questions:

- (1) What are the steps taken by the Government agencies in promoting the working of the Right to Information Act?
- (2) What are the main activities of the Civil Society in relation to the Right to Information?

- (3) What is the impact of the Right to Information on Good Governance?
- (4) What are the problems faced in implementation of the Right to Information?

1.9. Research Methodology

The study employs descriptive research, Content Analysis as well as empirical methods. Descriptive research has been carried out to study the process of evolution of RTI in Mizoram and the steps taken by public authorities pertaining to RTI awareness generation as well as the role of CSOs in the field of RTI. For studying the performance of Government institutional mechanisms responsible for RTI implementation pertaining to Section 4 (1) (b) and for finding out the impact of RTI on transparency, Content Analysis has been done of the Annual Reports of MSIC and Official websites of Government Departments and on-the –spot inspection has also been carried out.

Further, Content Analysis of original Documents of MSIC pertaining to judgment orders was also carried out to understand the nature of adjudications of Second Appeals and Complaints and for finding out the impact on accountability and citizen empowerment. On the other hand, Empirical research has been conducted to study and analyze the problems in implementation of RTI and to substantiate feedbacks relating to impact of the RTI.

The population for the study includes all Public Authorities of Mizoram, State Public Information Officers (SPIOs) of Government of Mizoram and all appellants and complainants of Aizawl District. However, for the study, a Sample of 40 (forty) representing Public Authorities was selected through Purposive Sampling Method and another Sample of 40 (forty) SPIOs representing the SPIOs was selected through Random Sampling Method. Simultaneously, a Sample of 24 (twenty-four) people representing members of civil society who had filed Second Appeals and Complaints to MSIC was selected through Random Sampling Method.

Consequent upon the selection of Samples, two sets of Questionnaires were prepared for collecting primary data. One set of Questionnaires was administered to the SPIOs for finding out, *inter alia*, the problems faced by them in course of implementation of RTI whereas another set of Questionnaires was administered to the Appellants and Complainants with a view to finding out the problems faced by them while seeking information from Government Offices. By way of filling information gaps, the researcher also conducted informal Interviews for collecting primary data from the members of Civil Society Organisations (CSOs) and the Public Officials.

Primary data were also collected from the Annual Reports of Mizoram Information Commission and Documents, Government Records and Documents; Records and Documents of the CSOs.

Secondary Data were collected from books, journals, newspapers, websites, and other relevant published or unpublished works and were used for the present study.

1.10. Scope of the Study

The study was conducted mostly in Aizawl District where the highest number of information-seekers is operating. It has examined the steps taken by the relevant Public Authorities in the context of the RTI Act of 2005 and also scrutinized the Annual Reports of Mizoram State Information Commission (MSIC) from 2006-2016 for assessing the performance of various Public Authorities as well as the adjudications of Second Appeals and Complaints by the MSIC as a monitoring agency of RTI implementation in Mizoram. This work has also highlighted cases where exercise of RTI by Civil Society Organisations (CSOs) has exposed irregularities in disbursement of cash, unfair appointments and the like within the State Administration.

Assessment of the impact of RTI is self-contained within the Annual Reports and Adjudications of MSIC. The criteria for determining the impact of RTI includes analysis of performance of public authorities relating to Proactive Disclosure, that is,

Section 4 (1) (b) to assess level of transparency; analysis of performance of MSIC regarding penalty provisions, that is, Section 20 (1) to assess the factor of accountability and lastly, analysis of success rate of Second Appeals and Complaints to assess the level of citizen empowerment.

Accordingly, the rating scale or benchmark for judging the impact has been determined as follows:

High level: 60% to 100%

Average: 40% to 59%

Low level: Below 40%

Moreover, it has identified the hurdles in the implementation of RTI and made suggestions for making effective implementation of the RTI in Mizoram.

However, the study relating to Section 4 of the RTI Act has been delimited to Section 4 (1) (b), that is, Proactive Disclosure, and 40 (forty) Public Authorities who had responded affirmatively (“Yes”) to the implementation of this Section for five consecutive years (2011-2016) as per the Annual Reports submitted to MSIC were selected as sample for the present study. The criteria for classification into *Satisfactory*, *Average* and *Unsatisfactory* in the rating for judgement of their performance are: *Satisfactory*- fulfilling of all 17 points of Proactive Disclosure, *Average* for incomplete or not updated 17 points Disclosure and *Unsatisfactory* for lack of evidence of implementation of Proactive Disclosure.

1.11. Operational Definitions of the Terms Used

By way of removing any possible confusion, some of the relevant terms used in this study have been clearly defined as follows:

Information: Any information under the control of any Public Authority.

Right to Information: The right of every citizen to access information held by or under the control of public authorities.

Public Authority: Any authority or body established by or under the Constitution or Statute either by Parliament or State Legislature: other bodies owned, controlled or substantially financed including NGOs substantially financed by the appropriate Government.

Public Information Officer: An officer in a Governmental Department who is given the charge of providing information.

Departmental Appellate Authority: An officer of higher rank to the Public Information Officer who is responsible for dealing with appeals.

Information Commission: An independent body in charge of Complaints and Second Appeals.

Civil Society: A composite entity making up of individuals and organizations excluding the Government and the Army.

Institutional Mechanisms: All institutional authorities responsible for successful working of RTI including the appropriate Government, Public Authorities, Training Institute and Monitoring Institution.

Third party: A person other than the person making a request for information.

Good Governance: fair and just governance with emphasis on transparency, accountability and citizen empowerment

Transparency: Openness in the working of the Public Authorities as a result of Proactive Disclosure.

Accountability: Liability of Public Authorities as a result of withholding of information.

Citizen Empowerment: Justice rendered to citizens by means of adjudications in disfavour of holders of information.

1.12. Organization of the Study

The present study has been organized into *seven* Chapters.

The *first* Chapter is the introduction which deals with the profile of Mizoram and the Mizo society including their culture and traditions related to information under the administration of their traditional Chiefs. The chapter also presents background of the present study, statement of the problems, literature review, objectives of the study, the research questions, scope and methodology adopted for carrying out the present study.

The *second* Chapter presents the conceptual framework and talks about the meaning of RTI, salient features, scope and objectives of the RTI Act, as well as concept of “Good Governance” and the link between RTI and Good Governance.

The *third* chapter makes an exhaustive study of the evolution of RTI with a focus on the International initiatives and the Indian scenario with regard to RTI. Thereafter, this Chapter has examined the events leading up to the adoption of the RTI Act in Mizoram.

In the *fourth* Chapter, an analysis of the various institutional agencies responsible for the successful working of RTI is done with a focus on Mizoram State Information Commission (MSIC), Administrative Training Institute (ATI) and other Public Authorities.

The *fifth* Chapter is a descriptive study of the activities of Civil Society Organisations (CSOs) particularly those involved in the exercise of RTI. It has highlighted cases where exercise of RTI by Civil Society Organisations (CSOs) has exposed fraud, irregularities in disbursement of cash, unfair appointments and the like within the State Administration.

The *sixth* Chapter analyses the impact of RTI for promoting Good Governance in Mizoram and also examined the problems in the implementation of RTI based on the data collected through Questionnaires.

The *seventh* Chapter is the concluding Chapter which brings out the findings of the study with the suggestions for improvement of the use of RTI for Good Governance in Mizoram.

CHAPTER-II

RIGHT TO INFORMATION AND GOOD

GOVERNANCE: CONCEPTUAL

FRAMEWORK

CHAPTER-II

RIGHT TO INFORMATION AND GOOD GOVERNANCE- CONCEPTUAL FRAMEWORK

2.1. Introduction

Right to Information (RTI) is one of the key tools to ensure ‘Good Governance.’ It is often said that information is the oxygen of democracy. In India, the Right to Information Act was enacted in 2005, in light of the need for transparency relating to public affairs. This act is an empowering legislation and a force that has the capacity to ensure transparency. As right to information is already a constitutional right, the Act further lays out the necessary groundwork for citizens to gain information on all matters of governance.

The term “Information” is derived from the Latin verb *informare*, which means to give form to the mind, to discipline, instruct, and teach.¹ Information may be defined as any kind of data under the control of any Public Authority.

According to the definition given by the Department of Personnel & Training, Information “includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the Public Authority under any law for the time being in force.”² Jain defines Information “as data that has been verified to be accurate and timely, is specific and is organised for a purpose; is presented within a context that gives its meaning and relevance; and that can lead to an increase in understanding and decrease in uncertainty. The value of information lies solely in its ability to affect a behaviour, decision or outcome.”³

¹ Wikipedia the Free Encyclopedia, accessed on 21st June 2014.

² Department of Personnel & Training Office, Government of India, *Memorandum No. 1/32/2013-IR*

³ Jain, Anshu., *Access to Information within the Ambit of the Right to Information Act 2005: Loopholes and Possible Remedies*, Dec 2011, p.2.
[http://14.139.60.114:8080/jspui/bitstream/123456789/12376/1/015_Good%20Governance%20and%20Right%20to%20Information_A%20Perspective%20\(506-519\).pdf](http://14.139.60.114:8080/jspui/bitstream/123456789/12376/1/015_Good%20Governance%20and%20Right%20to%20Information_A%20Perspective%20(506-519).pdf). Retrieved on 14th June 2014.

Information is very important as it empowers the citizens through the acquisition of knowledge about the activities and processes of their Government.

Satyam and Mishra define RTI as “the right of holding public opinion and to seek, receive information from the public authorities.”⁴ In simple words, RTI means “having access to any material in any form relating to the administration, operations or decisions of public authority.”⁵ Thus, RTI is the right of every citizen to access information held by or under the control of public authorities.

2.2. The Official Secrets Act of 1923 and other Laws

The Official Secrets Act which was passed in 1889 and amended in 1923 puts Government officials in compelling circumstances to maintain the highest level of secrecy about the functioning of the Government. OSA governs all matters relating to secrecy and confidentiality in governance. The Law gives an outline on matters of safety and provides a framework for dealing with spying, incitement to rebellion and other threats towards the harmony and honour of the nation. Nevertheless, given the air of mistrust of the colonial period and the pre-eminence of public officials in dealing with the citizens, OSA created a tradition of concealment. Discretion became the norm and revelation the exception. Sairam Bhatt says; “The Official Secrets Act of 1923 is a replica of the erstwhile British Official Secrets Act and deals with espionage on the one hand but has the damaging ‘catch all’ Section 5 which makes it an offence to part with any information received in the course of official duty to non officials.”⁶ Section 5 of OSA, though implicitly intended to cater to potential breaches of national security, by a loophole in the wording of the law, turned everything into a catch-all legal provision, converting just about every issue of governance into a classified matter. Civil Service Conduct Rules and the Indian Evidence Act put further restrictions on Government officials’ powers to disclose information to the public. The Indian Evidence Act, Section 123 of 1872, prohibited the doling out of verification from unpublished official records without the

⁴ Satyam Kumar Pandey & Mishra, Abhinav., “Right to Information and Good Governance in India,” in *International Journal of Law and Legal Jurisprudence Studies*, Vol.3, Issue 2, (Damodaram Sanjivayya National Law University, Visakhapatnam), p.363.

⁵ Sarbjit Sharma & Krishan Gopal., *Right to Information Implementing Information Regime*, (Authorspress, New Delhi, 2006), p.101.

⁶ Bhatt, Sairam., *Right to Information*, (EPH Publishers, Guwahati, 2012), p.33.

permission of the Head of the Department, who had plenty of discretion regarding the matter. Not surprisingly, even routine instructions issued for classification of documents for security reasons and the official manner by which they were displayed promoted the tendency of holding back information.

The tradition prior to the implementation of RTI was that of exercising high levels of secrecy in administrative functions. It closed the doors of administration to the public and placed an iron curtain between the public and the administration. “Secretive Government is nearly always inefficient and the free flow of information is therefore essential if problems are to be identified and resolved.”⁷

The Official Secrets Act, 1923 which was in force during the British period, governs all matters relating to secrecy and confidentiality in governance. The Law gives an outline on matters of safety and provides a framework for dealing with spying, incitement to rebellion and other threats towards the harmony and honour of the nation. Nevertheless, given the air of mistrust of the colonial period and the pre-eminence of public officials in dealing with the citizens, OSA created a tradition of concealment. Discretion became the norm and revelation the exception.

Though RTI has overriding effect over OSA and other Rules, in the First Report of the Second Administrative Reforms Commission, recommendations had been made to repeal the OSA as confusion results in having two laws on one subject. Though the RTI Act is relatively new compared to OSA, it may impinge on the implementation as concealment has been nurtured through OSA.

2.2.1. Right to Information Act 2005- Salient Features

Though some State Governments had their own RTI Acts like Goa and Tamil Nadu in 1997, Madhya Pradesh in 2003, Jammu & Kashmir in 2004, it was only in 2005 that a Central Law was passed to provide a uniform framework for enabling citizens to access public information. In this regard, J.K. Singh says: “The law enacted in October of 2005 effectively reverses the Official Secrets Act by

⁷ Kaya, Cemil., *Official Secrecy in the UK and the Role of Freedom of Information Act with Regard to Reducing Secrecy*, 2008, p.3.
www.eski.erzincan.edu.tr/birim/ HukukDergi/makale/2008_XII_2_2.pdf Retrieved on 20th June, 2014.

forcing public authorities to regularly self-report information about their dealings and also to provide specific information in a timely manner as requested by citizens.”⁸ Thus, the passing of the RTI Act had enabled the people to have an access to official information for their empowerment. It is significant to note that the RTI Act covers Central, State and Local Governments as well as NGOs that are receiving substantial funds.

According to Section 2 (j) of the RTI Act, RTI means right to information accessible under this Act which is held by or under the control of any Public Authority and includes the right to inspect work, documents, records; take notes, extracts or certified copies of documents or records; take certified samples of material; obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device. Any information may be asked which is held in any form like advices, contracts, circulars, data, document, emails, logbooks, memos, models, opinions, orders, papers, press releases, reports, records, samples and others. By record, we mean any document, manuscript and file, microfilm, microfiche, facsimile copy and so on.

Advocates of the RTI Act argue that “the law can help to purge inefficiency and corruption from Government, control bureaucratic power, and increase the political influence of marginalised citizens. And expectations about the transformative potential of the new law are very high.”⁹ “As a democratic device to empower the common man in relation to the Government, the Right to Information has raised high expectations in India.”¹⁰

The Right to Information Act which was passed in 2005 is divided into 31 (thirty-one) Sections consisting of 6 (six) Chapters. The Prologue to the RTI Act of 2005 lays emphasis on the fact that India is a democratic Republic and “democracy

⁸ Singh, J.K., *Right to Information and Freedom of the Press*, (A.P.H Publishing House, New Delhi, 2014), p.41.

⁹ Roberts, Alisdair S., *A Great and Revolutionary Law? The First Four Years of Indian Right to Information Act*, Revised, 12 March 2010. <https://ssrn.com/abstract=1527858>. Retrieved on 17th May, 2014, p.3.

¹⁰ Saini, P.K., Gupta, R.K., (Eds). *Right to Information Act 2005: Implementation and Challenges*, (Deep & Deep Publications Private Limited, New Delhi, 2009), p.3.

requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Government and instrumentalities accountable to the governed.”¹¹ The main features of the RTI Act, 2005 are as follows:¹²

- (i) It is the right of every citizen of India including NRIs (Non Resident Indians) to seek information from any Public Authority without giving any reason in seeking the information. He or she can ask for information either in English or Hindi or in the local language. Information holder should not question the reason for requesting the information. Most radical provision of the Act is that “the information seekers need not to give any reason for it or prove its *locus standi*.”¹³
- (ii) All Public Authorities must designate Public Information Officers (PIOs) who shall cater to information requests made by citizens in exercise of their right to information.
- (iii) A very important feature is the duty of Public Authorities to prepare a 17 point document of Proactive Disclosure of information to provide basic information about the Department to the public.
- (iv) There is a prescribed application fee for submitting a request for information. People belonging to BPL category are exempted from payment of application fee as well as for the cost of providing information be it in the form of CDs or copies. If information asked for is required to be given either in print out or photocopy, fee for such should be deposited by the applicant. If no deposit is made, then information cannot be disclosed. Thus, apart from application fee of ten rupees which may be paid in cash, IPOs, Bankers Cheque and Treasury Challan, additional fee is required if information is required

¹¹ Government of India, *Right to Information Act 2005*, Ministry of Law & Justice, www.rti.gov.in, Accessed on 4th May 2013.

¹² Government of India, *Right to Information Act, 2005, Ibid.*,

¹³ Simi T.B., Madhu Sudan Sharma, Cheriyan George., *Analysing the Right to Information Act in India*, Briefing Paper 1, 2010. p.2.

to be given in printed or electronic format unless the information seeker belongs to BPL category.

- (v) The time limit for rendering of an information request is 30 (thirty) days under normal circumstances whereas for matters affecting the life and liberty of a person, the time limit is 48 (forty eight) hours. If such information is not supplied to the information seeker within the stipulated time, the information provider is required to provide such information free of charge.
- (vi) If an information request is rejected, the PIO should communicate the reasons for rejection while informing that appeals can be made and at the same time furnishing the particulars of the Appellate authority. The PIO is not supposed to create information that is not a part of the record of the Public Authority. "The Public Information Officer is also not required to furnish information which require drawing of inference and/or making of assumptions; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions."¹⁴
- (vii) The information seeker can appeal to DAA on a number of grounds; - if he is given false information, if he is not satisfied with information provided, if there is no PIO, receipt of false or incomplete information and others. The First Appeal is to be submitted within a period of 30 (thirty) days from the date on which the limit of 30 (thirty) days of supply of information is expired or from the date on which the information or decision of the PIO is received. The DAA should pass a speaking order (written) and reasons for issuing such orders should be justified by him in the order.
- (viii) Second Appeal or Complaint can be lodged to the Information Commission (IC) due to denial of information, absence of PIO,

¹⁴ Government of India, Department of Personnel & Training, *Office Memorandum* No.1/32/2013-IR, p.6.

dissatisfaction with given information, rendering of false or incomplete information and the like within 90 (ninety) days. The judgement of the IC is final. According to Section 20, it can impose penalty of Rs.250/- (two hundred and fifty rupees) per day to PIOs till information is received but not exceeding Rs. 25,000/- (twenty five thousand rupees) and recommend disciplinary action too. According to Chapter VI Section 23, the Courts are barred from having any jurisdiction under the RTI Act. However, if there is dissatisfaction with the decision of the ICs, writ petition can be lodged to the High Court.

- (ix) Another feature but often forgotten aspect of the Act is the right to inspect work, documents, record, taking certified samples of materials and others. The first hour of inspection is free of cost but from the second hour, the cost of inspection is Rs 5/- (five rupees) per hour. Transfer of application within five days of receipt of information request can also be done if the required information is held by another Public Authority.
- (x) The Act contains certain exemptions to the right. Citizens cannot ask for information which may hamper the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the Indian State, relation with foreign States or lead to incitement of an offence, those which are forbidden to be published by any court of law or tribunal or the disclosure of which may incite Contempt of Court, those which may result in breach of privilege of Parliament or State Legislature, information received in confidence from foreign Government, those which may endanger life of physical safety of a person or identify the source of information or assistance given in confidence for law enforcement or security purposes, those which might impede the process of investigation or apprehension or prosecution of offenders, Cabinet paper including records of deliberation of the Council of Ministers, Secretaries and other Officers. Other exemptions include those available to a person in his

fiduciary relationship, information like trade secrets, commercial confidence or intellectual property the disclosure of which would harm the competitive position of a third party, those relating to personal information and others but, these exemptions are subject to larger public interest. It means that these may be disclosed if the disclosure benefits public interest more than the non-disclosure. Further, according to Section 9 of the Act, a request for information may also be rejected if it involves an infringement of copyright subsisting in a person other than the State.

- (xi) Severability Clause is another important feature which means that if an information request relates to exemption cases, some parts of information can still be provided by severing a part of the whole. In other words, severability means partial disclosure as only certain parts of information asked for can be given while certain parts cannot be given as they fall under exemptions. In such a case, the PIO may inform the seeker that only a part of the record is being provided to him.
- (xii) Another exemption from disclosure is third party information *held in confidence* by the third party and includes information pertaining to a person or department and such information disclosure requires the permission of that person. In other words, if information request is received which involves disclosure relating to third party which has been held as confidential by the third party only, the PIO must give written notice to the third party who may communicate back either orally or in written form his consent or otherwise. If within 2 weeks and there is no reply from the third person, it is the discretion of the PIO whether to disclose the information or not. However, the public interest should be given precedence over the personal harm and injury to the third party. As such, third party decision is not binding. The third party can also make a presentation within 10 (ten) days of receipt of the notice. The PIO may make a decision within 40 (forty) days and inform the third party of such decisions.

2.2.2. Objectives of the Right to Information Act 2005

Changing the culture of secrecy to that of a culture of openness is the main aim of RTI. Transparency, which is the vision behind RTI, is one of the key principles of ‘Good Governance.’ Thus, RTI is a tool in the hands of the people to bring about transparency and openness in administration. This right, when exercised as it should be, is so powerful that it can contain the practice of corruption, ensure efficiency among the public officials and hold the Government responsible and accountable to the governed. The main idea behind this right is to empower the citizens so that changes can be brought about in terms of transparency and accountability on the part of Government. It is designed to bring about a culture of transparency in the functioning of Public Authorities so that they can be held accountable for their actions.

2.2.3. Scope of the Right to Information Act

The RTI Act covers the entire Indian Union except the State of Jammu and Kashmir which has its own RTI law. “Information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”¹⁵ Bodies covered by the Act include all Public Authorities and NGOs receiving substantial funds. Security and Intelligence Organizations have been granted exemptions though the Act also applies to them in cases of corruption and Human Rights violations. The people also can ask for information and have access to how public money is spent by engaging in social audit and making them accountable.

2.3. Concept of Good Governance

‘Good Governance’ is a concept which has been the subject of attention since time immemorial. It has existed under different nomenclatures in different societies even in ancient times. “Good governance, for ages, has been the ideal idea of political thinkers, policy planners, decision makers and the academics.”¹⁶

¹⁵ Government of India, Right to Information Act 2005 Section 8 (1) (j), Ministry of Law & Justice.

¹⁶ Sharma, Kumar Sanjeev., *Indian Idea of Good Governance: Revisiting Kautilya's Arthashastra* (Dynamics of Administration. Volume XVII, No 1-2, Jan-Dec 2005), p.2.

In order to understand the concept of Good Governance, it will be worthwhile to understand the concept of Governance first. According to the Concise Oxford Dictionary, Governance is “the act or manner of governing and the office or function of governing” to conduct, control or influence the policy and affairs of a state, organization or people. The Webster's Third New International Dictionary indicates that governance is a synonym for Government, or "the act or process of governing, specifically authoritative direction and control."¹⁷ The World Bank defines ‘Governance’ as “the manner in which power is exercised in the management of a country’s economic and social resources for development.”¹⁸ ‘Governance’ is also defined as “the general exercise of authority.”¹⁹ In this context, authority refers to institutions for maintaining control and enforcing accountability.²⁰

In 1989, the World Bank coined the term ‘Good Governance’ to refer to the development administration of Sub-Saharan nations and this gave a signal for the entry of the concept of ‘Good Governance’ into the vocabulary of Public Administration. Since then, many writers have given different definitions to the term, ‘Good Governance.’ The former World Bank President, *Conable*, was once said to use the term ‘Good Governance’ as a “public service that is efficient, a judicial system that is reliable, and an administration that is accountable to its public.”²¹ The core elements of Good Governance initially identified were: public sector management, accountability, legal framework for development and information and transparency. The World Bank’s definition of Good Governance has been criticised by some scholars as it uses both good and bad governance as qualifications as long as political will is exercised in managing affairs. According to Bandyapadhyay (1996), ‘I commend the concept of good governance in its simple English meaning. But I have a strong objection to the term as it is being touted in

¹⁷ The Webster's *Third New International Dictionary*, 1986, p.982.

¹⁸ World Bank, *Governance and Development*, Washington: The World Bank, 1992, p.1.

¹⁹ Michalski, W., R. Miller., B. Stevens, “Governance in the 21st Century: Power in the Global Knowledge Economy and Society,” in *Governance in the 21st Century* (Paris: OECD, 2001), p.9.

²⁰ Lynn, Laurence E. Jr., “The Many Faces of Governance” in Levi-Faur, David (Ed.) *The Oxford Handbook of Governance* (Oxford, Oxford University Press, 2012), p.49.

²¹ World Bank, *Sub-Saharan Africa: From Crisis to Sustainable Growth, a Long Term Perspective Study*, Washington, World Bank 1989, p.xii.

recent years by multilateral and bilateral aid agencies as a part of precondition of aid or as a process of reform as a condition of aid.²²

The International Monetary Fund (IMF) links ‘Good Governance’ with transparency, combating terrorism while the United Nations Development Programme (UNDP) associates it with sustainable human development. But, the Asian Development Bank lays emphasis on private sector participation for better delivery. On the other hand, the Organization for Economic and Cultural Development (OECD) associates it with accountability, transparency, efficiency, effectiveness, primacy of law *et cetera*. Though there is no concise definition of good governance, the various goals formulated by these financial and other reputed institutions are quite clear and convergent though they “defined ‘good’ according to their own beliefs and purposes.”²³

Though many definitions have been given of the term Good Governance, there is no universally accepted definition. But what is clear from all these is that Good Governance means adopting practices which make the Government open, accountable and citizen friendly with emphasis on people’s participation and is “associated with efficient and effective administration in a democratic framework.”²⁴

The basic thrust of all these definitions is the accountability of the Government to the people for all their actions, programmes and policies. Thus, in simple words, ‘Good Governance’ means fair and just governance with emphasis on transparency, accountability and citizen empowerment.

2.3.1. Features of Good Governance

According to the UN Commission on Human Rights, the key attributes of Good Governance are transparency, responsibility, accountability and participation.

²² Bandyapadhyay, D. “Administration, Decentralisation and Good Governance,” in *Economic and Political Weekly*, Vol. 31, Issue No. 48, 30 Nov, 1996, p.3109.

²³ Bevir, Mark., *Key Concepts: Governance*, (Sage Publications Private Limited, New Delhi, 2009), p.94.

²⁴ B.M. Sharma & Bareth, Roop Singh., (Eds). *Good Governance, Globalization and Civil Society*, (Rawat Publications, New Delhi, 2004), p.28.

The World Bank also laid emphasis on three aspects of governance: the form of political regime; the process by which authority is exercised in the management of a country's economic and social resources; the capacity of Governments to design, formulate and implement policies and in general to discharge Government functions.

The Human Development Report 2003 asserts that there is no consensus on the elements of good Government, but there is a broad agreement on indicators of bad governance like high level of mass poverty, illiteracy, underdevelopment, and increasing criminalization of politics.

According to the Foreign and Commonwealth Office, the concept of 'Good Governance' has three dimensions, technical or economic dimension like transparency of Government accounts, effectiveness of public resources management; social dimension referring to the building, strengthening and promoting democratic institutions; political dimension like legitimacy of Government, accountability, respect for Human Rights and Rule of Law.

Further, UN Commission on Human Rights, asserts that the essential attributes of 'Good Governance' are: (a) Transparency (people should know what they are doing) (b) Responsibility (manner in which authority is exercised) (c) Accountability (decision makers should be accountable to people) (d) Participation (involvement of people in decision making) (e) Responsiveness (being alive to the needs and aspirations of the people).

Transparency is the free flow of information, availability and accessibility of information. "Transparency refers to availability of information to the general public and clarity about functioning of governmental institutions."²⁵ "Transparency-the release of information about institutions that is relevant to evaluating those institutions- is an issue of major concern for the contemporary social sciences."²⁶

²⁵ Government of India, Department of Administrative Reforms and Public Grievances, *Right to Information Master Key to Good Governance*, First Report, Second Administrative Reforms Commission June, 2006.p.1.

²⁶ Catharina Lindstedt & Naurin Daniel., *Transparency against Corruption: A Cross Country Analysis* (2006), p.2.
www.qog.pol.gu.se/digitalAssets/1358/1358046_transparency-against-corruption-_accepted-version.pdf. Retrieved on 3rd May 2014.

Accountability is a concept signifying the need for stakeholders to be answerable for their actions. It means being answerable and accountable to the people for their action or inaction.

For governance to be good, the Government must be *responsive* and alive to the needs of the people. It must also be *representative* to attain *inclusiveness*. Here, *Inclusiveness* means that the citizens must be the centre of administration, where his rights are respected, and where there is effective delivery of services. Accordingly, the Government should strive for *equity* which means that the voices of the minorities and vulnerable sections of the society are heard. ‘Good Governance’ also lays utmost emphasis on *efficiency* and *effectiveness* in administration. There must be a high level of effectiveness in the governance of a people.

Peoples’ participation is one of the cornerstones of Good Governance. Good Governance results in sustainable development which can happen only if demanded by citizens. People’s participation, thus, is a must to attain good governance. There must be a strong civil society as well. The quality of citizens is a crucial factor in determining the quality of governance. An enlightened and awakened citizen is an asset and contributes a lot to improve governance.

2.3.2. Need for Good Governance

The evolution of the concept of ‘Good Governance’ has been spurred on by the lack of it particularly in developing countries ridden by poverty and corruption. It is a concept which has emerged as a result of the obvious ineffectiveness of Governments especially in the developing countries. These countries have been pervaded by corruption at various levels. There is also eminent lack of commensuration between the number of public servants and the number of public services. So, the main reasons behind the evolution of the concept of Good Governance are; widespread corruption, inefficiency, red tape, nepotism and so on at all levels of administration.

The concept of Good Governance has been catapulted by the high level of public awareness, people’s high expectations, and high public intolerance of the

maladies affecting administration. Barthwal states; “The issue of good governance is being raised today because unfortunately, most of the governments today have become sluggish, vast organizations that are, in many ways, centralized political systems and bureaucracies, preoccupied with opportunities, with rules and hierarchies, with compartmentalized decision making and subject to political manipulations.”²⁷

Today, democracy and Good Governance are also mutually dependent on each other. The UN Millennium Declaration also laid emphasis on the importance of Good Governance for the eradication of poverty and achievement of development. In order for democracy to thrive, there must be good governance. Right to Information “is a critical factor that is needed for moving from a representative to a participatory democracy.”²⁸ Ashok Mukhopadhyay also said; “Informed citizenry is an asset of democratic governance.”²⁹

2.3.3. Good Governance Scenario in India

At the time of the drafting of the Indian Constitution, the word ‘Governance’ did not carry much weight with the framers of the Constitution. As such, there is only one occasion when the term ‘Governance’ is mentioned in the Directive Principles of State Policy in Article 37. “The provisions contained in this Part IV shall not be enforceable by any court, but the principles laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.”³⁰

India is an overpopulated country. The total population, according to 2011 Census, was 1,210,569,573(121 crores), out of which male population constitutes 82.10% i.e., 623,121,843 and female population constituting 65% i.e., 587,447,730. Many of the country’s population are living in abject poverty due to inequalities in

²⁷ Barthwal C.P., *Good Governance in India*, (Deep & Deep Publications Private Limited, New Delhi, 2003), p.4.

²⁸ Jain, Abhishek., “RTI Implementation at the District level: Issues and Challenges”, *Indian Journal of Public Administration*, July-Sep 2009, No3, Special Number on Right to Information: Present Status and Issues, 2009, p.347.

²⁹ Mukhopadhyay, Asok Kumar., “The Right to Information Act: A Critical Assessment”, *Indian Journal of Public Administration*, July-Sep 2009 No 3. 2009), p.435.

³⁰ Government of India, *The Constitution of India* (As on the 26th January, 2005), (Ministry of Law & Justice), p.17.

income and opportunities. Many of them have no access to food, clothing and shelter and live without basic amenities of life. Though much progress has been made, as compared to the time of Independence, particularly when it comes to reduction of poverty, there is no doubt that the developments could have been much greater had the system worked properly.

In the political and administrative arena, the Indian scene is afflicted with diverse problems like entry of criminals into politics, vote buying, corruption, red tapism, nepotism, inefficiency, secrecy and so on. On 20th November 1996, a Conference of Chief Secretaries was held which gave a further wake up call to the crisis in Indian Administration. The Conference realised the need for Governments at all levels to reinvent themselves and bring about reforms in all areas. They also realised the urgent need to restore people's confidence in the capacity and fairness of administration. It was against this background that the importance of 'Good Governance' was stressed by the Second Administrative Reforms Commission (ARC) which stated in its first Report that without 'Good Governance,' no amount of developmental schemes can bring improvements in the quality of life of the citizens. In response to these, India has been embarking on the road to 'Good governance.'

2.3.4. Right to Information for Good Governance

'Good Governance' means making sure that people are the centre of administration, creating an environment of an open and transparent system.³¹ Stressing the significance of 'Information' for Good Governance, the RTI Act says: "Information is crucial for good governance as it reflects and captures Government activities and processes. Transparency means that decisions are taken openly and enforced in a manner that follows rules and regulations. It requires that information is freely available and directly accessible to those who will be affected by such

³¹ *The Right to Information Act, 2005: A Guide for Civil Society Organizations: Capacity Building for Access to Information*, (Centre for Good Governance, July 2006), p.21.

decisions and their enforcement. It also means that enough information is provided to all the stakeholders in easily understandable forms and media.”³²

Highlighting the need for making conditions to foster ‘Good Governance,’ Sinha said: “If good governance is to be attained, authority must be exercised in such a way that the people are fully enabled to enjoy their rights. In order to have effective and good governance, there is a need to bridge the gap between power and people.”³³ This does not mean that the Government should lose its importance, rather, it means placing upmost priority to citizens’ rights and downsizing the role of the Government, making its role limited but effective. Sustainable and equitable development calls for ‘Good Governance.’

Good Governance is a fair and just system which upholds the principles of transparency, accountability and citizen empowerment. In RTI related matters, transparency includes making provisions for Proactive Disclosure. The RTI Act aims to bring about transparency in the functioning of Public Authorities by insisting on 17 points to be proactively disclosed so that there is minimum resort to the exercise of the Right. The directions of Section 4 of the RTI Act, if taken seriously and implemented in full earnestness by the relevant authorities, is intended to usher in transparency.

RTI empowers citizens to demand information pertaining to the working of a Public Authority. It is the access of information held by Public Authorities. If a Public Authority refuses information, unless they fall under exemptions, it is a violation of the right to be informed. RTI guarantees not just rights of the people to ask for information but also duties on the part of Public Authorities to prepare Proactive Disclosure as well as duties to provide timely and accurate information to those who demand it. The effectiveness of the Right depends to a great extent on the efforts taken by Public Authorities and their commitment relating to Proactive Disclosure.

³² *The Right to Information Act, 2005: A Guide for Civil Society Organizations: Capacity Building for Access to Information*, (Centre for Good Governance, July 2006), p.21.

³³ Madan Gopal Sinha & Upadhyaya Arun Kumar *Good Governance in India: Concept, Status and Relevance* (Misra Trading Corporation, Varanasi, 2003), p.17.

RTI is not only a tool to empower the citizens to have access to official information. It also empowers citizens to file complaints and make appeals against the action or inaction of those who hold information and accordingly, PIOs can be held accountable for their action or inaction. As Geha put it, “A free flow of information that results in the ability of citizens to have access to their governments’ records, documents and past achievements is key to ensuring open and accountable government.”³⁴

Citizen’s participation in governance and eventually citizen empowerment depends upon whether people take the time to take note of their entitlement and reach what is theirs to take. With regard to empowerment of the people by RTI, Dutt once said: “For a citizenry accustomed to the opaque veil of secrecy which shrouded most government institutions and actions, the promise of the sunlight of transparency meant a return of power to the people.”³⁵ Thus RTI depends for its success on a great deal of participation of citizens by knowing what the Right to Information entails and taking steps to assert their Right.

It is, therefore, evident that RTI and Good Governance are intertwined and inseparable. By opening up the records of the Government, RTI enables people to have informed opinions about the working of the Government. It arms them with a powerful tool for judging the effectiveness of the programs carried out by the Government thus making it accountable. The demand for transparency results in objectivity in functioning and enhances predictability at the same time. The more informed people are about the functioning, the more their participation in governance is ensured.

2.4. Conclusion

The Right to Information is an important tool in the hands of citizens to ensure transparency. Information can be accessed only if it is made available by the

³⁴ Geha, Carmen Said., *Freedom of Information: Bridging the Gap between the Citizen and State*, American University of Beirut, Lebanon, June 2008.

www.right2info.org/resources/publications. Retrieved on 19th May, 2014, p.60.

³⁵ Dutt, Sunil., (Ed). *Right to Information: for Inclusion and Empowerment*, (RTI Fellows Reports, (Indian Institute of Public Administration, Department of Personnel and Training, Government of India, 2013), p.3.

relevant authorities. RTI is not only a tool to empower the citizens to have access to official information. It also empowers citizens to file complaints and make appeals against the action or inaction of those who hold information and accordingly, Public Information Officers (PIOs) can be held accountable for their action or inaction

In the context of the study, the effectiveness of the Right depends to a great extent on the efforts taken by Public Authorities to build information and their commitment relating to Proactive Disclosure. It also depends for its success on a great deal of participation of citizens by knowing what the Right to Information entails and claiming their Right.

If the law is to work properly, Public Authorities must ensure that they are well versed with the Clauses of the Act. To guarantee accessibility, Proactive Disclosure and maintenance of records should be given priority. To ensure accountability of Public Authorities, strict observance of penalty provisions must be adhered to by those in authority. To make certain that RTI fully empowers the citizens, judgements in their favour needs to be the top most priority

CHAPTER-III

RIGHT TO INFORMATION: EVOLUTION IN MIZORAM

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RIGHT TO INFORMATION: EVOLUTION IN MIZORAM

3.1. Introduction

When the annexation of Mizoram (then Lushai Hills) by the British rulers took place, the trend of administration in their homeland was that of secrecy justified by the famous Official Secrets Act whereby the official information could not be divulged without the Crown's authorization. Even after the passing of the Official Secrets Act (OSA) in India in 1889 and amended in 1923, the Act was not immediately in effect in Mizoram as the administration continued to be carried out by the traditional Chiefs under the supervision of the British Superintendent. In the then Lushai Hills, there was information sharing among the village communities by their traditional Chiefs, called *Lals*, in their respective independent villages. Though the legacy of the Official Secrets Act was strongly embedded in the minds of decision-makers in free India, the struggle of right-thinking citizens for freedom from that colonial legacy had earned a positive public response which ultimately led to the passing of the 'Right to Information Act in October 2005. As reflected as one of the objectives of the study, the present Chapter attempts to unfold the circumstances leading to the final adoption of RTI in Mizoram following the international and the national initiatives for the introduction of RTI at various levels of governance. This Chapter will first make a background study of international and national initiatives.

3.2. International Scenario

RTI is a global movement and the importance of RTI was stressed at the international level in the year 1946 when the United Nations General Assembly (UNGA) for the first time emphasised the need for Freedom of Information (FOI). The UNGA observed that FOI is a fundamental Human Right and the touchstone of all the freedoms to which the United Nations (UN) is consecrated. The United Nations' Universal Declaration of Human Rights, 1948, also recognizes FOI as a *Sine Quo Non* for democracy.

According to Article 19 of the Universal Declaration of Human Rights, “everyone has the right to freedom of opinion and expression, the right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any means regardless of frontiers.”¹ The International Covenant on Civil and Political Rights of 1966, referred to as the First Generation Rights, holds that “everyone shall have the right to freedom of expression including the right to seek, receive and impart information and ideas of kinds, regardless of frontiers, either orally or in writing or in print, in the form of art, or through any other media of his choice.”² Other Conventions guaranteeing the right are the European Convention on Human Rights, 1950, Rome Convention for the Protection of Human Rights and Fundamental Freedom, 1950, the American Convention on Human Rights, 1969 (Art 13), the International Convention on the Elimination of all Forms of Racial Discrimination, 1966, the African Commission on Human and People’s Rights, 2002. Apart from these, the European Union (EU) has passed a Regulation on FOI in 2001 to ensure widest possible access to documents by its members drawn up or received by it and its possible possession in all areas of activity of the EU. In response to this, many countries of the world began to take initiatives relating to RTI.

However, it is worthy of mentioning that, even before the response to RTI from the international community, Sweden had already passed the FOI Law, namely Freedom of Press Act back in 1766 - the first of its kind in the world. The current Freedom of Press Act was adopted in 1949 and, later on, amended once again in 1976. A very interesting feature of the Swedish Act is that failure to access information can be appealed to General Administrative Courts and final Appeal is to the Supreme Administrative Court. Further, citizens can access documents held by any public authority and there is no need for providing a reason in asking for inspection of documents. Only completed documents are subject to inspection and internal notes or drafts or tentative working papers are excluded from the purview of the Swedish Act.

¹ Article 19 of Universal Declaration of Human Rights.

² Article 19 (2) of the International Covenant on Civil and Political Rights of 1966.

In 1966, the United States of America (USA) passed her FOI Law but that Law was not effective at the beginning of its enactment. However, after its amendments made in 1974, the Act could bring about desired changes. But, it is important to note that the US Law and the Indian RTI Act have a big difference regarding their application. “While the US FOIA applies only to the national government, the RTIA applies to all of India’s States and Local Governments as well.”³

Denmark and Norway passed their own Acts in the same year in 1970. Mexico has gone ahead of other countries in passing the Law on freedom of Information which “requires public bodies to make computers available to the public to facilitate access.”⁴ Even South African Law “covers private bodies, where this is necessary for the exercise or protection of any right.”⁵ After the passing of the FOI Law by Paraguay on 19th Sep 2014, the total number of countries having such a Law at the time of this study stands at 100. Even the Organisation for Economic Cooperation and Development (OECD) has remarked that Governments are more accessible and user friendly today than they have been at any point in history.

3.3. National Scenario

In India, “the Official Secrets Act, 1923 was a convenient smokescreen to deny members of the public access to information. Public functioning has traditionally been shrouded in secrecy.”⁶ Ever since then, the Indian bureaucracy has been working under the cloak of this Act. “The legacy acquired from the British Empire is for bureaucracies to be secretive; since those times, knowledge and information meant power; and trading information was power trading among bureaucratic agencies.”⁷ Commenting on the Indian bureaucracy, Alisdair said: “The

³ Alisdair, Roberts., *A Great and Revolutionary Law: The First Four Years of Indian Right to Information Act*, (2010), p.2.

⁴ World Bank., *Legislation on Freedom of Information: Trends and Standards*; (Poverty Reduction and Economic Management Network, 2004), p.2.

⁵ World Bank., *ibid.*, p.2.

⁶ Goel, S.L., “Right to Information and Administrative Reforms”, *Indian Journal of Public Administration*, Jul-Sep 2007, p.550.

⁷ Geha, Carmen Said., *Freedom of Information: Bridging the Gap between the Citizen and State*, (2008), p.41.

Indian bureaucracy, whose fundamental features were established during the era of British colonial rule, is very powerful and shares the British bureaucracy's penchant for secretiveness.”⁸

When India attained Independence, the Constitution declared India to be a Sovereign, Socialist, Secular, and Democratic Republic. However, though the Fundamental Rights and Directive Principles of State Policy do not contain any explicit statements relating to RTI yet the Right can be inferred from Article 19 of the Right to Freedom of Speech and Expression. The Supreme Court has also, time and again, passed judgements which state that RTI is a part of Article 19 (1) (a) relating to the Freedom of Speech and Expression. The first landmark judgment was made in *Narain vs. State of Uttar Pradesh* (1975) when the Court ruled that there cannot afford to exist, in a liable government like ours, secrets, where all agents of the public are accountable for their conduct. The citizens of India have the prerogative to know every public act and everything that is done in a public way by the functionaries.

In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their 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.”⁹

Another landmark judgment of the Supreme Court of India in *S.P. Gupta vs. Union of India* and others in 1982 gave a fillip to the growing need for access to information. “The concept of an open Government is the direct emanation from the right to know which seems implicit in the right of free speech and expression

⁸ Alisdair, Roberts., *A Great and Revolutionary Law: The First Four Years of Indian Right to Information Act*, (2010), p.2.

⁹ <https://www.livelaw.in/supreme-court-judgments-on-rti-act-2005-wither-transparency/>

guaranteed under Article 19 (1) (a). Therefore, disclosures of information in regard to the functioning of Government must be the rule, and secrecy an exception justified only where the strictest requirement of public interest so demands. The approach of the Court must be to attenuate the area of secrecy as much as possible consistently with the requirement of public interest, bearing in mind all the time that disclosure also serves an important aspect of public interest. Non-disclosure of information is justifiable only if disclosure would be injurious to the public interest, and injury to the reputation of a public official should not be a consideration.”¹⁰ Further, in the case of *Association for Democratic Reforms & People’s Union for Civil Liberties vs. Union of India*, it was held that the right to receive information flows from Article 19 (1) (a), Right to freedom of speech and expression and includes the right to be educated, informed and entertained.

In Independent India, “public bureaucracy inherited the colonial tradition of being a very powerful institution of governance which prefers to work in secrecy, refusing to function in the glare of public scrutiny and denying ready access to knowledge about its functioning.”¹¹ According to J.K Singh, “the culture of secrecy beginning from the colonial rule till the first six decades of Independence fuelled rampant corruption, in which large amount of public money was diverted from development projects and welfare schemes to private use through misuse of power by the authorities.”¹² As such, transparency and accountability which are necessary for democratic governance became obscured and impossible. The result of the Official Secrets Act, Indian Evidence Act and the like was that the bureaucracy became synonymous with inefficiency, corruption, red-tapism, delays and all other things associated with mal-administration. Due to the existence of the Official Secrets Act, and others, it was very difficult for the citizens to get information from the Government. Such Acts enabled the bureaucracy to hide in their closet when it came to Government dealings. It empowered them to function in secrecy and hide their activities, giving them full opportunity to engage in dishonest dealings.

¹⁰ Right2info, Good Law & Practice, www.right2info.org/cases/r2i-s.p.-gupta-v.-president-of-india Retrieved on 11th Feb 2016.

¹¹ Mukhopadhyay, Asok Kumar., “The Right to Information Act: A Critical Assessment”, *Indian Journal of Public Administration*, Jul-Sep, 2009, p.434.

¹² Singh, J.K., *Right to Information and Freedom of the Press*, (A.P.H. Publishing House, New Delhi, 2014), p.102.

Against this background, the growing dissatisfaction of the people *vis-à-vis* the State began to grow and their faith in democratic governance also began to be dissipated. Singh clearly explained the people's reaction to the concealment of information by Public Authorities like this: "The iron curtain on each and every matter inside the governance of the country attracted the attention of certain enlightened citizens."¹³ The RTI movement in India began when a small grassroots organization, Mazdoor Kisan Shakti Sangathan (MKSS) took initiatives in a small District in Rajasthan, countering *corruption* activities of the officials and fighting to give the people their right by demanding to see muster rolls of names of beneficiaries. The movement launched by the MKSS in Rajasthan became an eye opener as well as an example for people's urge to fight towards freedom of information. The MKSS has fought diligently on the issues of *accountability* and *transparency* and succeeded in demonstrating the critical line between lack of transparency and corruption and in initiating substantive changes.¹⁴

Members of the MKSS asked for copies of bills and vouchers and names of persons who have been shown in the muster rolls on the construction of schools, dispensaries, small dams and community centres as having been paid wages. They photocopied relevant documents and it became clear that there were misappropriation of funds. The exposure of names led to a finding that such names did not exist at all or had died years before. When public hearings (*Jan Sunwai*) were organised for the first time, it became a popular movement and it also resulted in return of money to a poor farmer by an engineer. "The seeds of the movement for RTI sown in 1987 grew out of Mazdoor Kisan Shakti Sangathan's (MKSS) struggle for transparency and accountability in village accounts in Devdungri, Rajasthan."¹⁵

In India, in 1996, the Press Council of India prepared a Draft Bill in order to secure RTI and members of the MKSS joined forces with the India Press Council and formed the National Campaign Committee for Peoples' Right to Information

¹³ Singh, J.K., *Right to Information and Freedom of the Press*, (A.P.H. Publishing House, New Delhi, 2014), p.74.

¹⁴ Jain, N.K., *Right to Information: Concept, Law and Practice*, (Mayur Enterprises, New Delhi, 2007), p.5.

¹⁵ Singh, Richa., *Civil Society and Policymaking in India: In search of Democratic Spaces: A Case Study*, (Centre for Democracy and Social Action, Oxfam India Publishers, May 2014), p.6.

(NCPRI) and the same year sent the Government a model FOI bill. This was followed by a preparation of another bill by the Institute of Rural development, Hyderabad in 1997. It resulted into a nationwide debate on the feasibility of such a bill and also led to the constitution of a Working Group. The Working Group set up by the Department of Personnel, Government of India and chaired by H.D. Shouri submitted a Draft Bill on FOI in 1997. Press Council and NCPRI unanimously submitted a resolution for amending the proposed bill in February 2000.

The findings of the Working Group led to the introduction of FOI Bill in Parliament in 2002. The FOI bill, 2000 was laid before the Lok Sabha on 25th July 2000. It was passed in 2002 but it was not notified in the Official Gazette and the law never came into force. In 2004, the National Advisory Council was set up by the United Progressive Alliance. As a result of pressures from various sectors, the RTI Act was passed by the Parliament of India in May 2005 and came into force from October 2005, replacing the FOI Law of 2002. Though RTI is a Fundamental Right, a part of the Right to Freedom of Speech and Expression provided in Article 19 of the Indian Constitution, the passing of the RTI Act was felt necessary in order to codify the right. In other words, the RTI Act is necessary to put into operation the exercise of the right.

3.4. State Scenario

3.4.1. Information System during the Chieftainship Period

Mizoram, previously known as Lushai Hills, was under the rule of traditional Mizo Chiefs, called *Lals*. Each village had its own Chief who was independent of the other Chiefs. There were neither Schools nor Churches in their villages and people were all illiterate, ignorant and backward. Under such situation, “information was passed on to the succeeding generation by word of mouth, since oral tradition was the only source of knowledge and practice of the people.”¹⁶ In spite of their simple life and warring nature, the people of the Lushai Hills developed practices like a sound information system, open trials, village meetings and so on in a

¹⁶ Khiangte, Lalitluangliana., *Mizos of North East India*, (L.T. Publications, Mizoram, 2008), p.55.

Bachelors Dormitory called *Zawlbuk*. By way of disseminating information to the village community, the Mizo Chief had “Village Crier or *Tlangau*” as one of his functionaries. The main activity of ‘Village Crier’ was “to make announcement or proclamation of the Chief’s Orders and Instructions to the village folk.”¹⁷ He would usually shout out the information running from one corner of the village to the other. At this time, the village being the only unit of administration, the information was also related mostly to the Chief’s Orders. The Chief’s Orders varied, depending upon the nature of the decisions of the Chief and his Council like announcement of distribution of lands, protection and preservation of their customs and village property, plans to construct a house, plans to raid another village and the like.

The Village Crier occupied the lowest rank in the hierarchy of officials of the Chief’s administration who would publicise the Chief’s Orders or Proclamations to the entire community and to make distribution of works to the villagers whenever the Chief organized community works, called in Mizo language, *hnatlang*.¹⁸ Though the ‘Village Crier’ did not enjoy the respectable position enjoyed by other members of the Chief’s Council, he was one of the chief sources of information for the village community. Thus, information was transmitted to the village community through the “Village Crier.” During the period of Chieftainship, verbal announcement or proclamation of information was a popular practice and is still in practice in the rural areas even today though in a modernized form.

The system of *Zawlbuk* also provided for a centre of information and security where all the village lads would sleep together every night. As there were often inter village feuds and clashes among themselves, the security of the village was uppermost. In fact, the establishment of *Zawlbuk* was initially meant as a kind of watchguard in case of emergencies. In course of time, it became a place of learning, discipline as well as centre of administration and information. *Zawlbuk* was a place where the menfolks discussed everything that affected their village life from trivial

¹⁷ Parry N.E., *A Monograph on Lushai Customs & Ceremonies* (Firma KLM Private Limited, Kolkata, 1928), p.6.

¹⁸ Lalrintluanga., “Inclusive Administration of the Traditional Mizo Chief in Their Habited Areas In and Outside the Present Mizoram,” *Mizo Studies: A Quarterly Refereed Journal*, Vol.111, No.3, Jul- Sep 2014, Department of Mizo, Mizoram University, 2014, p.309.

things to vital matters. There were many instances where decisions affecting the village were taken within the walls of *Zawlbuk*. Hence, *Zawlbuk* occupied an important place as a centre of information.

Dissemination of information was a part and parcel of the Mizo life. The people were enlightened and informed about things that affected them and their lives. As such, information was given to the public without being asked for it and the information was shared between the Chief and his subjects by way of confidence building measure. When it came to disputes, the Chief and his Council administered justice in a transparent manner by sitting on a platform referred to as “*Bahzar*” behind the Chief’s House. On many occasions, the Chief would make policy decisions, in a transparent manner, on sensitive issues through established democratic means, such as meetings of the Council of elders, meetings of the village assembly and the meetings of village bachelors in the *Zawlbuk* or Bachelors’ dormitory where village boys slept together until their marriage.¹⁹

When the Chief and his Council of Elders administered justice, “hearing of cases in the Chief’s house was open in character and members of the public were allowed to hear what was being said by the parties.”²⁰ Transparency was maintained during the proceeding of Chief’s Court. A convention arising out of this practice was the habit of listening to the proceedings of the Chief’s Court either from a nearby house or peering from a crack in a nearby house. It is held that the Chief and his Council of Elders were fully aware of these eavesdropping and this is only to reiterate the fact that no secrecy could be maintained for long during this time. Such practices enabled the people to be informed of matters concerning them as well as village administration.

3.4.2. Information System during the British Period

¹⁹ Lalrintluanga., “Inclusive Administration of the Traditional Mizo Chief in Their Habited Areas In and Outside the Present Mizoram,” *Mizo Studies: A Quarterly Refereed Journal*, Vol.111, No.3, Jul- Sep 2014, Department of Mizo, Mizoram University, 2014, p.321.

²⁰ Lalnithanga, P., “Administration of Justice in Mizoram- Past and Present”, R.N. Prasad, & Chakraborty, P.,(Eds) *Administration of Justice in Mizoram*, (Mittal Publications, New Delhi, 2006), p.31.

The British annexed the Lushai Hills, now called 'Mizoram,' and took over its entire administration in the year 1890 AD. Though Mizoram was made a part of the Assam Province by the British Regime, the Provincial Government did not have any authority over the district. At the Central level, British India introduced a number of Acts like the Official Secrets Act in 1923. In the meanwhile, Chieftainship continued to flourish in the Lushai Hills as the British found it efficient as well as economical to allow its continuity. The only vast differences made were the vesting of ownership of lands from the Chief to the Government and the vesting of major crimes in the hands of the District Superintendent. In the Pre-British period, the Chiefs combined executive, legislative and judicial power. The Chief's word was law within the jurisdiction of his village. For a long time since British occupation of the territory, the Chieftainship was allowed to continue and the "Village Crier" also continued to perform his traditional service of conveying and proclaiming Orders made by the Chief with the assistance of his Council of Elders.

With the advent of the British, the Mizo Chiefs and their subjects had to suddenly adapt themselves to the rule of the British Superintendent who reported back to the Governor of Assam. During this time, the Chiefs exercised their powers subject to the instructions of the Superintendent who was unfettered in his discretion. The task of the Superintendent of the Lushai Hills was to maintain peace through enforcement of law and order in the then Lushai Hills. When the Christian Missionaries made an inroad to the Lushai Hills, the Superintendent worked side by side with Mission and "left more to the Mission to impose cultural and political influence upon the people."²¹ At this time in Britain, the trend in administration was that of secrecy justified by the famous Official Secrets Act whereby all official information cannot be divulged without the Crown's authorization. In India, the Official Secrets Act was passed in 1889 and amended in 1923. However, in the Lushai Hills, the Act was not immediately put into effect as the grassroots' administration in the territory continued to be carried out by the Chiefs under the supervision of the District Superintendent. At the same time, certain changes were introduced in the village administration though the changes were minimal.

²¹ MC.Call, A.G., *Lushai Chrysalis*. (Elephant Industries, New Delhi, 1949), p.235.

During the Pre British rule in the erstwhile Lushai hills, the Chiefs, to the best of their ability, provided a systematic flow of information as well as an open system of Village Court system. During the British rule, the Chiefs were vested with the responsibility of maintaining village paths, water points, maintenance of accounts of fines imposed, registration of births and deaths, collection of house tax, supply of labour and so on. However, property formerly vested in the Chiefs became the property of the Government and leased out to the Chiefs. The Chiefs retained their judicial powers except serious crimes like murder, rape and the like which were reported to the Superintendent. The British Government imposed house tax of Rs. 3/- per house and Chiefs were made responsible for collecting taxes.

Under the protective authority of the British administration, the Christian Missionaries introduced secular education and set up schools for the purpose. According to the 1901 Census, there were 736 males and 25 female literates. The number of literates rose to 9606 from 1908 to 1947. There were 5 Middle Schools and 221 Primary Schools. With the increase in the number of schools and progress of education, oral traditions were soon replaced by reading materials, books, even journals and magazines like *Mizo leh Vai Chanchinbu* which “contained not only articles contributed by the Mizos and occasionally by the foreigners, but also the official tour programmes, government notice etc.”²²

The posts of Circle Interpreter (C.I) and Lushai Clerk were introduced and filled up from the indigenous people by the District Administration. The post of ‘Village Writer’ or ‘*Khawchhiar*’ was also created by the British Government. Since then, every village had a *Khawchhiar* (referred now as Secretary) to maintain village records, like register of births and deaths including the Chief’s Orders of the Chief. Obviously, the post demanded a literate person and was often referred to as a ‘beacon of light.’ James Dokhuma dubbed him as ‘information officer’ as all details about the village like number of male and female and others were recorded by him. Other information was put up on Notice Boards erected at two or three places in the

²² Rohmingmawii, “Orality to Literacy: It’s Impact on Colonial Mizoram,” Malsawmliana & Ralte, Benjamin., (Eds) *Social, Economic and Political History of the Mizo*, (EBH Publishers, Guwahati, 2011), p.74.

village depending upon its size. A.G. Mc Call holds that regarding riding of bicycles which was considered dangerous due to bad roads, “a copy of the recorded notice in Lushai was posted up on the notice board for all to see and to know.”²³ The ‘Village Writers’ and the C.Is were the source of official information for the people.

The village community meetings frequently convened by the Village Chief also became one important source of information for the village community. The District Superintendent encouraged the continuation of village community meetings which were held for making decisions through information sharing at least once a month. If there were vital matters to be considered, the matter would be read out and the villagers were asked to voice their opinion on it in the next month’s meeting by a show of hand. So, this practice practically helped the village community to share information for making right decision for their future developments.

With the introduction of education and the spreading of the Gospel of Christ, people became more educated. The British took up a policy of ‘Exclusion’ and ‘Partial Exclusion’ for the whole North-eastern region under the Government of India Act 1935. The Lushai Hills became one of the “Excluded Areas” and had to remain outside of the direct control of the Provincial Legislature of Assam. As a consequence, the administration of the territory was vested in the Viceroy who, in turn, delegated his powers to the Governor of Assam. Thus, until 1946, “any open political activity was kept at bay as a fitting sequel to the policy of quarantine exclusion from the provincial legislature.”²⁴ This segregation of the Mizos from the operation of Provincial Legislature of Assam had created information vacuum in the North east region. Intelligence activities were common to gather any information so as to curb any feeling of political consciousness among them. Army cadres were called back to the Lushai Hills to ‘spy’ on their fellow Lushais. It was only in 1946 that the Mizos could witness the first birth of a political party by the name of Mizo Union (MU).

²³ Mc Call, A.G., *Lushai Chrysalis*, (Elephant Industries, New Delhi, 1949), p.217.

²⁴ Zakhuma, K.M., *Political Development in Mizoram from 1946 to 1989: A Study with Special Reference to Political Parties in Mizoram, India*, 2001, p.21.

With India's Independence from the British Rule, the Lushai Hills continued to be one of the administrative districts of Assam without any provision for representation to the Provincial Government of Assam. Briefly, it was only after the passing of the new Constitution by the Constituent Assembly that the Mizos were given the chance to participate in democratic governance. As per the Provisions of the Sixth Schedule, the Lushai Hills District Council was established in 1952. The Lushai (Mizo) Autonomous District Council was vested with certain powers like the appointment or succession of Chiefs, inheritance of property, regulations relating to Jhum, practice of cultivation, management of lands and forests other than reserved forest, use of canal or water for agricultural purposes, establishment of village or town committee and matters relating to village or town administration including public health and sanitation. With the abolition of Chieftainship under the Assam Lushai Hills District (Acquisition of Chiefs Rights) Act of 1954, representative bodies, called 'Village Councils,' were finally set up in different villages to occupy the place previously held by the Chiefs and their Council of Elders.

3.4.3. Information System during Mizo National Front's Freedom Movement

In 1959, widespread hardship and discontent among the Mizos caused by acute shortage of food-stuff as a consequence of 'Mautam' or flowering of bamboos had led to the formation of Mizo National Famine Front (MNFF) as a welfare organisation by some local politicians in the Mizo District. This welfare organisation "earned a good name by the devoted work of the young volunteers who collected house-to-house donations and helped the people in distress."²⁵ When the Famine was over in 1961, the Famine Front was, as visualised by its leaders, converted into a political party called the 'Mizo National Front' (MNF). Within a short span, the MNF movement could gain unprecedented popularity under the charismatic leadership of its founding Father, Laldenga and declared Mizoram a "Sovereign Independent State" on 1 March 1966. The MNF took up arms in an attempt to achieve its goals and, as its first activity, attacked Aizawl Treasury and looted a handsome amount of money along with rifles and ammunition. The MNF captured all important centres of the Mizo District and the civil administration in the District

²⁵ Ray, A.C., *Mizoram: Dynamics of Change*, (Pearl Publishers, Calcutta, 1982), p.133.

was virtually paralysed following widespread subversion by the armed volunteers of the MNF. Newspapers also flashed the immediate impact of Mizo insurgency on the administration of the District: “Administration in Mizoram paralysed following widespread subversion by the armed volunteers of the MNF.”²⁶ Evidently, the law and order situation became deteriorated beyond the control of the Police and the Assam Rifles posted in the Mizo District.

Immediately on receipt of telegraphic message about the trouble made by the MNF’s activities, the Government of India decided to adopt military measures to firmly deal with insurgent activities. On 2 March 1966, the Government of Assam declared the whole District as a “disturbed area” under the Assam Disturbed Areas Act, 1955. It was also declared as a “disturbed area” under the Armed Forces (Assam and Manipur) Special Powers Act, 1958. This Act gave extensive powers to the army on duty in the notified “disturbed area” to arrest any person, without any warrant, who had committed or who was suspected to commit a cognisable offence.²⁷ Besides, this Act also empowered the armed forces to enter and search any premises, without any warrant, “to make an arrest or to recover any person wrongfully restrained or confined or any stolen property or any arms, ammunition or explosive substances unlawfully kept in such premises.”²⁸ The Indian Security Forces consolidated themselves at Aizawl, on 6 March 1966 to aid and assist the civil administration in the maintenance of law and orders in the District. The Armed Police were placed under the operational control of the Army for dealing with the disturbances. The Army was ordered by the Government of India “to remain in charge of operation as long as necessary in support of the civil administration.”²⁹ The Government of India declared the MNF and its subsidiary organizations unlawful under Rule 32 of Defence of India Rules, 1962 and banned them. Even after the revamping of the District Administration, the *de facto* authority of the District Administration remained in the hands of the Security Forces. The District Councillors and Government officials wherever found were forced by the MNF to resign their services or to stay away from their offices located here and there.

²⁶ Banner Headline of *The Assam Tribune*, Gauhati, March 3, 1966.

²⁷ The Armed Forces (Assam and Manipur) Special Powers Act, 1958, Section 4, Sub- Section(c).

²⁸ *Ibid.* Section 4.

²⁹ The Minister’s Statement, *Lok Sabha Debates*, March 3, 1966, Columns 3585-86.

In order to isolate the MNF insurgents and cut off their supply-lines, the Central Government Liaison Officer for the Mizo Hills District, under 57 Rule of the Defence of India Rules (DIR) 1962, issued two orders for grouping of the interior villages to some selected places on the main road of Silchar-Aizawl-Lunglei, starting from Vairengte, the first village in Mizoram from the Silchar side, and stretching over a length of 400 kilometres.³⁰ Immediately after the residents vacated the villages, all the houses therein were set on fire by the security force. Grouping of villages brought about untold sufferings and miseries to the general public resulting in total ruination of the village economy and, more important than anything else, in the alienation of the minds of the villagers. There was a general feeling that “they were treated as aliens and worse than enemies.”³¹ Under such kind of unfavourable situation, the people were between the hammer and the anvil. As their words could be wrongly perceived, no one dared to speak on some sensitive subject. In fact, the Mizos were practically deprived of their RTI under MNF’s freedom movement.

3.4.4. Beginning of the Right to Information in Mizoram

The Right to Information (RTI) is an effective tool to bring forth transparency and render public officials accountable for their actions. The RTI Act was passed in 2005 by the Central Government. In Mizoram, despite promises in the 2003 Assembly Election Manifestoes, the response from ruling Mizo National Front (MNF) Government was minimal.

In the meanwhile, a certain section of the society had become aware of the need for adoption of RTI for checking corruption and other unhealthy practices in the State Administration. So, these few enlightened citizens had expressed their desire for the adoption of RTI in Mizoram. Their aspiration for adoption of RTI was unequivocally expressed in the local newspapers. In order to spread an awareness on the utility of the Act for the benefit of the voiceless people, a few ‘Talk Shows’ were also organised and televised in the local Channel. A few academicians had also

³⁰ *Orders No. CLD 1/1/-67/1*, dated Silchar, the 2nd January 1967, and *No. CLD 1/1-67/1-80*, dated Silchar, the 27th February 1967 passed by the Central Government Liaison Officer for the Mizo District.

³¹ Government of Mizoram, *Brig. T. Sailo’s Speeches and Writings*, (I&PR Department, Aizawl, 1983), p.15.

expressed the importance of RTI through the local newspapers. It would not be wrong to say that these expressions were spurred on by the rampant corruption which had afflicted the system of governance at various levels. While the activities for the adoption of a new RTI Act was taking place in India, the biggest and most effective reaction came from the Civil Society players in Mizoram like the student organization called *Mizo Zirlai Pawl* (MZP) or Mizo Students Association, Society for Social Action (SOSA), and *Mizo Upa Pawl* (MUP) or Mizo Elders' Association.

Strictly speaking, interests and concrete initiatives regarding RTI in Mizoram had taken place in the year 2003. MZP was one of the first organizations to take initiatives for the adoption of the RTI Act in Mizoram. This apex student's body does not cater strictly to student interests but it has made interventions in many other areas of development and administration. In its General headquarters Executive meeting, on 25th June 2003, MZP had pointed out that the RTI Act could be a powerful tool to combat corruption. It decided to include in its agenda, steps to be taken to promote the adoption of RTI in its next Special Assembly. Accordingly, in its General Headquarters Executive Meeting held on 11th July 2003, it was proposed that a Sub-Committee on RTI Act be set up headed by MZP President. This Committee further proposed that a Debate-cum-Talk Show would be organised by them where the Chief Ministerial candidates of all parties would be invited to participate. One of the questions posed to party candidates in the Debate was regarding their vision pertaining to the RTI Act if they came to power. All the party candidates or their representatives reiterated the adoption of the RTI Act if they secured majority vote.³² Members of MZP met with different political party leaders and urged them to include adoption of RTI Act in their Election Manifesto.³³ Thus, in the 2004 General Election, all the candidates to political offices pledged themselves to more openness in administration through the RTI Act. On 21st March 2005, MZP once again in its General Headquarters Meeting, passed a Resolution for action to be taken for the smooth passage of RTI Act in the Mizoram Legislative

³² Mizo Zirlai Pawl Executive Committee Meeting Minute Book from 21-05-2003-24-06-2005.

³³ Interview with Lallianchhunga.

Assembly.³⁴ At the same time, there were also other organizations pushing for the adoption of the RTI Act like MUP, SOSA and others.

The SOSA also had a big hand in this direction for adopting RTI Act in Mizoram. In coordination with other NGOs, they drafted a Right to Information Rules to be submitted to the State Government. The MUP formed a Committee consisting of 28 members including the Chairman and Secretary of MUP to push for the adoption of RTI ACT. In their 2nd Sub-Committee meeting, it was decided to establish a Vigilance Cell not only in the Headquarters but also at Sub-headquarters, Area and Unit levels and, in this same meeting, decided to press the Government for the adoption of the RTI Act in Mizoram. As a result of pressures from various sectors, the RTI Act was adopted by the Government of Mizoram.

The Right to Information Rules 2006 were finally notified on 21st June 2006.³⁵ In accordance with the Rules, Mizoram State Information Commission (MSIC) was established on 29th June 2006. SPIOs have been designated to cater to information needs of the public. RTI Manuals have also been made available to the public by performing Departments.

3.5. Conclusion

It is relevant to point out that, in Mizoram, the RTI Act was previously governed by the Right to Information Rules 2006 which was made and notified for effective implementation of the Act on 21st June 2006.³⁶ However, the RTI Rules 2006 was repealed and, after incorporating some new provisions, the RTI Rules of 2010 was adopted and notified by the State Government on 20th September 2010.³⁷ The new Rules were published in the Mizoram Official Gazette on 24.11.2010.”³⁸

The adoption of the RTI Act of 2005 becomes an important landmark in the history of India in general and Mizoram in particular. The RTI Act marks a

³⁴ Mizo Zirlai Pawl Executive Committee Meeting Minute Book from 21-05-2003 to 24-06-2005.

³⁵ Government Notification No f.13011/4/2005-IPR Dated 21-06- 2006.

³⁶ Government of Mizoram, Notification No.F.13011/4/2005-IPR Dated 21-06-2006.

³⁷ Government of Mizoram, Notification No.F.13011/4/2008-IPR Dated 20-09-2010.

³⁸ Mizoram Information Commission Report (2012-2013), p.2.

paradigm shift in administrative culture from secrecy to that of openness in administration. A change from secrecy to that of openness has been visualized by the passing of the Right to Information Act. RTI empowers people to lift the veil of secrecy surrounding the functioning of the Government. The forces of globalization and advancements in technology has made people more aware of their rights and RTI is the tool to be exercised by the people to demand more from the Government in rendering better service and openness in its functioning. It is still in the transitional stage from secrecy to transparency. It is designed to check misuse of public money, provide transparency in advertisements of vacant posts and selection of candidates, improve the quality of functioning and attitude of public servants, prevent practices of nepotism and favouritism. In fact, it empowers people to demand the best from the Government. As a result of RTI, there are people with success stories in different parts of India like exposure of tax evasion, fraud, inefficiency, corruption and the like. Use of RTI has resulted in construction of roads, bridges and public buildings. It has enabled people to get their dues. “If the provisions of the Act are sincerely implemented, ‘Glasnost’ or openness of government shall become a reality, and this would facilitate good governance by preventing corruption and nepotism in government dealings.”³⁹

³⁹ Jain Anshu (Dec 2011) *Access to Information within the Ambit of the Right to Information Act 2005: Loopholes and Possible Remedies*. P292. Online Thesis, Accessed 23rd May 2014.

CHAPTER IV

**INSTITUTIONAL AGENCIES FOR
IMPLEMENTATION OF THE RIGHT TO
INFORMATION**

CHAPTER-IV

INSTITUTIONAL AGENCIES FOR IMPLEMENTATION OF THE RIGHT TO INFORMATION

4.1. Introduction

The Right to Information “is expected to improve the quality of decision making by Public Authorities in both policy and administrative matters by removing unnecessary secrecy surrounding the decision making process.”¹ There are Institutional Mechanisms or Agencies notified by the State Government to be responsible for the implementation of the RTI Act. Here, ‘Institutional Mechanisms or Agencies’ may be understood to mean all Public Authorities responsible for successful working of the Right to Information.

In this Chapter, an attempt has been made to study those ‘Institutional Mechanisms or Agencies’ of the State Government, namely, Mizoram State Information Commission (MSIC) and Administrative Training Institute (ATI), working for the implementation of RTI, the former as monitoring and adjudicatory Agency, and the latter as Training provider, and other public authorities /Departments and Bodies identified as Information Providers and Appellate authorities. In spite of the fact that the Department of Information and Public Relations (DIPR) is the designated nodal Department, its involvement in the implementation of RTI in Mizoram is minimal. Keeping this in view, an attempt has also been made here to answer the first research question pertaining to the steps taken by ‘Institutional Mechanisms or Agencies’ of the State Government in implementing the Right to Information Act 2005.

4.2. Mizoram State Information Commission

The Mizoram State Information Commission (MSIC) is the final Appellate body. The RTI Act requires the appointment of Central Information Commission and State Information Commissions “to resolve the ambiguities within the scope of

¹ Geha, Carmen Said., *Freedom of Information: Bridging the Gap between the Citizen and State*, American University of Beirut, Lebanon, June 2008. p.60.
www.right2info.org/resources/publications Retrieved on 19th May, 2014,

Right to Information whose decision will be binding both on the RTI applicants and the public authorities.”² Chapter IV Section 15 of the RTI Act 2005 deals with the State Information Commission (SIC) which will handle the ‘Second Appeal’ and “Complaints” made by RTI applicants. Section 15 (1) holds that every State Government shall, by notification in the Official Gazette, constitute a body to be known as.... (Name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to it under this Act. In accordance with Section 15 (1) of the Act which has been notified by Government of Mizoram, the Mizoram State Information Commission (MSIC) had been constituted by the State Government.³ In case revelation of information to the citizens comes in conflict with other public interests, the CIC or the Information Commissioner, as the case may be, may, as an external body, decide whether the required information is likely to come in conflict with public interest or not.⁴

4.2.1. Organisational Structure of Mizoram State Information Commission

MSIC is headed by the Mizoram State Chief Information Commissioner (MSCIC). Though there are two sanctioned posts of Information Commissioners (ICs), only one post has been filled up. The MSCIC and the IC are appointed by the Governor of the State on the Recommendations of a Committee consisting of the Chief Minister as Chairman of the Committee, Leader of Opposition in the State Legislative Assembly and a Cabinet Minister to be nominated by the Chief Minister. In this case, Leader of the single largest group in opposition of the Government is deemed to be Leader of the Opposition.

The RTI Act 2005 specifies that the Information Commissioners (ICs) shall be persons of eminence in public life with wide knowledge and experience in law, science & technology, social service, management, journalism, mass media or

² Worthy Ben et al, *Town Hall Transparency? The Impact of the Freedom of Information Act 2000 on Local Government in England*, Constitution Unit De 2011, p.7.
www.ucl.ac.uk/constitution-unit/ Retrieved on 27th May, 2015.

³ Government of Mizoram, Notification No.F.13011/11/2005-IPR dated 29-06-2006.

⁴ Jain Anshu, *Access to Information within the Ambit of the Right to Information Act 2005: Loopholes and Possible Remedies*, Dec 2011, p.128.
[https://14.139.60.114:8080/jspui/bitstream/123456789/123/76/1/015_GoddGovernance%20and%20Right%20to%20Information_A%20Perspective%20\(506-519\)](https://14.139.60.114:8080/jspui/bitstream/123456789/123/76/1/015_GoddGovernance%20and%20Right%20to%20Information_A%20Perspective%20(506-519)) Retrieved on 14th June 2014.

administration and governance. In addition to the MSCIC and the IC, there are officers and staff looking after the office of MSIC in carrying out its day-to-day administration. At the top, there is a Secretary assisted by a Deputy Secretary, an Under Secretary, a Superintendent and other administrative and personal staff of. All these officers and staff collectively run the daily administration of the Commission.

4.2.2. Role of Mizoram State Information Commission in Awareness Generation concerning RTI

In every State in India, the State Information Commission (SIC) is the final Authority for appeals which is endowed with the power to impose penalty on erring PIOs. It can also decide whether an organization falls within the ambit of the Act. Being one such Commission, Mizoram State Information Commission (MSIC) also plays an extensive role for the implementation of RTI. The following steps undertaken by the MSIC manifest its divergent role in promoting the progress of RTI in Mizoram.

(a) Since 2011, the MSIC has been organizing RTI Week every year from 5th to 12th October. The Commission has been organising this programme in collaboration with the Nodal Department, Information and Public Relations.

(b) The MSIC has disseminated awareness about RTI through workshops, seminars, pamphlets, posters, brochures, guidebooks. It has also taken steps to print 6,000 copies of RTI Leaflets and distributed them to spread the awareness. It has put up roadside hoardings in different towns and villages of Mizoram. In addition, it has put up RTI display advertisements in different newspapers and magazines and RTI banner advertisements in various public functions organised in different parts of the State. The Commission has launched a State-wide campaign on RTI and have now covered all the Districts of the State.

(c) In order to spread awareness among all public, the Right to Information Act, 2005 on Braille version has been obtained. The Commission has also prepared RTI Booklet on 'Guidelines for SPIOs and Information Seekers or Applicants' and 'Guidelines for SPIOs and SAPIOs.' Such books have been

distributed as part of their awareness campaigns among the citizens including NGOs, Local Council Members. These relevant published works and the Annual Report have simultaneously been distributed to the Leaders of different denominations of the Churches in Mizoram.

(d) Under the auspices of MSIC, *Zonet Zawlbuk* Cable TV has organised a Developmental Project (TV serial), called '*Zoram Kalsiam*.' They have dedicated one episode of this programme to a Chapter on RTI awareness by conducting interview with the MSCIC. Doordarshan Kendra has also conducted interview with the same as part of awareness programme.

(e) Given the high importance of Section 4, a copy of "Guidelines for *Suo Motu*" (Proactive Disclosures) and "Templates for Disclosures" of the Department of Personnel and Training was prepared and sent to the Chief Secretary, Government of Mizoram, for circulation.

(f) A Booklet called 'Educational Talk on RTI Act 2005' containing Frequently Asked Questions (FAQ) on RTI Act 2005 was published in English and Mizo versions and released during RTI Week of 2013. An RTI theme song in the local language has also been composed and aptly titled as 'Right to Information (RTI) *Kan Ram Tan*' meaning Right to Information for Our Land.

(g) The MSIC also "has been receiving and inquiring into the RTI Complaints relating to access to information under the control of the Public Authorities submitted to the Commission and deciding or taking necessary actions on merit as per Section 18 of the RTI Act."⁵

4.2.3. Role of Mizoram State Information Commission as Final Appellate Body (Implementation of Section 18 and 19 of the RTI Act)

The MSIC has been receiving Complaints and disposing off 'Appeals' (Second Appeals) against the decisions of the 'First Appeal' by the Departmental

⁵ *Annual Report of Mizoram Information Commission 2012-2013*, p.5.

Appellate Authorities (DAA).⁶ This portion of the Chapter consists of data collected from MSIC Annual Reports and Original Documents which serve as a basis as to why information seekers were denied information by those in authority.

Out of the total number of Applications received from information-seekers, the number of Complaints and Second Appeals received by the MSIC as reflected in its Report for a period of 1 year from 1st April to 31st March, prepared as mandated by Section 25 of the RTI Act 2005, are shown below:

Table 4.1. Number of Complaints and Second Appeals to the MSIC.⁷

Year	No. of Applications	No. of Complaints to MSIC	No. of Second Appeals to MSIC
2006-2007	476	6	1
2007-2008	371	9	5
2008-2009	177	15	5
2009-2010	695	13	3
2010-2011	741	12	8
2011-2012	1,045	16	8
2012-2013	1,316	8	1
2013-2014	1,750	10	11
2014-2015	1,593	10	10
2015-2016	2,144	16	4
Total	10,308	115	56

Source: *Computed from Mizoram State Information Commission Reports.*

As per Table 4.1., the total number of Second Appeals and Complaints received by MSIC is 171 which is 1.65% of total information requests received by the public authorities.

(1) Power to hear Complaints for Implementation of Section 18

Section 18 of the RTI Act provides that Complaints may be submitted by a person to the MSIC on the following grounds; inability to receive information due to absence of SPIO, non acceptance of application, refusal to access information requested under the Act, non response to a request for information or non access to information within the time limit specified under the Act; unreasonable payment of fee, receipt of incomplete, misleading or false information under the Act; and in

⁶ Government of India, Section 19 of the Right to Information Act 2005, Ministry of Law & Justice.

⁷ *Annual Report of Mizoram Information Commission 2015-2016*, p.3.

respect of any other matter relating to requesting or obtaining access to records under the Act.

According to Section 18 (2), the MSIC may conduct inquiry if it is satisfied that such needs to be conducted and in this respect the Act grants the same powers possessed by a civil court like summoning and enforcing the attendance of persons, compelling them to give oral or written evidence on oath and to produce the documents or things; requiring the discovery and inspection of documents; receiving evidence on affidavit; requisitioning any public record or copies thereof from any court or office; issuing summons for examination of witnesses or documents; and any other matter which may be prescribed.

Table 4.2. Reasons for Denial of Information Regarding Complaints (2006-2016)

SL.No	Details	Number
1.	Total no of Complaints received as reported by MSIC	115
2.	No of data available on website	46
3.	No of cases examined	45
4.	No of cases dismissed due to correct information given	2
5.	No of cases dismissed due to appeal against decision of MSIC	1
6.	No of cases withdrawn by complainant	1
7.	Complaint due to incomplete information given	2
8.	Complaint relating to signature issue	1
9.	Complaint due to giving of fake information copy	1
10.	Invocation of Section 8 exemptions	4
11.	Invocation of Third Party (Section 11) exemption	3
12.	Denial due to Office Byelaws	1
13.	Denial due to non availability of information	1
14.	Denial due to absence of original copy of information request	1
15.	Problems relating to transfer of application	3
16.	Denial due to absence of SPIOs	2
17.	Claim of information given	1
18.	Denial due to wrong address of application	1
19.	Plain denial of information	20

Source: *Computed from Mizoram State Information Commission Reports, Orders and other Documents*

As per Table 4.2., total number of Complaints during 2006-2016 was 115 as reported by MSIC, but only 46 (forty six) is available on the Commission's website and there is 1 (one) duplicate of the same Complaint (C27/2008-MSIC Dated 27/11/08). As such total number of Complaints examined was 45 (forty five). Out of

45 (forty five) cases, 2 (two) cases were disallowed due to giving of correct information by respondents. 1 (one) Complaint was lodged for refund of payment of money for information received asking the Commission to review its decision and was dismissed as its decision is final. 1 (one) case was withdrawn by the complainant. There were 2 (two) Complaints due to giving of incomplete information and the rest were due to non receipt of information within the time period. 1 (one) Complaint was lodged pertaining to signature issue and another due to fake copy of information given. Section 8 was invoked by respondents 4 (four) times. Third Party exemption was invoked 3 (three) times. Other Complaints were due to Office Byelaws, non availability of information, absence of original copy of information request, improper transfer of application (three times), absence of SPIOs (two times), claim of information given by respondent, wrong address of application and plain denial of information (20 times).

2. Power to hear Second Appeals for Implementation of Section 19 (3)

According to Section 19 (3), Second Appeals can be submitted to MSIC if an applicant does not receive information “within ninety days from the date on which the decision should have been made or was actually received”⁸ or if the State Information Commission is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. Justification of reasons for information denial falls on the SPIO in all appeals. The decision of the MSIC is binding which may include steps to be taken like direction to give information, orders to appoint PIOs, advices to change its practices regarding maintenance, management and destruction of records, orders to publish information, recommendations to provide training and prepare Annual Reports for Section 4 (1) (b), directions to give compensation for any loss or detriment suffered, imposition of penalty, or rejecting the application.

Table 4.3. Reasons for Denial of Information Regarding Second Appeals (2006-2016)

SL.No	Details	Number
1.	Total no of Second Appeals received as reported by MSIC*	56
2.	No of data available on website	28

⁸ Government of India, Section 19 (3) of the Right to Information Act 2005, Ministry of Law & Justice.

3.	No of cases examined by researcher	25
4.	No of cases disallowed by MSIC	3
5.	Appeal against incomplete/ unsatisfactory information given	3
6.	Invocation of Section 8 exemptions	8
7.	Invocation of Third Party (Section 11) exemptions	2
8.	Denial due to Office Byelaws	2
9.	Non receipt due to wrong address	1
10.	Denial due to confusion arising out of transfer of official	1
11.	Denial due to absence of original copy of information request	2
12.	Denial due to improper transfer of application	3

Source: *Computed from Mizoram State Information Commission Reports, Orders and other Documents*

As per Table 4.3., there were 56 (fifty six) Second Appeals received by MSIC. Out of 28 (twenty eight) Second Appeals available on the website of MSIC, 2 (two) cases are left out as they are beyond study period and since there is repetition of order number S.A.9/2008, total orders examined are 25 (twenty five) in number. Out of 25 (twenty five) cases, 3 (three) cases were dismissed by the Commission due to lack of original application; premature appeal and appeal against decision of MSIC. As such, out of 22 (twenty two) Second Appeals heard by the Commission during 2006-2016, there were 3 (three) cases relating to appeal against incomplete information or dissatisfaction with information given and 19 (nineteen) cases were due to non receipt of information within the specified time.

The reasons for not providing information were 8 (eight) ongoing investigation excuses (6 invocations of Section 8 (1) (h), 1 invocation of Section 8 (1) (e) and another invocation of Section 8 (1) (j),) and 2 (two) Third Party exemptions. Other denials were due to office Byelaws (2 times), incomplete address of applicant, and confusion arising out of transfer of official. There were 2 (two) instances where information was not given due to Public Authorities' claim that no original copy of request was received. There were 3 (three) appeals due to lack of proper transfer of application. Among these, 2 (two) respondents pleaded ignorance of subject matter of RTI.

Highlights of performance of Mizoram Information Commission

During the period 2006 to 2016, out of 72 adjudications, penalty was imposed on 3 SPIOs due to lack of response from public authority; wrong interpretation of Section 8 and ignorance about transferring of request. Show cause

notice of why Penalty shall not be imposed was issued in ten cases but later withdrawn in seven cases. In one case the appellant/complainant was advised by Mizoram Information Commission to refrain from clubbing together of diverse questions under one application. Warning was also given to one appellant not to misuse the Act and another appeal was hailed as grievance rather than request for extracting information. The Commission has no pendency cases.

It is pertinent to mention the role played by the Nagaland Information Commission (hereinafter referred to as NSIC) with particular reference to a few good practices adopted by it to further the cause of the RTI Act. The NSIC was constituted under section 15(1), (2) & (3) of the Right to Information Act, 2005, on 14th March, 2006, vide Government Order No. AR-3/Gen-147/2005. During the study period (2006-2016), the total number of applications received was 20552. NSIC is one of the few ICs which have updated case pendency on its website. It is also reported to have the highest number of translations of the RTI Act in local dialects in the country which is available on its website. Besides the translation of the law into the different dialects spoken by various communities/tribes living in the State, the Nagaland Information Commission has displayed ‘RTI User Guide/Citizens’ Guide to RTI in all those languages on its website. It is also one of the two Information Commissions providing gender break up of RTI applicants. Further, the Proactive Disclosure of 95 public authorities is also displayed along with date of last update. A guide for ‘Preparation of Proactive Disclosure’ is available on the website.

During 2015-2016, two books were released entitled ‘the Impact of RTI in Nagaland during the last 10 years’ and ‘the Audit of Proactive Disclosure of Public Authorities. The total number of audited public authorities was 92 and the results of the audit were; highly transparent public authorities (2), reasonably transparent (45), limited transparency (43), poor transparency (2). The efforts taken by the NSIC has earned itself a reputation of being hailed as “a lone example of perfect statutory compliance among the Information Commissions in the country which has all the Annual Reports on its website”.⁹

⁹ Commonwealth Human Rights Initiative (CHRI), *State of Information Commissions and the use*

4.3. The Administrative Training Institute

Administrative Training Institute (ATI) is the apex Training Institute under the Department of Personnel and Administrative Reforms (DP & AR), Government of Mizoram. It was established way back in 1983 with the sole purpose of catering to the training needs of various levels of employees of the Government of Mizoram to build their capacity for efficient and effective governance. In recent years, the Institute has extended its services to meet training needs of various levels of employees of the Central Government posted in Mizoram. The 'Mission Goals' of ATI are shown below:

- (1) Mainstreaming training in the process of governance.
- (2) To maintain high standards of training programmes.
- (3) To make training a holistic and inclusive activity.
- (4) To maximise opportunities for systematic reforms.

By way of achieving its 'Mission Goals,' the ATI sets the following as its objectives:

- (1) To adopt competency-based approach to training.
- (2) To address the needs for developing professional knowledge, skills and attitudes for efficient and responsive civil service.
- (3) To administer appropriate programmes to make training an ongoing and inclusive activity.
- (4) To assess effectiveness of the training programmes on governance for achieving excellence.

Within three decades of its existence, the Institute has been making consistent efforts to impart quality training by increasing number of courses, initiating programmes to reach various stakeholders and improving infrastructural facilities.”¹⁰

4.3.1. Organisational Structure of Administrative Training Institute

The organisational structure of ATI is as follows:

The head of ATI is a Director who is assisted by two Joint Directors. One of the Joint Directors is in charge of Administration while the other one is in charge of Training. Below the two Joint Directors, there are two Deputy Directors, an Assistant Director, Superintendent, Training Faculty and supporting staff.

ATI is a Regional Office of the Department of Personnel and Administrative Reforms (DP & AR), Government of Mizoram. Funds for the Institute are provided both by the Government of Mizoram and the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India.

4.3.2. Normal Functions of Administrative Training Institute

ATI is the main body responsible for catering to the training needs of various employees of the State Government. Its primary function is to conduct training programmes for officers and staff of different Departments and Institutions under the Government of Mizoram. Other categories of trainees are Members of Local Councils, Aizawl Municipal Council (AMC), NGOs and other citizens. The normal functions of the ATI are:

- (1) To implement the State Training Policy.
- (2) To initiate systematic approach to training.
- (3) To involve with department to formulate training plans.

¹⁰ Government of Mizoram, Administrative Training Institute *Calendar of Training Programmes, 2015-16*, p.1.

- (4) To introduce appropriate training programmes and methodologies for training.
- (5) Institutionalising good practices for ATI to be a model organization.

4.3.3. Role of Administrative Training Institute in generating RTI Awareness and Capacity Building

Though the RTI Act does not explicitly mention anything about the role of ATI for implementation of RTI, the ATI has taken up Projects for capacity building like ‘Strengthening Capacity building and Awareness Generation for effective implementation of the Right to Information Act, 2005.’

After the adoption of the RTI Act, the ATI has taken up many initiatives to further the cause of the Act. It imparts training to the RTI functionaries of the State Government and conducts workshops, seminars relating to RTI for capacity building. Through these kinds of trainings, workshops, seminars, pamphlets, posters and brochures, it disseminates information for giving awareness to the public at large. It also provides training to various categories of people like Public Information Officers (PIOs), members of Non-Governmental Organizations (NGOs) and other citizens residing in the State of Mizoram. Apart from imparting trainings at its headquarter at Aizawl, the faculty and other officials of the Institute, under the leadership of Mr. Vanlalvuana, went to 16 (sixteen) Rural Development (RD) Block Headquarters and, in collaboration with the Presidents of Young Mizo Association (Y.M.A.) within each RD Block Headquarter and organised public meetings for spreading awareness on RTI Act. According to the ATI officials, their RTI awareness programmes have covered all the 8 (eight) Districts of Mizoram.

Over the years, the role of ATI has widened to cover a larger clientele including Public Sector Undertakings (PSUs), Autonomous District Councils (ADCs,) Central Government establishments and different services under the Government of Mizoram. In recent years, the training programme has given priority to civil society and voluntary organisations so as to make capacity building a more inclusive activity and create a better informed citizenry. According to MSIC, “ATI

has designed various training courses for Government officers, new probationers of different services and in particular added the thrust in training of officers concerned with RTI such as DAAs, SPIOs, SAPIOs and their supporting staff.”¹¹

Regarding Proactive Disclosure under Section 4 (1) (b) of the Act, the ATI officials feel that Public Authorities have not made the appropriate disclosures. Keeping this in view, they promote compulsory training of PIOs and the training that they have been imparting includes sessions on behavioural and attitudinal changes on the part of Government officials. In order that all trainees have basic orientation about RTI, the importance of RTI awareness has always been stressed though it would be more beneficial if they could assign at least one session on RTI related matters in each training programme. Besides, they have given training on how to prepare the 17-point Document as per Section 4 of the RTI Act. It has been seen from the result of training on RTI Act that the official attitude towards the Right has partly changed for the better. They have taken steps to improve the institutional capacity and output of different Departments in relation to RTI. According to them, openness is visible in their institutions and this openness is one of the impacts that RTI has on their organisation.¹²

4.4. Public Authorities – Implementation of Section 4 (1) (b) of the RTI Act

According to RTI Act 2005, Public Authority means “any authority or body or institution of self- government established or constituted by or under the Constitution of India; by any other law made by Parliament; by any other law made by State Legislature; by notification issued or order made by the appropriate Government and includes anybody owned, controlled or substantially financed; Non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government.”¹³

Section 4 (1)(b) of the RTI Act 2005 requires that all the ‘Public Authorities’ should prepare “Proactive Disclosure” of information and provide basic information

¹¹ MSIC Annual Report 2015-2016,p.34.

¹² Interview with Vanlalvuana

¹³ Government of India, Section 2 (g) of the Right to Information Act 2005, Ministry of Law & Justice.

about their Departments. Thus Section 4 of the RTI Act 2005, if taken seriously and properly carried out, is meant to ensure *Transparency* and *Accountability* in the functioning of a Public Authority.

The RTI Act of 2005 gives two fundamental duties and responsibilities to Public Authorities, *firstly*, to designate State Public Information Officers (SPIOs) and *secondly*, to publicise information as per Section 4 of the Act. Apart from maintaining all its records duly catalogued and indexed in a manner and in the prescribed Form to facilitate the Right to Information under this Act and to ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised, these records should be connected through a network all over the country on different systems so that access to such records is facilitated.¹⁴ The 'Public Authorities' have the duty to prepare a 17-point Document and have to publish the same within one hundred and twenty days from the enactment of this Act,-¹⁵

- (i) The particulars of its organisation, functions and duties;
- (ii) The powers and duties of its officers and employees;
- (iii) The procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) The norms set by it for the discharge of its functions;
- (v) The rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (vi) A statement of the categories of documents that are held by it or under its control;

¹⁴ Government of India, Section 4 (1) (a) of Right to Information Act 2005, Ministry of Law & Justice.

¹⁵ Government of India, Section 4(1) (b) of Right to Information Act 2005, Ministry of Law & Justice.

- (vii) The particulars of any arrangement that exists for consultation with, or representation by the members of the public in relation to the formulation of its policy or implementation thereof;
- (viii) A statement of the Boards, Councils, Committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (ix) A directory of its Officers and employees;
- (x) The monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (xi) The budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) The manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xiii) Particulars of recipients of concessions, permits or authorisations granted by it;
- (xiv) Details in respect of the information, available to or held by it, reduced in an electronic form;
- (xv) The particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- (xvi) The names, designations and other particulars of the Public Information Officer;

- (xvii) Such other information as may be prescribed; and thereafter update these publications every year;

It is relevant to underline that for checking or monitoring the implementation of “Proactive Disclosure” of information, the MSIC has prepared questionnaires and distributed them to different Offices and Departments under the Government of Mizoram. These questionnaires are to be filled up by each of the ‘Public Authorities’ who should return the filled-in questionnaires to the MSIC. As a consequence, ‘Public Authorities’ are held responsible to monitor “Proactive Disclosure” of information for their respective Offices or Departments.

4.4.1. Status of Implementation of Section 4 (1) (b) of the Right to Information Act 2005

Table 4.4. Feedback of SPIOs relating to Implementation of Section 4 of the RTI Act

Sl.No.	Section 4(1) (a)	Percentage
1.	Prepared	40%
2.	Not prepared	37.5%
3.	Being prepared	15%
4.	No response	7.5%
	TOTAL	100
Sl.No.	Section 4(1) (b)	Percentage
1.	Yes	32.5%
2.	No	35%
3.	Being prepared	15%
4.	No Response	17.5%
	TOTAL	100
Sl.No	Training on Preparation of Proactive Disclosure	Percentage
1.	Yes	52.5%
2.	No	47.5%
	TOTAL	100
Sl.No	General Training/Workshop on RTI	Percentage
1.	Yes	92.5%
2.	No	7.5%
	TOTAL	100

As per Table 4.4., 40% of respondents have made provisions for cataloguing, indexing and computerization of records, 37.5% have not taken such steps, and 15% hold that it is being prepared while 7.5% did not reply. On the other hand, out of 40 PIOs, 32.5% holds that they have prepared a 17 point Document as required by

Section 4 of the Act, 35% replied in the negative, 15% contended that it is being prepared while the remaining 17.5% did not respond. Further, 47.5% have not attended any training for preparing Proactive Disclosure while general training has been attended by 92.5%.

In order to find out and substantiate the performance of Public Authorities concerning Section 4, Annual Reports of MSIC regarding extent of implementation of Section 4 (1) (b) is examined. It covers a ten year period from the year of adoption of the RTI Act in Mizoram from 2006 till 2016.

Table 4.5. Number of Non-Conforming Public Authorities to Section 4 (1) (b)

Year	No. of Public Authorities	No. of non-conforming Public Authorities to Section 4 (1) (b)
2006-2007	125	30
2007-2008	57	5
2008-2009	67	8
2009-2010	158	23
2010-2011	115	15
2011-2012	120	16
2012-2013	113	23
2013-2014	131	38
2014-2015	162	22
2015-2016	159	24

Source: *Computed from Mizoram State Information Commission Annual Reports*

The figures in table 4.5., shows that there is no consistency in making Proactive Disclosure by Public Authorities as required by Section 4 (1) (b) of the RTI Act. For example, during 2006-2007, out of the 125 (One hundred twenty-five) ‘Public Authorities,’ 30 (thirty) did not comply with Section 4 (1) (b) of the RTI Act 2005 which insists on “Proactive Disclosure” of information by ‘Public Authorities.’ Similarly, during 2009-2010, out of the 158 (One hundred fifty-eight) ‘Public Authorities,’ 23 (twenty-three) did not make “Proactive Disclosure” of information on their websites. Even during 2012-2013, out of 113 (One hundred thirteen) ‘Public Authorities,’ 23 (twenty three) ‘Public Authorities’ did not comply with Section 4 (1) (b).

As is evident from Table 4.5., the number of Public Authorities not conforming to Proactive Disclosure as required by Section 4 (1) (b) during the reporting period of 2015-2016 alone is twenty four (24) out of a hundred and fifty

nine (159) reporting Public Authorities. The Annual Reports also do not reveal consistency in the names and numbers of reporting Public Authorities. This has been evidenced by the fact that some names of Public Authorities are missing every year while for other years, new ones are added which makes it difficult to determine the exact extent of implementation. Further, excepting a few major departments like Information & Public Relations Department, Trade & Commerce, Mizoram State Legal Services Authority, New Land Used Policy (NLUP) Implementing Board, Gauhati High Court, Aizawl Bench, School Education Directorate, Directorate of Agriculture (Crop Husbandry) a good number of the non complying public authorities relating to Section 4 (1) (b) as per Annual Report submitted to MSIC are Division or Block Offices of Public Works Department and Rural Development.

In order to understand the steps taken by the Public Authorities relating to implementation of Section 4 (1) (a) and (b) which is the crux of the Act, intensive study of feedback from SPIOs through questionnaire, Content Analysis of Annual Reports of MSIC and Official websites of relevant Public Authorities was carried out by the scholar. In support of this, on-the-spot inspection of 17 points of Proactive Disclosure was conducted where required, by the scholar. Incidentally, the following table paints a somewhat different and contradictory picture and state of affairs relating to the implementation of Section 4 (1) (b) by the Public Authorities. First, the number of instances where Public Authorities responded “Yes” to implementation of Section 4 (1) (b) in the Annual Reports submitted to MSIC for a period of five years (2011-2016) are examined and presented. Then the details of the same Public Authorities whose Official websites display Proactive Disclosure or Section 4 (1) (b) are highlighted. The rationale for website inspection is that if Proactive Disclosure is available on the web or in soft copy, it will be easier to find a hard copy of it, as and when enquired. All Public Authorities whose Official websites do not provide Proactive Disclosure were visited for on-the-spot inspection¹⁶ of hard copy on implementation of the same. Since Serial numbers 1 to 16 are already displaying their Proactive Disclosures on their website, they are excluded from the on-the-spot inspection. As such “*No need for spot inspection*” is stated against their names. The rest of the 24 (twenty four) Public Authorities (Serial

¹⁶ *On-the-Spot inspection means informal interviews of SPIOs against all 17 points of Proactive Disclosure.*

Number 17 to 40) were asked for inspection of hard copy of Section 4 (1) (b) on the spot.

Table 4.6. Verification Table for Implementation of Section 4 (1) (b) on MSIC Annual Reports, Official Website and Spot Inspection

Sl. No.	Name of Public Authority	Implementation of Section 4 (1) (b) as per Report submitted to MSIC (2011-2016)	Implementation of Section 4 (1) (b) on Website	Spot Inspection of Section 4 (1) (b)	Remarks
1.	ATI	5 times	Available in RTI Manual	“No need for spot inspection”	<i>Satisfactory</i>
2.	MPSC	5 times	Available under RTI	-do-	<i>Satisfactory</i>
3.	Dte of Health Services	5 times	Available under RTI Report 2015-16, 2016-17	-do-	<i>Satisfactory</i>
4.	Police	5 times	Available in updated RTI Manual	-do-	<i>Satisfactory</i>
5.	LE & IT	5 times	Available in RTI Manual 2017	-do-	<i>Satisfactory</i>
6.	ICT	5 times	Available in RTI Manual	-do-	<i>Satisfactory</i>
7.	FCS & CA	5 times	Available in RTI Manual 2017	-do-	<i>Satisfactory</i>
8.	AH & VETY	5 times	Available under information booklet	-do-	<i>Satisfactory</i>
9.	Tourism	5 times	Available in separate link on website	-do-	<i>Satisfactory</i>
10.	Excise & Narcotics	4 times	Available under RTI	-do-	<i>Satisfactory</i>

11.	DM & R	3 times	Available in RTI Template	-do-	<i>Satisfactory</i>
12.	Cooperation	3 times	Available under RTI	-do-	<i>Satisfactory</i>
13.	P.W.D	3 times	Available in RTI Manual	-do-	<i>Satisfactory</i>
14.	Commissioner of Taxes	3 times	Available in RTI Manual	-do-	<i>Satisfactory</i>
15.	Finance	2 times	Available under RTI Act	-do-	<i>Satisfactory</i>
16.	I.G. Prisons	5 times	Available under Implementation of the Provision of RTI Act	Same as website copy	<i>Average</i>
17.	R.D	4 times	RTI Rules 2006 is provided.	Available	<i>Satisfactory</i>
18.	Commerce & Industries	4 times	NIL	2017 format	<i>Satisfactory</i>
19.	Art & Culture	4 times	NIL	2017 format	<i>Satisfactory</i>
20.	Higher & Technical Education	4 times	NIL	Available in 2017 format	<i>Satisfactory</i>
21.	UD&PA	3 times	NIL	Available	<i>Satisfactory</i>
22.	LAD	5 times	Link not working	Available in 2017 format	<i>Satisfactory</i>
23.	Law & Judicial	2 times	NIL	Information Booklet 2015	<i>Satisfactory</i>
24.	Dte of Soil & Water Conservation	3 times	NIL	2010 format (not updated)	<i>Average</i>
25.	EF&CC	4 times	NIL	Available (not updated)	<i>Average</i>
26.	GAD	1 time	NIL	Available (not updated)	<i>Average</i>
27.	MBSE	3 times	NIL	Available (not updated)	<i>Average</i>
28.	Dte of Fisheries	5 times	NIL	Available (not updated)	<i>Average</i>

29.	Dte of Transport	4 times	NIL	Not available	<i>Unsatisfactory</i>
30.	Dte of Sports & Youth	4 times	NIL	Not available	<i>Unsatisfactory</i>
31.	Printing & Stationery	4 times	NIL	Not available	<i>Unsatisfactory</i>
32.	D. C Office, Aizawl	4 times	NIL	Not available	<i>Unsatisfactory</i>
33.	Dte of Land Revenue & Settlement	5 times	NIL	Not available	<i>Unsatisfactory</i>
34.	Dte of Social Welfare	3 times	NIL	Not available	<i>Unsatisfactory</i>
35.	Anti-Corruption Bureau	3 times	NIL	Not available	<i>Unsatisfactory</i>
36.	Dte of Sericulture	3 times	NIL	Not available	<i>Unsatisfactory</i>
37.	Agriculture (Crop Husbandry)	2 times	NIL	Not available	<i>Unsatisfactory</i>
38.	Power & Electricity	1 time	NIL	Not available	<i>Unsatisfactory</i>
39.	SAD	1 time	NIL	Not available	<i>Unsatisfactory</i>
40.	School Education	1 time	NIL	Not available	<i>Unsatisfactory</i>

Source: Computed as per verification

As per Table 4.6., relating to preparation of Proactive Disclosure as mandated by Section 4 of the RTI Act by 40 public authorities, out of 40 public authorities, 16 have displayed their proactive disclosure on each of their website. Out of 16 public authorities, one disclosure was also incomplete. On-the-spot inspection of the remaining 24 public authorities was carried out and Out of 24 public authorities, 12 were able to produce their proactive disclosure. Out of these 12 public authorities, the disclosure of 5 public authorities was not updated. Thus, regarding the steps taken by public authorities to prepare proactive disclosure, the number of public authorities with satisfactory disclosure is 22, the number of public authorities with average disclosure is 6 and lastly the number of public authorities who were not able to present evidence of proactive disclosure is 12.

4.5. Public Information Officers and Departmental Appellate Authorities

4.5.1. Receipt and Disposal of Information Requests

The main duty of the Public Information Officer (PIO) is to deal with information requests from citizens. According to Section 5 (1) of the RTI Act 2005, every Public Authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers (CPIOs) or State Public Information Officers (PIOs), as the case may be, in all administrative Units or Offices under it as may be necessary to provide information to persons requesting for the information under this Act. Further, Section 7 of the Act directs that the SPIO provide information within 30 (thirty) days under normal circumstances and within 48 (forty eight) hours of receipt if information request falls under threat to life and liberty of a person.

Table 4.7. Data relating to fulfilment and denial of information requests by information providers

Reporting period	No. of Public Authorities	No. of applications received	No. of Application disposed within time limit	No. of applications rejected
2006-2007	125	476	410	9
2007-2008	57	371	221	9
2008-2009	67	177	135	1
2009-2010	158	695	715	4
2010-2011	115	741	586	11
2011-2012	120	1,045	850	9
2012-2013	113	1,316	1095	8
2013-2014	131	1,750	1523	5
2014-2015	162	1,593	1200	8
2015-2016	159	2,144	2099	14
	TOTAL	10308	8,834	78

Source: Computed from Mizoram State Information Commission Annual Reports

As per Table 4.7., the performance of SPIOs relating to fulfilment of information requests is as follows:

(1) During 2006-2007, the percentage of application disposed within the time limit is 86.3% whereas the percentage rate of rejection is 0.52%.

(2) During 2007-2008, the percentage of application disposed within the time limit falls to 59.5% whereas the percentage rate of rejection remains almost the same at 0.41%.

(3) During 2008-2009, the percentage of application disposed within the time limit goes up again to 72.31% whereas the percentage rate of rejection is 0.78%.

(4) During 2009-2010, the percentage of application disposed within the time limit is 102.7% whereas the percentage rate of rejection is 1.74%.

(5) During 2010-2011, the percentage of application disposed within the time limit is 79% whereas the percentage rate of rejection is 0.67%.

(6) During 2011-2012, the percentage of application disposed within the time limit is 81.3% whereas the percentage rate of rejection is 1.16%.

(7) During 2012-2013, the percentage of application disposed within the time limit is 83.2% whereas the percentage rate of rejection is 1.65%.

(8) During 2013-2014, the percentage of application disposed within the time limit is 87% whereas the percentage rate of rejection is 3.5%.

(9) During 2014-2015, the percentage of application disposed within the time limit is 75.3% whereas the percentage rate of rejection is 1.99%.

(10) During 2015-2016, the percentage of application disposed within the time limit is 97.9% whereas the percentage rate of rejection is 1.53%.

4.5.2. Receipt and Disposal of First Appeals

In case information requests are rejected by the SPIOs, Appeals can be submitted to the Departmental Appellate Authorities (DAAs) who must be persons of rank higher than the SPIOs.

It is relevant to point out that there are loopholes relating to data received by MSIC from the Public Authorities regarding First Appeals. The loopholes in statistical data could be that there is lack of understanding among the respondent Public Authorities of the way in which they are supposed to provide data. Further, there is lack of awareness among various Public Authorities of the importance of providing correct data as against what is inquired of. As a result of incorrect data entry, the number of Appeals received by DAAs could be much higher than projected by MSIC.

Table 4.8. Data relating to number of 1st Appeals

Year	No of 1 st Appeals (as compiled by MSIC)	No of 1 st Appeals as compiled by scholar
2006-2007	6	7
2007-2008	2	2
2008-2009	2	2
2009-2010	8	45
2010-2011	12	41
2011-2012	2	6
2012-2013	17	17
2013-2014	42	42
2014-2015	14	14
2015-2016	23	24
Total	128	200

Source: Computed from Mizoram State Information Commission Annual Reports

As per Table 4.8., there are differences in statistics relating to number of first appeals. Regarding First Appeals, a total of four questions were asked of each public authority like number of 1st Appeal instituted before MSIC, number of 1st Appeal decided within 45 (forty five) days, number of 1st Appeal rejected and number of 1st Appeal allowed. A close examination reveals that some Public Authorities are not paying attention to the queries asked by MSIC resulting in mistakes. A few instances of such occurrence are presented in the following tables:

Table 4.9. Appeals Received by DAA during 2006-2007

Sl. No.	Public Authority	How many Appeals instituted before DDA against action/inaction of the SPIO?	No of Appeals decided by DAA within 45 days	No of 1st Appeal rejected	No of 1st Appeal allowed
1.	FCS &CA	1	1	NIL	1

2.	D.C. Aizawl	1	1	NIL	1
3.	Home	2	2	NIL	2
4.	Industries Dte	1	1	1	NIL
5.	MPSC	1	1	1	NIL
6.	Transport Sectt	NIL	NIL	NIL	3
	TOTAL	6	6	2	9-2=7

Source: Computed from Mizoram State Information Commission Annual Reports

As per Table 4.9., during 2006 to 2007, the total number of Appeals received is reported to MSIC as 6 in number. Whereas serial number 1, 2 and 3 have correctly provided data in the required spaces, data given by serial number 4, 5 and 6 are confusing. Serial number 6 is the most confusing of all as it has left NIL against the first three queries and provided data relating only to “number of 1st Appeals allowed.” As such, the MSIC has not counted in the confusing data provided by Transport Secretariat. The MSIC has counted statistics of total number of Appeal received from Appeals instituted before DAA against action/inaction of SPIO. If proper data had been provided against the required fields, the number of 1st Appeal would be much higher than projected by the MSIC.

Table 4.10. Appeals Received by DAA during 2009-2010

Sl.No.	Public Authority	How many Appeals instituted before DDA against action/inaction of the SPIO?	No of Appeals decided by DAA within 45 days	No of 1st Appeal rejected	No of 1st Appeal allowed
1.	Industries(Dte)	NIL	1	NIL	NIL
2.	ZIDCO	1	1	NIL	1
3.	BDO Lawngtlai	NIL	NIL	NIL	13
4.	ACB	NIL	8	NIL	8
5.	Excise & Narcotics	6	NIL	NIL	NIL
6.	MBSE	1	1	1	NIL
7.	E-in-C, P&E	NIL	NIL	NIL	14
8.	E.E.P.W.D. (NH Div II)	NIL	NIL	NIL	2
	TOTAL	8	11	1	46-1=45

Source: Computed from Mizoram State Information Commission Annual Reports

As per Table 4.10., in the year 2009-2010, 8 (eight) Public Authorities have furnished their data regarding number of Appeals instituted before DAA, number

disposed within time limit, number of Appeal rejected and number of Appeal allowed. Perusal of MIC Report 2015-2016 (page 3) shows that they have given total no of Appeals received by DAA as 8 (eight) in number.

Table 4.11. Appeals Received by DAA during 2010-2011

Sl.No.	Public Authority	How many Appeals instituted before DDA against action/inaction of the SPIO?	No of Appeals decided by DAA within 45 days	No of 1st Appeal rejected	No of 1st Appeal allowed
1.	MPSC	1	NIL	1	NIL
2.	Vigilance(Se ct)	3	3	3	
3.	GAD(Aviati on Wing)	NIL	NIL	NIL	14
4.	PHED(M)	NIL	NIL	NIL	1
5.	C.E. Minor Irrigation	NIL	NIL	NIL	4
6.	Home (Sectt)	2	2	NIL	2
7.	E-in-C, P&E	NIL	NIL	NIL	14
8.	DRDA Lawngtlai	6	6	1	6
9.	E-in-C, PHED	NIL	NIL	NIL	1
	TOTAL	12	11	5	46-5=41

Source: Computed from Mizoram State Information Commission Annual Reports

As per Table 4.11., between the years 2010-2011, 8 (eight) Public Authorities reported to the MSIC as receiving Appeals. This is evident from MSIC Report 2010-2011¹⁷ where number of Appeals instituted before first appellate authority is given as 12 (twelve) but the number of First Appeal allowed is given as 42 (forty two). However, MSIC seems to be relying on actual number of Appeals received as 12 (twelve) as per its 2015-16 Annual Report.¹⁸

Table 4.12. Appeals Received by DAA during 2011-2012

Public Authority	How many appeals instituted before DDA against action/inaction of the SPIO?	No of appeals decided by DAA within 45 days	No of First appeal rejected	No of 1st appeal allowed
Vigilance	1	1	1	NIL

¹⁷ Mizoram Information Commission Annual Report 2010-2011, p.72.

¹⁸ Mizoram Information Commission Annual Report 2015-16, p.3.

AH&Vety	1	1	NIL	1
I&PR Dte	NIL	NIL	NIL	4
ACB	NIL	1	NIL	1
TOTAL	2	3	1	7-1=6

Source: Computed from Mizoram State Information Commission Annual Reports

As per Table 4.12., during this period, four Public Authorities received First Appeals and as a result of incorrect entering of data, there are also differences in the total number of appeals instituted and total number of Appeals allowed.

Table 4.13. Appeals Received by DAA during 2012-2013

Sl. No.	Public Authority	How many appeals instituted before DDA against action/inaction of the SPIO?	No of appeals decided by DAA within 45 days	No of First appeal rejected	No of 1st appeal allowed
1.	P&E Sect	1	1	NIL	1
2.	Excise & Narcotics	1	1	1	1
3.	GAD Aviation Wing	NIL	NIL	NIL	15
	TOTAL	2	2	1	17-1=16

Source: Computed from Mizoram State Information Commission Annual Reports

AS per Table 4.13., from 2012-2013, total no of 1st Appeals as shown in the MSIC's Report is 17 (seventeen) which is taken from total number of Appeals allowed. Changes are made whereas in the previous years the MSIC has taken statistics from "Appeals instituted before DAA against action/inaction of SPIO".

The tables presented in the preceding pages are just examples of the errors in data submitted by the Public Authorities to the MSIC. In almost all the years between the years 2006-2016, there are slip-ups and Public Authorities must ensure that their vital data relating to RTI are correctly presented by those in authorities and under close supervision. As a result of this, analysis of the trends in disposing of 1st Appeals handled by the DAAs was not possible.

4.6. Exempted organizations from RTI Act

According to the Notification issued by the Government of Mizoram, the following organizations are exempted from the purview of RTI Act. Those organisations are:-

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- (1) “State CID Special Branch and District Special Branch including Narcotic Cell;
- (2) State Police formations at all levels dealing with security of vital installation including airport security and protected persons, procurement and disposal of sophisticated security and intelligence operations, disclosure of which may lead to breach of security.
- (3) State Police formations at all levels dealing with result of examination of exhibits in Forensic Science Laboratory which may jeopardise investigations of prosecution;
- (4) State Police Intelligence and Security Organizations or formations at all levels dealing with deployment and movement of Mizoram Police personnel including armed and unarmed;
- (5) State Police Intelligence and Security Organizations or formations at all levels dealing with matters relating to special operations for maintenance of internal security, law and order;
- (6) State Police Intelligence and Security Organizations or formations dealing with subjects concerning negotiations or settlements of militants, insurgents, extremists and anti-social elements and all matters relating to covert and overt operation against them.

Though Mizoram Excise Department is exempted from the purview of RTI, blanket exemption of Excise Department is questioned on ground of the high probability of corruption. As confiscation of good quality liquor is not strictly recorded, employees of Excise Department are charged as selling liquor for their own pockets.

¹⁹ Government of Mizoram Notification No.F.13011/6/2005-IPR Dated 27.03.2007.

4.7. Conclusion

In its Report, the MSIC has pointed that, though there are many Government Departments having adhered to the given Guidelines for submission of their Report to the MSIC, there are others which have not seriously taken the Guidelines at the time of entering information in their Reports. Some have also failed to submit Quarterly Reports to the MSIC while others submitted their Reports after much delay. Another point raised by the MSIC is that of enclosing old and outdated Notifications regarding the appointments of DAAs, SPIOs, and SAPIOs in their monitoring Reports. It is also evident that some appointments of DAAs, SPIOs and SAPIOs have been made only by designations while there is a need to appoint officials clarifying their names and designations. Moreover, they have issued a Notice for conveying Office Orders containing the latest appointments of DAAs, SPIOs and SAPIOs along with names and designations without enclosing them in their Reports. In the 2016-2017 Annual Report of MSIC, it has made strong recommendations to the Public Authorities to be more careful in entering of data pertaining to applications decided within the prescribed period and information given under Section 8 on grounds of larger public interest.

CHAPTER-V

CIVIL SOCIETY AND THE RIGHT TO

INFORMATION

CHAPTER-V

CIVIL SOCIETY AND THE RIGHT TO INFORMATION

5.1. Introduction

Civil society is an important prerequisite for democracy but, at the same time, it must be borne in mind that “not every society is a civil society.”¹ It was only from the late 17th century that the concept of Civil Society gained importance and became an accepted construct among the academic world. At this time, theorists of democracy “invoked this concept to define a democratic form of Government rooted in the rights of citizens.”² Elliot also said: “The language of civil society burst on the contemporary political scene with the rise of the solidarity movement in Poland and was later picked up by western intellectuals of various political persuasions to articulate their discomforts with modern society and government.”³ Consequently, at the turn of 1990s, many authoritarian regimes in Latin America and Asia became new democracies and in this new political landscape emerged the notion of civil society.⁴ In this regard, Ghosh said; “Civil society is considered to be a space for the enforcement and enhancement of social, economic and political justice. It is a healthy and necessary complement to democracy.”⁵ White rightly talked about the relevance of Civil Society for democracies when he said; “Civil society fosters democracy by limiting the State, providing space for protest groups, generating demands, monitoring excess, confronting power holders and sustaining a balance of power between state and society.”⁶ Tandon & Mohanty also expressed that “Civil

¹ Alam, Javeed., “Civil Society, Democracy and Public Sphere in India”, Bhargava Rajeev (Ed). *Civil Society, Public Sphere and Citizenship: Dialogues and Perceptions*, (Sage Publications, New Delhi, 2005), p.352.

² Mahajan, Gurpreet., “Civil Society and its Avatars: What Happened to Freedom and Democracy?” Carolyn, M. Elliot. (Ed). *Civil Society and Democracy: A Reader*, (Oxford University Press, New Delhi, 1999), p.168.

³ Elliot, M. Carolyn., (Ed). “Civil Society And Democracy A Comparative Review”, *Essay in Civil Society and Democracy- A Reader*, (Oxford University Press, New Delhi, 2003), Pp.1-2.

⁴ Rajesh Tandon & Kak Mohini., (Eds). *Citizen Participation and Democratic Governance: In Our Hands*, PRIA, (Concept Publishing House, New Delhi, 2007), p.6.

⁵ Biswajit, Ghosh., NGOS, Civil Society and Social Reconstruction in contemporary India, (*Journal of Developing Societies*, 25.2.2009), p.14.

⁶ White, Gordon., *Civil Society, Democratization and Development (I)* : (Democratization I (3) Autumn 1994), p.382.

society actions in assuring accountability of public agencies, officials and institutions are of a much recent origin in the last decade. The principle of accountability of elected leaders, appointed public officials and constitutionally mandated public agencies is of the very heart of democratic governance.”⁷

The terms “Civil Society” and “Non-Governmental Organizations (NGOs)” are, sometimes, used interchangeably. But, as Christine rightly observed: “The term ‘NGO’ is increasingly replaced by the term ‘Civil Society Organizations’ stressing the postulated civil society potential of NGOs.”⁸ There are diverse definitions of “Civil Society.” According to Singh, “civil society organizations are those organizations 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 organizations, Non Governmental Organizations (NGOs) and Community Based Organizations (CBOs), religious organizations delivery, welfare services, social workers in private practice etc. Therefore, any people’s association or organization can be referred to as a Civil Society Organization.”⁹

Orjuela holds that civil society “has come to signify a formal, non-governmental voluntary organization where people voluntarily organize to defend their common interests or work for social and political change. Civil society actors influence the public opinion as a pressure group which can be regarded as most essential element of rebuilding a peaceful society.”¹⁰ According to Concise Oxford Dictionary of Politics, “civil society is the set of intermediate associations which are neither the state nor the extended family: civil society therefore includes voluntary associations and firms and other corporate bodies.” Tester holds that “civil society is the social relationships which involve the voluntary association and participation of

⁷ Rajesh Tandon & Mohanty Ranjita., *Civil Society and Governance: A Research Study in India*, (Draft Synthesis Report, June 2000), p.4. <https://ids.ac.uk/files/dmfile/Indiasynthesis.doc>. Retrieved on 5th May, 2013.

⁸ Abele, Christine., *Civil Society Assistance in Central and Eastern Europe: The Cases of Poland and Slovakia*, (2006), p.36. www.edoc.hu-berlin.de/dissertation/abele-christine-2006-04-25/PDF/abele Retrieved on 17th May, 2014.

⁹ Singh, Richa., *Civil Society and Policymaking in India: In search of Democratic Spaces: a Case Study*, Centre for Democracy and Social Action, (Oxfam India Publishers, May 2014), p.15.

¹⁰ Orjuela, Camilla., Building Peace in Sri Lanka: A role for civil society? (*Journal of Peace Research*, Vol. 40, No.2, 2003), Pp. 195-212.

individuals acting in their private capacities.”¹¹ Bhargava observed: “The meaning of civil society is changed and is broadened the moment people begin to see themselves as active rather than as passive citizens.”¹² Thus, Civil Society refers to the totality of actors playing for the upliftment of the society through various means. In other words, it is a composite entity making up of individuals and organizations excluding the Government and the Army.

“Though the discourse on civil society in India is very recent and limited to intellectual circles, antecedents of civil society can be traced back in Indian history.”¹³ “The oldest strand of civil society in India reaches back to her Pre-independent period where an array of religious and communal groups engaged in welfare activities. Then, the period leading to Independence saw the emergence of reformist movements defending protective measures for vulnerable groups-children, widows and the then called “depressed castes” the society. The freedom movement gathered momentum in the same period: welfare organizations, reformist movements and the civil rights movement and functioned in a space outside the realm of the State. Many of them became bitterly disappointed when they saw that no miracle accompanied the change from a colonial to a national state. They watched with dismay as the apparatus of Government became corrupt and inefficient and in some respects even more oppressive than it was under the British.”¹⁴

In the Post-Independent period, the major fillip to Civil Society action “came from the imposition of national emergency in mid 1970’s and its aftermath.”¹⁵ In fact, “the 1975-1977 National Emergency declared by Mrs. Indira Gandhi led to the creation of the civil liberties movements often described as the origin of contemporary civil society in India. In 1987, after ten years from the withdrawal of Emergency, the Fifth Five-year Plan had brought one further shift by allocating

¹¹ Tester, K., *Civil Society*, (London: Routledge, 1992), p.8.

¹² Bhargava, Rajeev., “Civil Society, Public Sphere and Citizenship: Dialogues and Perceptions”, Rajeev Bhargava & Reifeld Helmut. (Eds). *Civil Society, Public Sphere and Citizenship: Dialogues and Perceptions*, (Sage Publications, New Delhi, 2005), p.49.

¹³ Rajesh Tandon & Mohanty Ranjita., *Civil Society and Governance: A Research Study*, India Draft Synthesis Report, June 2000, p.1.

www.ids.ac.uk/files/dmfile/Indiasynthesis.doc. Retrieved on 5th May, 2013.

¹⁴ Dobochet, Lucy., *The Changing Role of Civil Society in a Middle Income Country: A Case Study from India*, (Oxfam India, Working Paper Series, WPS-XI, December 2011, p.9.

¹⁵ Rajesh Tandon & Mohanty Ranjita., June 2000, *Ibid.*, p.1.

budgets to NGOs marking the start of what is sometimes called the “organisation” of civil society.”¹⁶

5.2. Civil Society Organisations in Mizoram

In Mizoram, the role of the Civil Society started in 1960s when the Church tried to bring peace due to insurgency.¹⁷ As in other parts of the country, the Civil Society in Mizoram consists of diverse organizations ranging from human rights, gender empowerment, welfare of the elderly, society and culture, farmer’s rights, corruption, transparency, social justice and others. Commenting on the significant contribution made by Civil Society Organisations (CSOs) in Mizoram, Satpathy said; “Mizoram has a strong civil society and, as a result, the pace of development in the State is the fastest in North East India.”¹⁸ Some of the CSOs have been exacting accountability by undertaking independent assessments of the implementation and outcomes of public policies and programmes. These CSOs have been using RTI for getting the information needed for these assessments. By conducting these exercises, the CSOs have found out mismanagement of public funds and inefficiencies in public policies and pushed for reforms. Public Interest Litigation (PIL) is the usual instrument used by CSOs in demanding justice from the executive branch of government. Commenting on the deep attachment of the Mizos to CSOs, one researcher said; “They are very vigilant, proactive, deeply rooted in the society, having a well established structure at the State, Block and Local level, endowed with such traditional authority that every member of the community accepts their authority and they are willing to support them at anytime much more than the legitimate government and every Mizo individual has to conform within their walls, otherwise they may be looked upon as an outcast.”¹⁹

The key Civil Society actors involved in the use of RTI in Mizoram are: People’s Right to Information and Implementing Society of Mizoram (PRISM),

¹⁶ Dubochet, Lucy., December 2011, *Ibid.*, p.9.

¹⁷ Zothansanga, David., “Role of Civil Society in Good Governance with Special Reference to Mizoram”, *Administrative Studies*, (A National Refereed Annual Journal) Volume 1, Issue No.1, November 2015, p.134.

¹⁸ Satpathy, R.K., “Contextualizing Development in the State-Civil Society Paradigm of Mizoram”, in Patnaik, J.K. (Ed) *Peace and Development in Mizoram: Role of the State and Civil Society*, (Aizawl, 2007), p.124.

¹⁹ Zorammuana, K., *Civil Society and State Administration: Dimensions & Interactions*, (2012), M. Phil. Dissertation, Department of Public Administration, Mizoram University, p.48.

Students' Unions, Society for Social Action (SOSA), Human Rights and Law Network (HR&LN) *Mizoram Upa Pawl (MUP)*, and *Young Mizo Association (YMA)*.

5.2.1. People's Right to Information and Development Society of Mizoram (PRISM):

People's Right to Information and Development Society of Mizoram (PRISM) has been in the forefront in demanding *transparency* and *accountability* in administration in Mizoram. Members of PRISM have been using RTI for getting Government Documents for examining, monitoring and evaluating the activities of the State Government. They set up RTI Help-Centre named 'INFORMA' and this Centre received 661 (six hundred sixty-one) visitors within its short span of life starting from 1st August 2009 up to 31st March 2010. The main activities of PRISM are:

Firstly, by exercising the RTI, PRISM has collected over 1,000 vital informations relating to the working of the State Government. According to the leaders of PRISM, their hard work in exercising RTI has become effective in making the State Government to investigate its agencies. As a result of this kind of investigation, 297 (two hundred ninety-seven) Government officials have been revealed as corrupt and 107 (one hundred seven) farmers in the villages could receive their shares out of development funds which were already considered usurped by the Government officials.

Secondly, PRISM has revealed 293 (two hundred ninety-three) false claims of compensation and 54 (fifty-four) unfair cases of recruitment with the help of RTI and got them cancelled by the State Government.

Thirdly, they have filed 2 (two) PILs in the Supreme Court of India and 11 (eleven) in the Gauhati High Court. Applications filed through RTI were instrumental in exposing unfair recruitment of Indian Reserve Police and 'Public Hearing' was conducted in 2007 in Aizawl Press Club and a Memorandum was accordingly submitted to the Deputy Inspector General (DIG) of Police.

Fourthly, during the period from 01-04-2010 to 31-03-2011, PRISM, by exercising RTI, had exposed unfair recruitment in the office of Principal Chief Conservator of Forests resulted from the failure of the Selection Committee to appoint a person selected for a Forest Guard. PRISM intervened on the person's behalf and letters were sent to the Chief Minister and the concerned Minister, instantly followed by a number of media activities, and the concerned person was ultimately reappointed.²⁰

Fifthly, Applications filed for information from the Health Directorate had brought to light discrepancies in use of public money. On 7th January 2010, PRISM filed FIR to the Director, Anti-Corruption Bureau, regarding misutilization of public money seemingly for conducting orientation workshops fixing dates and months by the Directorate of Health Services. On further investigation, it was found out that, on such fixed days, the place where the Department claimed to have conducted the Workshops was, in actual fact, engaged by other groups.²¹

Sixthly, PRISM submitted an information request to the Industries Department, asking for a list of selected beneficiaries in the matter of disbursement of Grants-in-Aid under the Scheme for Promotion of Industries in North East (SPINE). The scheme was essentially meant for development of Small Scale Industries and Tiny and Micro Enterprises for which the cost of plants and machineries should not exceed Rs 100, 00,000/- only. As there were some suspicions in the nature of selection of beneficiaries, PRISM filed a PIL against Industries Department which resulted in the taking up of the matter by Central Bureau of Investigation (CBI) which had formed a committee to investigate alleged financial irregularities in disbursement of Grants-in-aid to certain Bamboo Processing Units.²² As a result, it was found that some of the Companies already selected as beneficiaries were non-existent and fictitious (for example, non-existent stone quarry fake bamboo industry and others).²³

²⁰ Interview with Vanlalruata, President, PRISM, on 22nd August 2016.

²¹ Interview with Vanlalruata, President, PRISM, on 22nd August 2016.

²² *Order No NEC/IND/GR-SPINE/7/05 PARTFILE*, Dated 23rd April 2007, Ministry of DoNER, NEC Secretariat.

²³ Interview with Vanlalruata, President, PRISM, on 22nd August 2016.

Seventhly, another area where PRISM exercised RTI was the Police Modernization Scheme during the years 2001 -2005. Consequent upon the filing for information by PRISM, it was found that the purchases of materials and equipments for Police Modernization were made in gross violation of the General Financial instructions issued from time to time by the Finance Department, Government of Mizoram. PIL was filed to Gauhati High Court on 14th Dec 2016. The purchase was also in gross violation of guidelines issued by the State Chief Secretary that all purchases above Rs 5,000/- be made by calling Quotations or Tenders via Advertisements in newspapers.²⁴ It was found that *ex post facto* approval was sought after making all the purchases. Eventually, on 21st May 2009, the Gauhati High Court issued an Order and accordingly set up a 'Three-member Team' to inquire into the alleged irregularities in the purchases made under Police Modernization Scheme.²⁵

Eighthly, suspecting discrepancies in the construction of the two mini Hydel Projects, namely *Kau Tlabung* Hydel Project situated near Tlabung village in Lunglei District and *Tuipanglui* Hydel Project situated near Tuipang village in Saiha District, had invited PRISM to file a request for information from the State Power and Electricity (P&E) Department. The two mini Hydel Projects, started in the year 1994 as per the Project Proposals made in 1991, were expected to be completed by 3 and ½ years and commissioned by the year 1999 with the estimated costs of Rs 482/- lakhs and Rs.980/- lakhs. However, there was an unprecedented escalation of costs of the two Projects to Rs.3, 253. 03 lakhs and Rs.3, 721/- lakhs respectively. On top of that, after spending a huge amount of Public Fund for the Projects, P&E Department had abandoned both the Projects.

In view of the seriousness of misuse of the Public Funds, PRISM had filed a PIL against the Government of Mizoram and P&E Department in the Gauhati High Court on 5.10.2010. As a consequence, Tenders for the two Projects were re-issued on 6.9.1994 and 12.9.1994 respectively and were re-opened on 1.3.1995 and 20.2.1995 respectively. Finally, M.S. Overseas Corporation of Mumbai was awarded for construction and commissioning of the Projects. As years passed, the Project

²⁴ *Memorandum No FMC 73/91* issued by the Chief Secretary on 18th August 1994.

²⁵ PIL.No. 82/2006 *Shri Vanlalruata Versus State of Mizoram & others*, Guwahati High Court.

costs of Rs 482/- lakhs and Rs 980/- lakhs had escalated to Rs.2, 180/- lakhs and Rs.1, 935/- lakhs in 1996, Rs 2,518.73 lakhs in 1998 and in 2001 to Rs 3,253.03 lakhs and Rs 3,721/- lakhs respectively. In this connection, PRISM had lodged 67 First Information Reports (FIRs) to the Anti-Corruption Branch (ACB) of Mizoram and also to the Central Bureau of Investigation (CBI). In addition to this, PRISM had filed a Complaint to the Superintendent of Police of Anti-Corruption Bureau Mizoram against some officials engaged in the construction of Mini Hydrel Projects.²⁶ As a result, 8 (eight) officials have been charged with misappropriation of funds in *Kautlabung* Mini Hydrel Project and 9 (nine) officials in *Tuipanglui* Project. The Vigilance Department, Government of Mizoram, issued an Order to the Superintendent of Police, ACB, to register Criminal Cases under the appropriate Section of IPC and PC Act 1988 against those officials.²⁷ Surprisingly, on 2nd July 2010, the Vigilance Department issued an Order to the Director of Anti-Corruption Bureau that the direction to register criminal case against the public officials was withdrawn.²⁸ This withdrawal of direction for registering criminal case against the public officials had led to the filing of Public Interest Litigation (PIL) against the Government of Mizoram by PRISM in the Gauhati High Court.²⁹

Ninthly, conducting of Social Audit is another significant activity of PRISM. In all, they have conducted Social Audits in 21 (twenty-one) villages. In some of these Social Audits, they often work with members of *Mizo Upa Pawl* (Senior Citizens' Association). They have submitted over 43 (forty-three) suggestions regarding development works of the Government to the concerned authorities.

Other activities of PRISM include conducting of Social Audits, Training and launching of RTI Awareness Campaigns not only in urban centres but also in the countryside of the State of Mizoram. 231 (three hundred thirty-one) "Awareness Campaign Programmes" have been conducted in different towns and villages. Leaders of PRISM conducted RTI awareness campaigns and Social Audits first in the urban areas and thereafter in many of the villages.³⁰ In accordance with decisions

²⁶ *PRISM's Letter to ACB, No. PRISM/FIR/2008-8*) Dated 03.10.2008.

²⁷ Government of Mizoram, Vigilance Department Order No. C.13015/85/09-VIG/327.

²⁸ Government of Mizoram, Vigilance Department Order No. C.13015/85/09-VIG/409 Dated 13-05-2010, issued to the Director of Anti-Corruption Bureau.

²⁹ PIL No 64/2010 PRISM versus State of Mizoram & Others, Guwahati High Court.

³⁰ PRISM's Office Bearers Meeting Minute Book 16-02-2015.

in the meetings of its Office-bearers, PRISM has also carried out on-the-spot investigations and inspections of the ongoing Project works of the State Government, examples of such inspections are of slaughter houses, cold storages, construction of bridges.

5.2.2. Mizo Zirlai Pawl (MZP)

The Mizo Zirlai Pawl (MZP) or Mizo Students' Association is one of the few organizations which took the main initiative for the adoption of the Right to Information Act of 2005. Members of MZP have filed for information pertaining to diverse areas like regarding supply of materials, contracts of works, modes of appointment and the like. Among the discrepancies exposed by their use of the Right to Information, mention may be made of information released concerning a number of Government servants' re-employment or extension of services which was submitted to Department of Personnel & Administrative Reforms (DP&AR).

The information supplied to the MZP by DP&AR (General Service Wing) contains a list of officers who have been re-employed by the State Government, period of re-employment and number of times of re-employment. According to the information received by the MZP, 12 persons had been re-employed after their superannuation and the services of 19 persons had also been extended from the day of their superannuation.³¹

The MZP also took action when disgruntled interviewees filed complaints against the alleged unfair appointments of college Lecturers by the Education Department. Upon filing of an RTI request, it was found that the State Government appointed 4 (four) Lecturers without National Eligibility Test (NET) while the advertisement floated by the Education Department clearly stated that preference should be given to candidates with NET. Conversely, the reality was that the appointing authority gave preference to non-NET holders and the NET holders were placed only in the panel list. The aggrieved NET holders even filed Public Interest Litigation (PIL) relating to this.³²

³¹ Interview with Lalsangzuala Ngente, MZP President on 17th Nov 2015.

³² Gauhati High Court (MZP) No RTI WP(c) (PIL) No 40 of 2007.

BAFFACOS (Bamboo Flowering and Famine Combat Scheme) was another area where the MZP took action. The Government of Mizoram initiated an Action Plan for a Rs 566/- crore budget as relief to communities affected by the threat of famine. This Action Plan spread across 14 Government Departments such as Food and Civil Supplies, Agriculture, Transport, Health and Horticulture. Through filing of information requests in these 14 Departments, the MZP found out among others that there were Ministers and Member of Legislative Assembly's next of kin among the beneficiaries under BAFFACOS and also found that some beneficiaries belong to the government service.³³ Hence, the MZP came to the conclusion that the money under BAFFACOS reached only a small section of the rural population. According to the Comptroller and Auditor General (CAG) Report 2009, there was no co-ordination of activities amongst different Government Departments and the Action Plan was implemented by them in a standalone mode resulting in wastage, misuse, diversion of funds and creation of idle assets. As stated in its Report for the year 2009 by the CAG, the BAFFACOS did not address the core issue of utilisation of bamboo resources and providing livelihood to affected families.³⁴ It was rather an exercise for extracting money in the name of famine from the Central Government.

5.2.3. Society for Social Action (SOSA)

Another CSO, called Society for Social Action (SOSA), is an anti-corruption group which has submitted a number of information requests to the government agencies. They have collected important information resulting in filing of Public Interest Litigations (PIL). One such example is PMGSY (*Pradhan Mantri Gram Sadak Yojna*), a centrally sponsored scheme for road connectivity. After collection of information, surveillance was done and it was found that facts were distorted to hide misappropriation of money. This alleged misappropriation of public money had led to the filing of PIL by SOSA in 2006. The Comptroller and Auditor General's (CAG) Report held that the quality of 14 roadworks amounting to Rs.29.64 crore was not satisfactory. Of 248 unconnected habitations, 73 were targeted for connection through all-weather roads but only 17 were connected during five years despite incurring expenditure of Rs.118.75 Crore. Mizoram is one out of five States

³³ Zozam Weekly August 29 - 4 September, 2006, Volume 3, No2, Pp5-6.

³⁴ CAG Report 2009 www.cag.gov.in/hi/node/6943- Retrieved on 14th November 2016.

where 1.80 Crore of Rupees on account of mobilisation and equipment advance in respect of eight road works/packages remained unrecovered.³⁵ In 2010, the Gauhati High Court had a hearing and directed the Central Bureau of Investigation (CBI) to investigate the irregularities and misutilization of funds. The Government of Mizoram submitted a petition to the Supreme Court in 2011 claiming false allegations just as investigations were almost complete. As a result, the investigation had to halt. However, hearing was done on 8th February and the Supreme Court has dismissed the plea of the Government of Mizoram not to conduct the investigation.³⁶

5.2.4. Human Rights and Law Network (HR & LN)

Human Rights and Law Network (HR & LN) is the organization responsible for Human Rights Watch. This CSO has asked a number of questions using their Right to Information. Such information asked for relates to questions like (a) number of referred cases of patients outside Mizoram for a particular year, (b) particulars of candidates for advertised and unadvertised posts, (c) amount of funds received from the Central Government, (d) what kind of machines are purchased, (e) detailed expenditure of Projects undertaken, amount sanctioned. Let us look into the main activities of HR & LN.

A big debate arose when a large portion of Aizawl Civil Hospital compound was sliced out by the State Government and intended to be given for construction of a Multipurpose Centre for an area of land measuring 2.85 bighas. An RTI request was submitted asking for a copy of the bifurcation of Pass No 339 of 1983 into two blocks, one block being given to Dawrpui Local Council for construction of the Centre. They filed PIL to the Gauhati High Court. It was found that the slicing out of the land is from the original DPL Pass No. 339/83 and DLL No. 209/13 had been issued without authority and in the absence of a specific Notification was found non-existent in the eye of the law.³⁷ When the PIL was disposed off by the High Court,³⁸

³⁵ Executive Summary of PMGSY, www.cag.gov.in/sites/default/files/audit_report_files/Executive_Summary_23.pdf Retrieved on 27th Sep 2016.

³⁶ Interview with S.L.Sailova, former President, SOSA on 22nd August 2016.

³⁷ PIL No W.P (C) (PIL) No. 145/14, (Vanramchhuangi, HR&LN Vs The State of Mizoram & Others.

³⁸ Gauhati High Court (Mizoram) Bench's *Judgement & Order*, Dt. 22/8/14.

it directed the Government to reconsider the matter considering the importance of Public Health Care system.

5.2.5. Mizo Upa Pawl (MUP)

Mizo Upa Pawl (MUP) or Senior Citizens' Association is one of the few CSOs which takes initiative relating to RTI. MUP declared the period from 2005-2006 as "Anti-Corruption Year." They formed a Committee consisting of 28 Members including the Chairman and Secretary. They decided to establish a Vigilance Cell in the Headquarters, Sub- Headquarters, Areas and Units. In that meeting, they also decided to press the Government for the adoption of the RTI Act. Accordingly, they submitted a number of information requests to the State Government but majority of those Files could not be unfortunately located.

Since MUP has a Unit in every village, any whisper of abuse of office could be promptly reported to the Headquarters. The general practice is that whenever members of the MUP Unit at the village level have suspicion or see any sign of discrepancy with regard to utilization of the Public Funds (whether it is ICDS programme or others), the Unit members from that village would write to general headquarters informing them of the suspicion that they have. Then, they would submit a Petition to the concerned Department which then will inform the officials in charge of a Project to give a Report.³⁹ The main activities of MUP are shown below:

(1) Through the initiatives of MUP, allegations of corruption against storekeepers have been investigated a number of times. As a result of the use of RTI by MUP, the State office of Civil Supplies had suspended 23 (twenty-three) Storekeepers and 10 have been asked to resign.⁴⁰

(2) In the year 2007, members of MUP in Khawzawl village, in collaboration with other NGOs, applied for information *via* RTI Act and found that there were irregularities relating to distribution of money among "Passion Fruit Growers." This suspicion was in relation to the total amount of sanction for disbursement of grants-in-aid in cash to Thingsul *Sapthei* (passion fruit) Growers'

³⁹ Interview with Sainghinga, Secretary, Mizoram Upa Pawl (MUP) on 21st Oct 2015.

⁴⁰ Office Order No C.1.4013/1/07-DTE (SPY) CONF/MISC II Dated 03-08-2007.

Project under Khawzawl R.D.Block. As a result of action taken by MUP *via* RTI, the beneficiaries were able to get back money due to them.⁴¹

(3) MUP, in collaboration with PRISM (People’s Right to Information and Development Society of Mizoram), conducted their first Social Audits in the areas of Chawilung and Lamchhip villages during 12th – 16th June 2007. In Chawilung village, they suspected misappropriation of funds and in Lamchhip, they vetted against development carried out by the State Government without taking any public consideration.

5.2.6. Young Mizo Association (YMA)

In matters of exercising Right to Information, some of the biggest and most influential NGOs like YMA and MHIP are not active in using their RTI. In some areas, members of YMA have taken up “Awareness Campaign Programmes” relating to the RTI. However, at the State level, Central YMA conducted “Awareness Campaign Programmes” in collaboration with the Mizoram Information Commission (MIC) on the topic ‘RTI Awareness and Media Workshop’ at Central YMA Headquarters’ building on 25th September 2015.

5.2.7. Media

Commenting on the importance of Media, Geha said: “Civil Society which includes not only Non-Governmental Organizations but also journalists and labour unions is a major player in public affairs.”⁴² In the case of democratic countries like India, a vital part of Media “is its role in disseminating critical messages to the public and highlighting issues/concerns/initiatives.”⁴³ On the contrary, Anshu Jain

⁴¹ Interview with Sainghinga, Secretary, Mizoram Upa Pawl (MUP) on 21st Oct 2015.

⁴² Geha, Carmen Said., “*Freedom of Information: Bridging the Gap between the Citizen and State*”, American University of Beirut, Lebanon, June 2008, p.110.
www.right2info.org/resources/publications Retrieved on 19th May 2014.

⁴³ Dahal Taranath., *Nepal: Freedom of Information as a tool for Empowerment, enabling Protection and Achievement of other Rights*, 2009, p.2.
www.unesco.org/fileadmin/multimedia/hq/ci/wpfd2009/pdf/wpfd2010.background_Taranath+Dahal_FOI_Nepal.pdf Retrieved on 14th June 2015.

said: “Although the NGOs and the Media are doing their bit in their own small way but their efforts have proved to be inadequate.”⁴⁴

Even in Mizoram, Media can play an effective role in exposing the activities of the State Government and in strengthening the demand side of the RTI regime. Evidence to this point was the exposure of the Member of Legislative Assembly’s (MLAs) fake travel expenses scandal at the initiative of a Local Newspaper called *Zozam Weekly* which asked for information using RTI.⁴⁵ The information provided to this Local Newspaper had exposed fake travel bills of Ministers and Members of legislature as per ‘free travelling privilege awarded via the Mizoram (Salaries, Allowances and Pension of Members of the Legislative Assembly Act 1987 which came into force on 1st April 1991. Several MLAs (14 of them) were found guilty of submitting and receiving travel funds which they had not actually availed of. Exposure of fake Travel Bills of Ministers and MLA could be made by this local Newspaper because other Local Newspapers had covered in their news items their whereabouts during the period where they were reportedly to be elsewhere in their Travel Reports. Further investigation had exposed that Members of the State Legislature had been claiming false Travel Bills since 1991. Out of the total 23 Bills submitted for the year 2004-2005, 13 were found to be fake Bills and out of 25 Bills submitted for the year 2005-2006, one was a false Travel Bill. The same local Newspaper had also exposed some indiscretions concerning Vehicle maintenance of Mizoram Secretariat Administration.

5.3. Problems faced by Citizens

In order to find out the problems faced on the demand side, questionnaire was prepared and given to a number of Appellants and Complainants, most of the respondents being members of NGOs while others are from the Local Council and academic community. During 2007-2016, out of 171 Complainants and Appellants so far 24 respondents were randomly selected to provide necessary data.

⁴⁴ Jain, Anshu., Access to Information within the Ambit of the Right to Information Act 2005: Loopholes and Possible Remedies, Dec 2011, p.304.
[http://14.139.60.114:8080/jspui/bitstream/123456789/12376/1/015_Good%20Governanc e%20and%20Right%20to%20Information_A%20Perspective%20\(506-519\).pdf](http://14.139.60.114:8080/jspui/bitstream/123456789/12376/1/015_Good%20Governanc e%20and%20Right%20to%20Information_A%20Perspective%20(506-519).pdf). Retrieved on 14th June 2014.

⁴⁵ *Zozam Weekly*, Volume III issue no 1 dated August 22-28, 2006.

Table 5.1. Reasons for Submission of Second Appeals/Complaints

Sl.No.	Responses	Percentage
1.	Delays	45.84%
2.	Denial	25%
3.	Dissatisfaction	29.16%
	TOTAL	100

As per Table 5.1., the main reasons for submission of Second Appeals and Complaints are delays (45.84%), denial of information (25%) and dissatisfaction (29.16%).

Table 5.2. Reasons for Delays

Sl.No.	Responses	Percentage
1.	Lack of coordination	33.33%
2.	Fear of upper level officials	25%
3.	Problems which may result out of giving incorrect information	16.68%
4.	Bureaucratic apathy	8.33%
5.	Different interpretations of 'Public Authority' and 'Exemption Clause'	8.33%
6.	Negligence	8.33%
	TOTAL	100

As per Table 5.2., the respondents feel that the main reason for delays are lack of coordination (33.33%), fear of upper level officials (25%), problems which may result out of giving incorrect information (16.68%), bureaucratic apathy (8.33%), different interpretations of Public Authority and Exemption Clause (8.33%) and negligence (8.33%).

Table 5.3. Constraints Faced in Filing of Information

Sl.No.	Responses	Percentage
1.	Yes	50%
2.	No	50%
	TOTAL	100

As per Table 5.3., half of the respondents claim that they did not face any constraint in asking for information while the remaining 50% faced problems.

Table 5.4. Problems Faced in Exercising RTI

Sl.No.	Responses	Percentage
1.	Lack of coordination within the department	33.33%
2.	Non availability of information	25%
3.	Negative response from PIO	25%
4.	Others	16.67%
	TOTAL	100

As per Table 5.4., the problems faced by respondents in exercising RTI are lack of coordination within the department (33.33%), non availability of information (25%), negative response from PIO (25%) and others problems (16.67%) like delay, fear of Government machinery, lack of unwillingness to impart information on the part of senior officials, and trying to kill purpose of requests.

Table 5.5. Satisfaction with Record Maintenance System

Sl.No.	Responses	Percentage
1.	Yes	Nil
2.	No	100%
	TOTAL	100

As per Table 5.5., all the respondents confirmed that departments do not have a good system of storing information.

Table 5.6. Constraints Faced in Filing Second Appeal/Complaint to MSIC

Sl.No.	Responses	Percentage
1.	No constraints	100%
2.	Others please specify	NIL
	TOTAL	100

As per Table 5.6., all the respondents said they did not face any problem in filing Second Appeals and Complaints to MSIC.

Table 5.7. Outcome of Second Appeals/Complaints

Sl.No.	Responses	Percentage
1.	Information given	83.33%
2.	Not given	16.67%
	TOTAL	100

As per Table 5.7., regarding the outcome of Second Appeal and Complaints, 83.33% of the respondents hold that after appeal, the requested information was given while for 16.67% of Second Appeals and Complaints, the decisions of PIOs were upheld.

Table 5.8. Quality of Information Provided

Sl.No.	Responses	Percentage
1.	Satisfactory	33.33%
2.	Not satisfactory	25%
3	Average	41.67%
	TOTAL	100

As per Table 5.8., the quality of information given is satisfactory for 33.33% of respondents, not satisfactory for 25% and average for 41.67% of respondents.

Challenges faced by Citizens

- (a) According to the citizens, (Appellants and Complainants) they face lots of problems relating to interpretation of ‘Public Authority’ and ‘Exemption Clauses.’
- (b) A stumbling block in implementation of the RTI Act is the lack of political and bureaucratic will to implement the Act in its true spirit.
- (c) More training needs to be conducted by ATI. Section 4 of the RTI Act should be implemented in more earnestness and Proactive Disclosure should be made fully compulsory and quick penalty be imposed on those who wilfully neglect their duties.

5.4. Conclusion

To conclude, the citizens and CSOs have been able to use the RTI Act to fight mismanagement of public funds and corruption and improve efficiency in governance. So far as general performance of CSOs is concerned, not all NGOs are big users of the RTI in Mizoram. Some take the time to request, appeal and even file Public Interest Litigation (PILs). Of all the NGOs in Mizoram, PRISM and HR&LN appear to be the two biggest users of RTI. These NGO’s have also filed a number of PILs. However, it is necessary to remember that “as far as the accessibility of Freedom of Information Laws is concerned, it is preferable to keep cases out of court if possible. Once a case reaches the point of litigation, it effectively moves out of the hands of the citizen and into the hands of the professionals.”⁴⁶

Meanwhile, as a number of media organizations depend upon the Government for advertisements, they are apprehensive of going against the State Government. So, they are not willing to come forward for a number of reasons while

⁴⁶ Calland, Richard., Bentley, Kristina., *The Impact and Effectiveness of Accountability and Transparency Initiatives: Freedom of Information*, Democratic Government and Rights Unit (2013). Retrieved from www.r4d.dfid.gov.uk/pdf. Retrieved on 14th June 2015.p.18.

there is more need for educating the citizens. What needs to be made strong on the ground is that, “an FOI Law needs to be accompanied by grassroots or NGO activism and most crucially, media that are willing to lend transparency advocates a platform.”⁴⁷ Highlighting the important role played by Media, Greg Michener also said: “Grassroots movements and NGOs can help to push FOI policies, but must depend on media coverage to make their case heard.”⁴⁸

The role of the media in strengthening the demand side of the RTI regime is important but there needs to be more vigilance on the part of NGOs and Media. The more they involve in RTI the more meaningful purpose of Right to Information will be served. CSOs need to maintain and preserve their Documents for future reference as data relating to their activities in the area of Right to Information is sparse. Most of the CSOs do not maintain proper files and records pertaining to information requests. As such there are problems in accessing vital data which can reflect their statistics particularly their success stories. There is vital need to record their activities relating to RTI. Proper record maintenance and computerisation should be done by them for future reference.

⁴⁷ Michener, Greg., FOI Laws around the World (*Journal of Democracy* April 2011, Volume 22.No2.), p.150.

⁴⁸ Michener, Greg., *Ibid.*, p.157.

CHAPTER VI

RIGHT TO INFORMATION AND GOOD GOVERNANCE IN

MIZORAM: AN ASSESSMENT

CHAPTER-VI

RIGHT TO INFORMATION AND GOOD GOVERNANCE IN MIZORAM: AN ASSESSMENT

6.1. Introduction

Right to Information (RTI), a tool for transparency, refers to the access of information in any form pertaining to the administration, operations or decisions of public authority.¹ It is one of the key principles of ‘Good Governance’ and one of the most effective tools for ensuring ‘Good Governance’ for the benefits of its citizens by a nation state. The RTI Act 2005 itself has highlighted that information is crucial for Good Governance as it reflects and captures Government activities and processes. In embarking on the road towards Good Governance, systems must be in place to ensure transparency in functioning and decision making. Equally important is the accountability of those who are in the position of authority.

Good governance “is based on the observance of certain principles such as accountability of government leaders, transparency in the use of public funds, responsiveness of government to popular aspirations and room for people to participate in all spheres of social and economic life to produce, to organize their mutual assistance and to express their views on development decisions affecting their existence.”² In other words, Good Governance is a fair and just system which upholds the principles of *transparency, accountability, citizens’ participation and empowerment*. It is, therefore, evident that RTI is one of the surest means for promoting Good Governance.

In ‘Good Governance,’ there is more than one actor involved in the decision making and implementation process of the State. Government is one of the actors and the other actors are grouped together as part of the civil society. Therefore, ‘Good Governance’ facilitates interaction of private sector, civil society and the

¹ Sarbjit Sharma & Gopal, Krishan., *Right to Information: Implementing Information Regime*. (Authorspress, New Delhi, 2006), p.101.

² Narashah, Laksmi., *Management Training in India*, Management in Government Jan- March, 2000, p.34.

State to make decisions on political, social and economic priorities based on consensus. It is, therefore, evident that the three stakeholders are responsible to provide a secure and stable social and economic environment to the citizens. The Government is directly responsible for carrying out allocation and implementation of development resources for the advancement of all sections of the society. Simultaneously, as other actors are not empowered to directly interfere in the decision-making and management of economic and social resources of the State, RTI becomes an effective tool of participatory development for private sector and civil society. RTI and Good Governance are complimentary to each other as long as the former comes as an effective tool for ensuring transparency, accountability and participatory development which are the significant features of Good Governance. As RTI is the tool to ensure Good Governance, the current Chapter attempts to analyse data relating to the fourth and the fifth objectives of the study which will answer the third and fourth research questions, that is, assessing the impact of the RTI on Governance and the problems faced in implementation of RTI in Mizoram.

6.2.1. Impact of RTI on Transparency

Transparency in administration means that “decisions are taken openly and enforced in a manner that follows rules and regulations. It requires that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided to all the stakeholders in easily understandable forms and media.”³

Section 4 (1) (b) of the RTI Act provides for duties of Public Authorities to maintain and update 17 points of Proactive Disclosure in order to ensure transparency in their functioning. An enquiry into the implementation of Proactive Disclosure by ‘Public Authorities’ shows that relating to efforts to make their functioning transparent, 16 out of 40 ‘Public Authorities’ (40%) have provided their Disclosures on their websites. Of the remaining 24 ‘Public Authorities,’ on-the-spot inspections of implementation of Section 4 (1) (b) reveal that another 12 ‘Public

³ *The Right to Information Act, 2005: A Guide for Civil Society Organizations: Capacity Building for Access to Information*, (Centre for Good Governance, July 2006), p.21.

Authorities' were found to have 'Proactive Disclosures.' Hence, out of 40 Public Authorities, attempts to make their functioning transparent have been made by 28 'Public Authorities' (70%) but out of these, 22 Disclosures (55%) are found *satisfactory*, while the remaining 6 disclosures (15%) are found *average*. At the same time, the remaining 12 Public Authorities (30%) have nothing to disclose either in soft or hard copy. Thus, the success rate of Proactive Disclosure Clause or the impact of RTI on transparency of 'Governance' is *average* as only 22 out of 40 Public Authorities (55%) are found to maintain *satisfactory* disclosure.

6.2.2. Impact of RTI on Accountability

Accountability of 'Public Authorities' can be determined in a number of ways one of which is the outcome resulting out of filing of RTI Applications. Section 20 of the RTI Act 2005 empowers Information Commissions to impose penalty on any of the erring PIOs. Thus, the information request made and the information made known not only act as a great disadvantage as details about their activities can be had if the right question is posed and correct information is given. At the same time, penalty can also be imposed on SPIOs who are unwilling to impart information without any viable reason. According to Section 20 of the Act, the State Information Commission (SIC) shall recommend for disciplinary action against the CPIO or the SPIO, as the case may be, under the service rules applicable to him, if he has failed persistently to receive an application for information without any reasonable cause or if he has -

- (a) not furnished information within the time specified under Sub-section (I) of Section 7 of the Act or
- (b) malafidely denied the request for information or
- (c) knowingly given incorrect, incomplete or misleading information or
- (d) destroyed information which was the subject of the request or
- (e) obstructed in any manner in furnishing the information.

So, in order to find out and establish the reliability of ‘Accountability’ of ‘Public Authorities’ or otherwise, content analysis of Adjudication Orders has been done with a focus on the penalties imposed and also to understand the situations under which those penalties were imposed, which Department has faced penalty show cause notices as such, and the situations under which Show Cause notices as to why penalty should not be imposed were issued but then withdrawn. Show Cause notices as to whether penalty should not be imposed were issued to SPIOs by the Mizoram State Information Commission (MSIC) 10 (ten) times during a period of the past 10 (ten) years. It is relevant to point out that, from the beginning of its inception, the Commission has imposed penalty on 3 (three) defaulting SPIOs as per Section 20 (1) of the Act.

However, the following cases are presented for better comprehension of the situations under which penalty notices were imposed and withdrawn.

(1) Pertaining to Complaint No. 29/2008-MSIC dated 09/01/2009, on explanation given that the respondent was *on leave* and there was no other designated PIO, penalty notice was withdrawn.⁴

(2) Regarding Complaint No. 30/2008-MSIC dated 10-02-2009, show cause for penalty imposition was issued. However, penalty notice was withdrawn due to prevailing facts and circumstances and the general impression prevailing among the people of Mizoram that a private firm is not covered by the RTI Act.⁵

(3) In relation to Complaint No. C.44/2009-MSIC dated 17/12/2009, penalty notice was withdrawn after it was found on inquiry that *typing mistake* on the date was the main cause of delay.⁶

⁴ This withdrawal of Penalty Notice took place in the ICT Wing of Planning & Programme Implementation Department, Government of Mizoram.

⁵ The name of this Private Firm is Valecha Engineering.

⁶ This withdrawal of Penalty Notice took place in the Office of Principal Chief’s Conservator of Forests, Government of Mizoram.

(4) Regarding Complaint No. C48/2010-MSIC dated 04/06/2010, penalty notice issued to the respondent was withdrawn because of *late receipt of letter* requesting for transfer of application.⁷

(5) Concerning Complaint No. C49/2010-MSIC dated 23/06/2010, where show cause notice was issued, it was then withdrawn and information to be given free of cost was the directions because *required information was submitted* along with the statement.⁸

(6) With reference to Complaint No. C 52/2010-MSIC dated 16/07/2010, show cause notice was issued as there was *no transfer of application* but rather directions to approach other wings twice within the same public authority but the case ended in directions to give certified copies within 7 days.⁹

(7) In connection with Complaint No.C98/2014-MSIC dated 01/08/2014, penalty notice issued was withdrawn after it was found that the SPIO had been *deployed elsewhere* during election and the required information was given during the proceedings.¹⁰

A perusal of MSIC's Annual Reports pertaining to adjudications on Complaints and 'Second Appeals' shows that penalties were imposed in cases where PIOs failed to give explanation or had no reasons to provide for denial of information. In some cases where Show Cause notices as to why penalty should not be imposed were issued, it is usually withdrawn after receiving explanation given by PIO. Thus, leniency on the part of the MSIC regarding penalty imposition is present. Take for example, the Case of Complaint No. C 52/2010-MSIC, Dated 16/07/2010, which is a clear case where the Commission should have imposed penalty as it expressed surprise at the 'inaction and insensitiveness of the Department to the needs of the public.' Some delays in furnishing information have genuine reasons

⁷ This withdrawal of Penalty Notice took place in the Parliamentary Affairs Department, Government of Mizoram.

⁸ This withdrawal of Penalty Notice took place in Mara Autonomous District Council.

⁹ This withdrawal of Penalty Notice took place in Transport Department, Government of Mizoram.

¹⁰ This withdrawal of Penalty Notice took place in 1st Indian Reserved Police Battalion.

whereas ignorance about transfer of requests is not a justified reason to withdraw penalty orders. As such, with regard to Section 20 (1) of the RTI Act which empowers Information Commissions to impose penalty on erring SPIOs, the success rate of Penalty Clause or the impact of RTI on Accountability of ‘Public Authorities’ is low. (30%)

6.2.3. Impact of RTI on Citizen Empowerment

RTI is “a path breaking legislation empowering people and promoting transparency”¹¹. The RTI empowers the citizens to ask information from the ‘Public Authorities’ who are the holders of information. If the RTI is to be exercised to the fullest extent, there has to be a free flow of information. If there is no information, it is already an infringement on the RTI itself. So, by way of finding out whether the RTI has empowered the citizens or not, the Judgment Orders issued by the MSIC, from time to time, with respect to ‘Second Appeals and Complaints’ lodged by the citizens have been analyzed and the results of this analysis can establish the success rate of Second Appeals or Complaints for reflecting citizen’s empowerment.

Table 6.1. Judgments regarding Second Appeals (2006-2016)

SL.No	Details	Number
1.	No of Second Appeals that MSIC did not adjudicate upon	7 times (28%)
	i) Appeal disallowed due to premature appeal	1
	ii) Appeal disallowed due to appeal against decision of MSIC	1
	iii) Appeal disallowed due to due to lack of records of original information request	1
	iv) Information given during proceedings	4
2.	No of second appeals adjudicated upon	25-7=18
3.	No of times show cause notices for penalty was issued	1
4.	No of times penalty was actually issued	1
5.	No of times information was directed to be given	10
6.	No of times MSIC advised not to ask information as to divert substantial resources	1
7.	Allowed inspection	2
8.	Orders stating information to be given with consent of Third	1

¹¹ Government of India, Department of Administrative Reforms and Public Grievances, *Right to Information Master Key to Good Governance*, First Report, Second Administrative Reforms Commission June, 2006.p.1.

	Party	
9.	No of instances in which decision of respondent was upheld	5

Source: *Computed from Mizoram State Information Commission Reports, Orders and other Documents*

As per Table 6.1., out of 25 Second Appeals received by the Commission and available online, seven cases were not adjudicated upon due to dismissal of 3 cases and giving of information in 4 cases during the proceedings. Regarding the cases dismissed, there was one case of premature appeal which shows ignorance or hastiness on the part of the appellant. Another case showing ignorance on the part of citizens is appeal submitted against the decision of the Commission. One Appeal was also disallowed due to inability to produce records of original information request by all parties. All three of the above complaints were disallowed.

Thus, the total number of cases MSIC adjudicated upon pertaining to Second Appeals was 18. Out of 18 cases, the Commission directed information to be given to appellants in ten cases. Among the cases where information was directed to be given, advice was given to appellant not to club information requests of different nature under one application as well as not to ask information in such a way as to divert resources and there were two respondents who pleaded ignorance of subject matter of RTI. Two cases resulted in allowing inspection of documents in the presence of appropriate authorities. Penalty imposition was issued once and was imposed on one SPIO. The total number of instances in which MSIC upheld decision of respondents is five in number out of which four relates to Section 8 exemption and another relating to Third Party.

Table 6.2. Judgments regarding Complaints (2006-2016)

SL. No	Details	Number
1.	No of Complaints MSIC did not adjudicate upon	11 times (24.45%)
	i) Complaint disallowed/dismissed due to correct information given	2
	ii) Complaint disallowed due to Complaint against decision of MSIC	1
	iii) Complaints withdrawn	1
	iv) Information given during proceedings	7
2.	No of Complaints adjudicated upon	45-11=34
3.	No of times Show Cause notices for penalty was issued	9

4.	No of times penalty was actually imposed	2
5.	No of times information was directed to be given	25
6.	Orders stating unavailability of information	2
7.	No of instances in which decision of respondent was upheld	2
8.	Complaint dismissed due to information available with other agency	1
9.	Cases dismissed by MSIC due to non information seeking in nature and should be dealt with by courts/more of a grievance	1
10.	Vague orders	1

Source: *Computed from Mizoram State Information Commission Reports, Orders and other Documents*

As per Table 6.2., during 2006-2016, out of 45 Complaints available for inspection, the Commission did not adjudicate on 11 cases, the reasons being dismissal of 2 cases due to giving of correct information by respondents, one case disallowed due to Complaint against decision of the Commission, one withdrawn by complainant and 7 cases of information given during the proceedings. Thus total number cases adjudicated upon were 34 in number. Out of these, nine Show Cause notices as to why penalty should not be imposed were issued but two were actually imposed. There were twenty five cases where information was directed to be given by the Commission. There were two orders stating non availability of information due to disposal of information in accordance with Office Byelaws where Affidavit was directed to be provided in one case.

The number of instances in which decision of respondents was upheld is 2 (two) times out of which one is relating to Third Party information and another regarding invocation of Section 8. One case was dismissed due to information available with another agency, and another case was dismissed due to non information seeking in nature and should be dealt with by Courts (more of a grievance in nature). There is one vague order where Show Cause notice as to why penalty should not be imposed was issued but it closed the case stating revocation of penalty imposition.

According to the Judgment Orders of 18 Second Appeals and 34 Complaints, the success rate of Second Appeals is 72.22% and the success rate of Complaints is 79.41%. Thus the impact of RTI on citizen empowerment is high. It is to be noted that the success rate of adjudication of 'Second Appeals' depends on the directions

to provide requested information, allowing inspection of requested information and imposition of penalty on erring PIOs. The success rate of Complaints is decided based on ‘Penalty Orders’ issued to PIOs and the directions to give requested information.

6.2.4. Feedback regarding Impact of Right to Information

In order to substantiate the impact of RTI, the researcher took feedback from 40 (forty) SPIOs and 24 (twenty-four) Appellants and Complainants. The replies of the respondents to the relevant questionnaire are presented in the following tables:

Table 6.3. Impact of RTI on the Quality of Governance in Mizoram

Sl.No.	Responses	SPIOs	Appellants & Complainants
1.	Yes	30%	4.17%
2.	Partly	57.5%	54.17%
3.	No	12.5%	41.66%
	Total	100	100

As per Table 6.3., regarding the query whether the RTI Act has improved the quality of ‘Governance’ or not, 30% of the respondent SPIOs hold that it has improved the quality of ‘Governance.’ Meanwhile, 57.5% opine that RTI has partly improved the quality of ‘Governance.’ However, the remaining 12.5% are of the view that it has not improved the quality of ‘Governance.’

On the other hand, 4.17% of the respondent Appellants & Complainants hold that the RTI Act has improved the quality of ‘Governance’ in Mizoram’ whereas 54.17% hold the view that it has slightly improved ‘Governance’ in Mizoram. On the contrary, 41.66% of the respondents view that the RTI Act has not yet improved the quality of ‘Governance’ in Mizoram. In spite of this, it is possible to maintain that RTI has made a slight improvement in the quality of ‘Governance’ in Mizoram.

Table 6.4. Impact of RTI on Advertisements of Vacant Posts

Sl.No.	Responses	SPIOs	Appellants & Complainants
1.	Yes	55%	12.5%
2.	No	5%	20.84%
3.	Partly	40%	50%
4.	No reply	NIL	16.66%
	Total	100	100

As per Table 6.4., concerning advertisements of vacant posts in State Government, 55% of SPIOs feel that vacant posts are more openly advertised by the concerned Departments of Mizoram Government due to the implementation of the RTI Act. Meanwhile, 5% gave negative responses and 40% hold that it has partly led to display of open advertisements.

On the other side, 12.5% of Appellants & Complainants respond that it has led to open advertisements, 20.84% did not think so, 50% view that it has slightly resulted in the openness of the government in advertising vacant posts, and 16.66% did not respond to the query. Thus, it can be seen that there is slight openness in advertisements of posts under the Government of Mizoram.

Table 6.5. Impact of RTI on Wrongful Expenditure of Public Officials

Sl.No.	Responses	SPIOs	Appellants/Complainants
1.	Yes	27.5%	54.17%
2.	No	20%	4.17%
3.	Partly	52.5%	NIL
4.	Do not know	NIL	25%
5.	No reply	NIL	16.66%
	Total	100	100

As per Table 6.5., in relation to expenditure of public officials, 27.5 of the SPIOs are of the view that RTI has exposed wrongful expenditure of public officials while 20% replied negatively. 52% hold that it has led to exposure in some ways.

At the same time, 54.17% of Appellants & Complainants hold the view that RTI has exposed wrongful expenditure of public officials while 4.17% hold a negative view. 25% replied that they are unaware of such occurrences and the rest of 16.66% did not give any reply. From the responses, it can be deduced that RTI Act has helped to expose wrongful expenditure.

Table 6.6. Impact of RTI on Practices of Favouritism and Nepotism

Sl.No.	Responses	SPIOs	Appellants/Complainants
1.	Yes	60%	4.17%
2.	No	5%	25%
3.	Partly	35%	41.66%
4.	No reply	NIL	29.17%
	Total	100	100

As per Table 6.6., pertaining to the practice of nepotism and favouritism, 60% of SPIOs are of the view that it has been decreased due to RTI Act whereas 5% does not think so. 35% are of the opinion that RTI Act has only partly decreased the practice.

Meanwhile, 4.17% of Appellants & Complainants think that the practice of nepotism and favouritism has been decreased due to RTI Act, 25% replied no, 41.66% responded that it has been slightly reduced whereas 29.17% did not respond to the query. There is slight decrease in the practices of nepotism and favouritism.

Table 6.7. Impact of RTI on Attitude of Public Officials

Sl.No.	Responses	SPIOs	Appellants/Complainants
1.	Yes	47.5%	37.5%
2.	No	7.5%	33.33%
3.	To some extent	45%	29.17%
	Total	100	100

As per Table 6.7., in relation to whether RTI has resulted in behavioural/attitudinal changes, 47.5% of SPIOs replied affirmatively, another 45% said it has resulted in behavioural/attitudinal changes slightly or to some extent. 7.5% feel that it has not resulted in such changes.

On the other hand, 37.5% of Appellants & Complainants feel that RTI has led to behavioural/attitudinal changes, 29.17% said to some extent while 33.33% replied no. There are small changes in the attitude of Public Authorities as a result of RTI as well.

Table 6.8. Awareness of Citizens

Sl.No.	Responses	SPIOs	Appellants/Complainants
1.	Yes	40%	12.5%
2.	No	60%	87.5%
	Total	100	100

As per Table 6.8., regarding RTI awareness, 40% of respondent SPIOs are of the view that people are aware of their right while 60% feel that there is need for more awareness generation. On the other hand, 12.5% of Appellants & Complainants feel that there is awareness among the people while 87.5% do not think so. Thus, more awareness generation among all sections is a must.

6.3. Assessment of the Problems faced in implementation of Right to Information

To obtain feedback relating to problems in implementation of RTI from the side of information providers, 45 questionnaires were handed out and 40 SPIOs returned the filled up questionnaire. The data collected from the respondents have thrown light on the problems faced by SPIOs relating to RTI.

Table 6.9. Period of Appointment as PIO

Sl.No.	Length of Experience as SPIO	Percentage
1.	Less than One Month	7.5%
2.	1-3 years	52.5
3.	3-5 years	20
4.	More than 5 years	20
	TOTAL	100

As per Table 6.9., out of 40 Public Information Officers, 52.5 percent have been in their post for 1-3 years, 20 percent for 3-5 years, another 20 percent for more than 5 years and remaining 7.5 percent holds that they have held their post for less than a month.

Table 6.10. Difficulties faced in dealing with RTI requests

Sl.No.	Difficulties faced by SPIOs	Percentage
1.	Frivolous applications	15%
2.	Lack of awareness by applicants	12.5%
3.	Request for voluminous information	25%
4.	1, 2 & 3 above	45%
5.	Enforcement activities related	2.5%
	TOTAL	100

As per Table 6.10., the main difficulties faced by the PIO's in dealing with RTI applications in Mizoram are lack of awareness, requests for voluminous information, frivolous requests, and enforcement related problems.

Table 6.11. Institutional Problems faced relating to the Right to Information

Sl.No.	Types of Institutional Problems	Percentage
1.	Budget	10%
2.	Staff	12.5%
3.	Infrastructure	17.5%
4.	Both 1 & 3 (Budget & Staff)	2.5%
5.	No problems	30%
6.	No reply	20%

7.	Others	7.5%
	TOTAL	100

As per Table 6.11., the institutional problems faced by the respondents are: budget (10%), staff (12.5%), infrastructure (17.5%), budget and infrastructure (2.5%), other problems (7.5%), and 20 % did not reply while 30% are facing no problems.

Table 6.12. Problems faced in providing information

Sl.No.	Problems in Providing Information	Percentage
1.	Non-availability of information	30%
2.	Lack of coordination within department	5%
3.	Both 1 & 2	10%
4.	Lack of Infrastructure	30%
5.	No problem	10%
6.	Others	15%
	TOTAL	100

As per Table 6.12., the main problems faced in providing information are non-availability of information (30%), lack of coordination within department (5%), Non availability of information and lack of coordination within department (10%), lack of infrastructure (30%) and others (15%). The remaining 10% does not face problems in providing information while the remaining 15% mentioned the following problems: because of wide range of information, old information needs to be collected from all Districts and sometimes, old information papers are missing and cannot be located, requests pertaining to 10 year old records, all statistical records are not mentioned due to insufficiency of staff, information compiling takes time and there are lots of frivolous applications, time limit and staff.

Table 6.13. Stumbling Blocks in Implementation of the RTI Act

Sl.No.	Reason for stumbling block	Percentage
1.	Inadequate staff	5%
2.	Lack of proper record maintenance system	15%
3.	Lack of awareness of real purpose of the Act	27.5%
4.	Lack of financial resources	5%
5.	Lack of clarity of roles and responsibilities	7.5%
6.	All	40%
	TOTAL	100

As per Table 6.13., the stumbling blocks in the implementation of RTI are lack of awareness of real purpose of the RTI Act, lack of proper record, lack of

awareness of schemes and plans, lack of awareness of the role and functions of department.

Challenges faced by State Public Information Officers (SPIOs)

Based on the feedback of the SPIOs, following are the challenges faced by them in performing their assigned duties in relation to the implementation of RTI.

- (a) The Public Officials need to be well versed in the Departments under their charge. Only officers well versed in the Department may be appointed as PIOs. The DAA (higher in ranking) should be at the Secretariat level to ensure objectivity. All Heads of Departments be made SPIOs to ensure uniformity as well as strict observance. Having ASPIO and SPIO together is meaningless as the former cannot dispose of anything. Instead, having two SPIO would serve better. There is need to give appointment to a name instead of a rank as there are too much problems resulting out of frequent transfers and postings.
- (b) The main obstacles in successful implementation of RTI are lack of awareness of the real purpose of the Act, bureaucracy's lack of interest in its meaningful implementation, lack of political and bureaucratic will to implement in its true spirit.
- (c) The clarity of information required by the applicant is very poor. The objective of asking information must be clear and transparent. There is lack of awareness of Citizens' charter, role and functions of department, technicality of schemes and plans.
- (d) MSIC needs to do a qualitative review of information asked and assess whether questions are in the best interest of the public. Every information application may be submitted through the office of MSIC which shall screen the application carefully and object frivolous requests before passing on to the concerned Departments.

- (e) CSOs are observed not to involve much in RTI activities except for their vested interests. But, the more they involve in RTI activities, the more meaningful purpose of RTI will be served. Although the role of civil society is very much needed in bringing about transparency, yet there are hidden agenda or objectives.

- (f) There is need for ATI to induct more full-time Professionals or Specialists to impart training in various facets of administration and good governance. The Institute provides training for PIOs which is not enough. The policy-makers like Heads of Departments or Offices need proper training for the successful implementation of RTI.

CHAPTER VII

CONCLUSION

CHAPTER-VII

CONCLUSION

7.1. Major Findings of the Study

Major Findings of the whole work relating to Right to Information (RTI) and Good Governance in Mizoram are the following:

9.1. Findings Relating to Government Institutional Mechanisms

(A) Awareness Generation of Right to Information and Capacity Building

Though Information and Public Relations Department is the nodal agency for implementation of RTI, it plays little part on its own. Administrative Training Institute (ATI) and Mizoram State Information Commission (MSIC) are the major agencies in spreading awareness pertaining to the Right to Information. In fact, both ATI and MSIC have covered all the Districts of Mizoram to propagate the understanding of the right. MSIC organises RTI Week every year during the month of October in collaboration with the nodal department, Information & Public Relations Department. It has disseminated awareness about RTI through pamphlets, posters, brochures, guidebooks, workshop, seminars and the like. It has launched a state-wide campaign and thus has covered all the Districts. It has also taken steps to print more than 6000 copies of RTI leaflets and distributed them to spread the awareness. For awareness generation and capacity building, MSIC have distributed books like 'RTI Act on Braille version', 'Guidelines for SPIOs and Information seekers or applicants', 'Guidelines for SPIOs and ASPIOs', 'Guidelines for Proactive Disclosures', 'Templates for Disclosures', 'Booklet on educational Talk on RTI Act 2005 in English and local language. RTI Theme song entitled "RTI kan ram tan" has also been composed.

Apart from spreading awareness in all the Districts of Mizoram, ATI in collaboration with Young Mizo Association (Y.M.A) has organised public meetings for spreading the awareness. ATI has conducted training programmes, workshops

for various stakeholders and has disseminated information/awareness through pamphlets, posters, brochures and others. RTI Workshops and training is also included in their Annual training calendar.

(B) Implementation of Section 4 (1) (b) of the RTI Act by Public Authorities

Feedback of SPIOs

Out of 40 PIOs, 32.5% holds that they have prepared a 17 point Document as required by Section 4 of the Act, 35% replied in the negative, 15% contended that it is being prepared while the remaining 17.5% did not respond.

Findings from verification through MSIC Annual Report, website inspection and on-the-inspection

Out of 40 (forty) selected public authorities, 28 Public Authorities (70%) have implemented Section 4 (1) (b) or Proactive Disclosure. However, out of 28 Proactive Disclosure, the disclosure of only 22 Public Authorities (55%) is *satisfactory*. The disclosure of the remaining 6 (six) Public Authorities is not updated and hence found *average* (15%). Further, 12 Public Authorities (30%) could not produce evidence of implementation and therefore their performance is *not satisfactory*.

The Public Authorities with *satisfactory* Disclosure are ATI, MPSC, Health, I.G. Police, Labour Employment & Industrial Training, Information & Communication Technology, Food Civil Supply & Consumer Affairs, Animal Husbandry & Veterinary Science, Tourism, Excise & Narcotics, Disaster Management & Rehabilitation, Cooperation, Public Works Department, Commissioner of Taxes, Finance, Rural Development, Commerce & Industries, Art & Culture, Higher & Technical Education, Urban Development and Poverty Alleviation, Local Administration Department, and Law & Judicial.

The Public Authorities whose Proactive Disclosure is available but incomplete and not updated, and therefore *average* are the Departments of Soil and Water Conservation, Environment, Forests & Climate Change, General

Administration Department, Mizoram Board of School Education, Fisheries Directorate and I.G. Prisons.

The 12 (twelve) Public Authorities with *unsatisfactory* performance relating to Proactive Disclosure are Transport Department, Sports & Youth, Printing & Stationery, Office of Deputy Commissioner, Aizawl, Land Revenue & Settlement, Social Welfare Directorate, Anti-Corruption Bureau, Sericulture, Agriculture (Crop Husbandry), Power & Electricity Department, Secretariat Administration Department, and Directorate of School Education.

Regarding steps taken in maintenance of records and computerisation of these, 40% of respondent PIOs conveyed that they have made provisions for cataloguing, indexing and computerization of records. On the other hand, it was found that none of the respondent citizens were satisfied with the state of record maintenance of public authorities. Moreover, the negative response of the respondent citizens was also expressed by an Archives Officer in a workshop conducted by ATI that his Department has very good provisions for record maintenance and such information has been imparted to various departments as such but none of them has taken steps in that direction. This reveals that efforts taken to maintain records are poor.

(C) Receipt and Disposal of Information Requests

The total number of information requests received by SPIOs as given in the Annual Reports of MSIC is 10308 with 8834 applications disposed within the time limit which constitutes 85.7% disposal rate. Out of 10308 applications, 78 requests for information were rejected as claimed by Public Authorities in their reports submitted to MSIC.

Examination of MSIC Reports reveal that Land Revenue & Settlement Department topped the list in Mizoram with 1,144 information requests followed by the Police Department with 714 requests, and the Engineer-in-Chief of State Public Works Department close behind with 707 requests.

It was revealed through analysis of Second Appeals and Complaints that, out of 70 cases (25 Second Appeals and 45 Complaints) examined by the researcher, 7 cases were dismissed for reasonable reasons by the MSIC. Out of the remaining 63 cases, the reasons for rejection and taking resort to submit Complaints/Appeals were; plain denials of information or delays (31.74%), ongoing investigation (19.04%%), improper transfer of application (9.52%%), incomplete/dissatisfaction with given information (7.93%%), Third Party exemption (7.93%), absence of original copy of request (4.76%), Office Byelaws (4.76%), absence of respondents (3.17%%), wrong address of applicant (3.17%) non availability of information (1.58%) claim of information given (1.58%), claim of fake information given (1.58%), transfer of official (1.58%) and signature issue (1.58%).

Relating to denial of information, on the basis of analysis of the Judgement orders of MSIC, it was found that the most frequently invoked Exemption was 'ongoing investigation', that is, Section 8(1) (h) information which would impede the process of investigation or apprehension or prosecution of offenders. Eight (8) Second Appeals and four (4) Complaints were rejected on grounds of ongoing investigation. A close examination of Public Authorities who rejected application for the last ten years on grounds of Section 8 shows a trend that Vigilance Department and Police Department are the most frequent invokers of Section 8. Section 8 was invoked 12 times out of which 4 were invoked by Vigilance Department which were all upheld by the Commission. Mizoram Building and other Construction Workers Welfare Board and Police Department invoked Section 8 two times respectively.

(D) Receipt and Disposal of First Appeals

According to the Annual Reports of MSIC, the total number of First Appeals received by DAAs during 2006-2016 is 128 which is 1.25% of total information requests received by PIOs. Due to incorrect data entry by a number of Public Authorities, the number of First Appeals could be much higher than projected in the Annual Reports of MSIC. As a result, it was not possible to assess the trends in disposal of first appeals. There is clearly lack of understanding among the Public Authorities in providing the vital data relating to number of appeals received;

number of appeals disposed within the time limit; number of appeals rejected and number of appeals allowed.

(E) Role of Mizoram State Information Commission as Final Appellate Body

Mizoram Information Commission is the final Appellate body and it is vested with the power to hear Second Appeals (Section 19 (3)) and Complaints (Section 18). Second Appeals can be received within 90 days due to non receipt of information, absence of PIO, receipt of false or incomplete information and others. Complaints can be entertained due to absence of PIO, refusal to entertain information request, refusal to give information, non receipt of information during the time limit, unreasonable fee amount, receipt of false or incomplete information.

Upon inspection of MSIC Annual Report relating to Second Appeals and Complaints, it was seen that the Commission has no pendency cases. During 2006-2016, MSIC entertained 56 Second Appeals and 115 Complaints and out of 171 cases received by the Commission, there are 74 judgement orders (28 Second Appeals and 46 Complaints) available online. Out of 25 (twenty five) cases of Second Appeals examined by researcher, 3 (three) cases were dismissed by the Commission due to lack of original application; premature appeal and appeal against decision of MSIC. Out of 45 cases of Complaints examined, 4 cases were dismissed due to correct information given (2 times), appeal against decision of MSIC, and one withdrawn case by appellant.

Out of 74 cases available online, MSIC conducted hearings in 52 cases (18 Second Appeals and 34 complaints). It was found that out of 52 adjudications, MSIC decided in favour of citizens in 40 cases. Penalty was imposed on 3 SPIOs due to lack of response from public authority; wrong interpretation of Section 8 and ignorance about transferring of request. In one case, the appellant/complainant was advised by Mizoram Information Commission to refrain from clubbing together of diverse questions under one application. Warning was also given to one appellant not to misuse the Act and another appeal was hailed as grievance rather than request for extracting information.

9.2. Findings relating to Civil Society's Exercise of RTI

In studying the role of the civil society, the following are cases, among others, where exercise of RTI by members of CSOs had exposed fraud, irregularities in disbursement of cash, unfair appointments and others.

Firstly, through RTI it was found preferential treatment to non-NET holders who had been appointed as college lecturers in lieu of NET holders. (Higher & Technical Education). Gauhati High Court (MZP) No RTI WP(c) (PIL) No 40 of 2007.

Secondly, through the exercise of the right, irregularities in disbursement of cash to passion fruit growers have been uncovered which led to return of money to beneficiaries. (Rural Development). Interview with Sainghinga, Secretary, Mizoram Upa Pawl (MUP).

Thirdly, use of RTI also brought out in the open, indiscretion relating to appointment of a forest guard where a person selected for the post was not given appointment and it resulted in appointment of the selected candidate. (Environment & Forests). Interview with Vanlalruata, President, PRISM.

Fourthly, it also uncovered mis-utilization of public money faking conduct of orientation workshops on days where the mentioned venue was engaged by other individuals. (Health Directorate). Interview with Vanlalruata, PRISM.

Lastly, exercise of RTI led to exposure of 14 fake travel bills of Ministers and Members of Legislative Assembly during 2004 to 2006. (Mizoram Legislative Assembly Secretariat). *Zozam Weekly*, Volume III issue no 1 dated August 22-28, 2006.

Feedback of Appellants/Complainants regarding RTI

According to 45.83% of respondents, the main reason for submitting appeals is mostly due to delays in receiving sought information whereas others are due to denial of information (25%) and dissatisfaction with given information (29.16%).

The respondents, feel that the main reasons for delays are lack of coordination (33.33%), fear of upper level officials (25%), problems which may result out of giving correct information (16.68%), bureaucratic apathy (8.33%), different interpretations of 'Public Authority' and 'Exemption Clauses'(8.33%) and negligence(8.33%). The quality of information given is satisfactory for 33.33% of respondents, not satisfactory for 25% and average for 41.67% of respondents.

Cent percent of the respondent citizens confirmed that departments do not have a good system of storing information. According to the citizens, (Appellants and Complainants) a stumbling block in implementation of the RTI Act is the lack of political and bureaucratic will to implement the Act in its true spirit. Further, they face lots of problems relating to interpretation of 'Public Authority' and 'Exemption Clauses.'

9.3. Findings Relating to Impact of RTI

(1) Average Level of Transparency through Proactive Disclosure

Section 4 of the RTI Act mandates preparation of Proactive Disclosure by public authorities. It was found that though preparation of Proactive Disclosure has been done by 40 public authorities (70%), the disclosure of only 22 out of 40 public authorities (55%) was found *satisfactory*. 6 disclosures (15%) were not updated (*average*) and the remaining 12 (30%) could not show existence of Proactive Disclosure. Thus, the impact of RTI for promoting transparency of public authorities through Proactive Disclosure is average.

(2) Low level of Accountability due to leniency in Penalty Imposition

Section 20 (1) of the RTI Act empowers Information Commissions to impose penalty on PIOs for delay or denial of information. The study found that there is leniency in imposition of penalty. Inspection of Annual Reports of MSIC pertaining to adjudications on Second Appeals and Complaints show that penalties were imposed only on cases where SPIOs failed to give explanation or had no reasons to deny information. In some cases where show cause notices as to why penalty should not be imposed were issued, it is withdrawn after explanation is given by respondent

SPIOs. Out of 10 cases of show cause notices as to why penalty should not be imposed, the actual number of penalty imposition is 3. As such, the impact that RTI has on Public Authorities' being held accountable for their action or inaction is low. (30%)

(3) High level of Citizen Empowerment through Success Rates of Second Appeals and Complaints

Section 18 and 19 of the RTI Act empowers MSIC to hear Second Appeals and Complaints. The MSIC can, depending on the grounds for denial of information, direct the PIO to give the requested information, or allow inspection, or issue penalty imposition, as the case may be. At the same time, it may also rule in favour of the PIO and deny information. On examination of 52 Second Appeals and Complaints decided by the MSIC, it was found that the MSIC ruled in favour of citizens in 40 cases (76.92%)

The success rate of adjudication of Second Appeals is determined on the basis of directions to provide requested information, allowed inspection of requested information and penalty imposition on erring PIOs. The success rate of Second Appeals is 72.22% since out of total of 18 adjudications of second appeals, information was directed to be given 10 times, allowed inspection in two cases and penalty imposition in one case. On the other hand, the success rate of Complaints is decided, based on penalty orders issued to PIOs and directions to give requested information. The success rate of Complaints is 79.41% as out of 34 Complaints adjudicated upon, penalty was imposed two times and information was directed to be given in 25 cases. Thus the impact of RTI on citizen empowerment is high.

The findings from the feedback of 40 SPIOs and 24 Appellants and Complainants also revealed that in Mizoram, RTI has resulted in slight improvements in the quality of 'Governance' slight openness in advertisements of posts, helped to expose wrongful expenditure, slight decrease in the practices of nepotism and favouritism and slight changes in the attitude of Public Authorities. But most of all, the respondents revealed the need for more awareness generation.

9.4. Findings relating to the Problems faced in Implementation of RTI

The study revealed that only 20% have held their post for more than 5 years and another 20% for 3-5 years. 5.2.5% has been SPIOs for 1-3 years and remaining 7.5% holds that they have held their office for less than a month. This shows the fact that most of the SPIOs are frequently transferred as appointment is given to a post and results in inefficiency.

Relating to information requests, the main difficulties faced by them are request for voluminous information (25%), frivolous applications (15%), lack awareness (12.5%), all three (45%) and enforcement activities related (2.5%).

The problems they faced in relation to supply of information are lack of information (30%), lack of infrastructure (30%), both (10%), lack of coordination (5%), requests for old information, wide range of information requests, insufficiency of staff, and time limit.

According to them, the stumbling blocks in implementation are lack of awareness of real purpose of the Act (27.5%), lack of proper record maintenance system (15%), inadequate staff (5%), meagre financial resources (5%), lack of clarity of roles (7.5%), and all of these (40%).

40% of respondents are of the view that people are aware of their right while 60% feel that there is need for more awareness generation.

10. Suggestions for Improvement of the Right to Information in Mizoram

(A) Relating to Institutional Mechanisms

The *first* suggestion for the improvement of the role of Public Authorities manning the Institutional Mechanisms of the State Government is that Proactive Disclosures should be given priority as per Section 4 by all Public Authorities as it is the crux of the Act. There are some instances where some departments have put on their websites, Mizoram Right to Information Rules of 2006 and the RTI Act of 2005 where they are supposed to display their Proactive Disclosure. More awareness

needs to be built around the concept of Proactive Disclosure among the Public Authorities themselves as it will avoid voluminous requests for information. Further, copies of common information should also be made readily available for convenience by each Public Authority. Quick measures relating to indexing and cataloguing of data building through use of electronic medium should also be encouraged in order to ensure a rich database of information. Regarding record maintenance, it was learnt that being placed in record maintenance room is linked as punishment and this misconception needs to change. Archives Department has good provisions for information storage and the public authorities need to approach to ensure proper record maintenance and digitalization of records.

Secondly, the Public Authorities need to be well-versed with the Clauses of the RTI Act so that they can differentiate between right to be informed and right to privacy of individuals and this is where the importance of training in RTI related matters comes in. Extensive training or refresher course every year for SPIOs,, DAAs and other Government employees including Data entry staff should be made mandatory. Training of personnel and equipping them with necessary skills is vital for the successful implementation of RTI.

Thirdly, proactive and efficient monitoring of activities taken up by various departments should be carried out by MSIC. It is desirable if the Commission can check how far each department has gone to implement Section 4 of the RTI Act and carry out 'on-the-spot' checking of how far each Public Authority has gone to implement Section 4 of the RTI Act. It was found that data relating to this clause were obtained in a singular whole data. There will be more far-reaching implications if such clauses are questioned piece by piece or better still, if copy of Proactive Disclosure is demanded either in hard or soft copy.

Fourthly, there were 6 complaints due to lack of proper transfer of information requests and three other complaints due to non-receipt of information where it was later found on inquiry in some cases that the Public Authorities were out of station. Care must be taken by Public Authorities to designate PIOs if and when they go out of station or are on medical leave for long periods.

Fifthly, MSIC's report is based on self-reporting by the Public Authorities and due to frequent transfers, and lack of immediate training, the newly designated officials give their report without having a clear understanding. So one of the problems relating to RTI implementation observed is the frequent transfer of PIOs from one department to another. An information officer being transferred to another Department or office may not necessarily be the information officer of the Department he has been transferred to. Just as he is being adept at being a SPIO, he or she ends up in another with non-Public Information role. And new officials come who are new to RTI law and functions and the cycle goes on and the implementation part becomes neglected in this way in one way or another. As such, there has to be some way to chalk out a policy or programme so that SPIOs stay in their posts for a longer period of time to make themselves well acquainted with RTI Act and Rules.

Sixthly, awareness needs to be built around the importance of providing correct data among the Public Authorities. Some Public Authorities even require in depth training on how to supply feedback to the Commission for compiling of their Annual Reports. Intensive training on all aspects of RTI including how to prepare Reports and actual implication of the various slots of the questionnaire prepared by MSIC is the need of the hour.

In submitting their Annual implementation Reports to MSIC, the following Public Authorities need to be particularly careful in preparing data relating to number of appeals received: Transport Secretariat, Industries Directorate, Anti Corruption Bureau,, Excise & Narcotics, GAD Aviation Wing, Information & Public Relations Directorate, MAMCO, Deputy Commissioner, Aizawl, Trade & Commerce, MLA Secretariat, PHED (M), E-in C, Power & Electricity, EE PWD NH Division II, CE, Minor Irrigation, E-in-Chief PHED, PWD Divisions, Watson Divisions, District Rural Development Agencies, State Institute of Rural Development, Building Divisions, PHED Divisions, Block Development Offices of Rural Development Department.

Lastly, since transfer of RTI application is one of the problems resulting in delay or rejection of information, big departments which have a number of

PIOs need to designate a nodal ASPIO who will receive information requests on behalf of the department, determine what kind of information is requested and hand it over to the appropriate PIO in order to avoid delay and confusion.

(B) Relating to the Civil Society Organisations (CSOs)

Most of the CSOs do not maintain proper files and records pertaining to information requests. As such there are problems in accessing vital data which can reflect each of their success stories. More than ten thousand information requests have been filed and more than half of these are filed by members of organizations in individual members' names and that only a few cases could be recaptured is ample evidence of the lack of record maintenance. The Civil Society including media should work harder for the success of RTI.

The main problem with CSOs in Mizoram is that they have no provisions for record maintenance. They should not be satisfied with filing of information requests but equally interested in the resulting outcome like making provisions for record maintenance. There is urgent need for proper record maintenance of records and measures should be taken up not only by the Public Authorities but by the CSOs as well. Registers should be maintained and record their activities. Files should be kept safe and uploaded in computers as well to facilitate easy access.

C) Relating to the Citizens

More awareness generation among citizens is vital. It is not an exaggeration to state that the citizens are not well aware of the RTI Act and its use for their empowerment. As a consequence, there is no discernible development in the use of RTI for Good Governance. It is, therefore, suggested that the priority should be given to spreading of more awareness among the general public. Stress should be given on awareness relating to Exempted categories and Third Party information held as confidential by the Third Party. There is need to spread more awareness of the Act relating not only to how information can be sought and appealed within the fixed time but also much awareness needs to be generated around the Exempted categories. It should be

kept mind that not all Third Party Information falls under exemption, only those information held as confidential by the Third Party falls under Exempted category. Since Section 4 (1) (b) is a directive to be carried out by each Public Authority, citizens should make a habit of requesting for inspection of Proactive Disclosure before filing of information request and check if their intended query falls within Section 4 disclosure to avoid voluminous requests for information.

7.3. Suggestions for Further Research

Further studies may be conducted on intensive assessment of website content of Proactive Disclosures with particular emphasis on Section 4 (1) (b) Clauses (iii) (vii) (xi) (xii) (xiii) as these have more implications to combat corruption and maladministration.

Further studies may be conducted on department wise implementation problem with emphasis on Public Authorities with high level of public interaction. Further studies may be conducted on case by case study of judgement orders of MSIC as well as problems faced in adjudications.

7.4. Limitations of the Study

One limitation of the study is that the present study is partly conducted on the basis of Annual Reports of Mizoram Information Commission. There is clear indication of under reporting of numbers of information requests and first appeals due to lack of submission of Annual Report among a number of public authorities. As such, there are problems in analyzing data mainly because the Annual Report of MIC is based on report submitted by willing authorities. Mizoram Information Commission itself has also raised this issue in every annual report encouraging public authorities to acknowledge their duties relating to implementation of Right to Information.

Second limitation of the study is that there is confusion among public authorities relating to entering of statistical data of 1st Appeals. Since Mizoram Information Commission has inquired of 1st Appeal data in four ways like total number of 1st appeals received, 1st appeals disposed within 45 days, total number

allowed and number of 1st appeals rejected, it is clear from that a number of them are either confused or careless in providing the required data. This is because a number of public authorities in the Annual submitted to the Commission has left blank spaces or NIL in the queries related to “appeals instituted before DDA against action/inaction of the SPIO” but has filled data against “ number of appeals allowed” instead and the Commission has not counted them in for a number of years. Mizoram Information Commission has, during 2006 to 2011, taken total number of appeals received from the query box “appeals instituted before DDA against action/inaction of the SPIO” but due to obvious confusing feedback from public authorities it has changed its stand in culling out data relating to 1st Appeals received from data provided in the window “number of 1st Appeals allowed” instead of “number of appeals instituted before DDA against action/inaction of the SPIO” since 2012. As data are compiled only out of reporting public authorities, the total number of information requests could be much higher than projected by Mizoram State Information Commission. Either the public authorities have not taken the queries of Mizoram Information Commission serious enough to present their vital statistics or there is lack of understanding among the respondents of the way in which they are supposed to provide data.

7.5. Concluding Observations

Proactive Disclosure is an effective means to ensure transparency but the performance of Public Authorities in implementing it is average in Mizoram. At the same time, due to lack of proper record maintenance, there is not enough information accessible to the public. As long as there is dearth of information, RTI cannot be effectively exercised by the people in its entirety. The main reason behind the lack of information is that the Public Authorities themselves need to have in-depth knowledge about the Act. In order to ensure more transparency and accountability, more information needs to be built up by the Public Authorities. If information is not built up for public access, the whole point of having a right is killed and there is no scope for transparency and accountability. “Right to Information would be honoured only if the information exists and when it exists, it is easily retrievable and intelligible. A combination of measures is required to achieve this: record keeping

procedures need to be developed, reviewed and revised; cataloguing, indexing and orderly storage should be mandatory; all documents need to be converted into rational, intelligible, retrievable information modules. A road map needs to be made for digitizing of records.”¹

The larger responsibility rests with the Public Authorities as RTI carries not just rights but duties and responsibilities as well. The citizens are empowered by the RTI Act to demand information from the Government but the level of participation of the people is low in Mizoram. Even those who are aware of their Right to Information are not willing to come forward, mostly due to lack of interest and fear of being rebuked.

Since the adoption of the RTI Act 2005 by the Government of Mizoram in 2006, the citizens of Mizoram have been pushing for information and the total number of information requests has come up to 10,308 as per the Annual Report of MSIC. Mizoram is a small State with population of 10, 91,014 as per 2011 Census. The overall percentage of number of applications received from Information-seekers for a period of ten years as against the total population is only 0.95%. However, it has been found from the Reports received by the MSIC and stressed by MSIC itself that there is definitely under-reporting due to variation in the names of Public Authorities as well as varying number of reporting Public Authorities.

In the matter of entertaining information requests, it was found that the Office of the District Collector had taken steps to provide single window application system for RTI. Unfortunately it could not come to a reality. An online RTI App has been launched by the Department of ICT but the payment Gateway was not ready at the time of study. If it works properly, it will definitely enhance the number of information requests.

The RTI has a corresponding duty. It is their right to ask for any kind of information. Similarly, it is also their duty to ask reasonable questions.

¹ Government of India, Department of Administrative Reforms and Public Grievances, *Right to Information Master Key to Good Governance*, First Report, Second Administrative Reforms Commission June, 2006.p.32.

Simultaneously, it is the duty of the public authorities to disclose such information except those which are exempted from disclosure. In cases of information relating to ongoing investigation, the case of *Bhagat Singh vs. CIC WP (c) No. 3114/2007* in 2007 should be considered where the Supreme Court ruled that under Section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material.²

In Mizoram, all the institutional agencies and mechanisms for implementation of the RTI are in place. However, the success of RTI depends on whether the Public Authorities seriously perform their duties in making information available to the applicants or whether the Public Authorities promptly disclose such information to them except those exempted from disclosure. It also depends on whether the citizens take their duties seriously and take the time to utilize their right. The importance of training and capacity building for all public officials, awareness generation and active participation of citizens cannot be stressed enough for the successful implementation of the Right to Information. “The mindset of the government functionaries, wherein secrecy is the norm and disclosure the exception, would require a revolutionary change. Such a change would also be required in the mindset of citizens who traditionally have been reluctant to seek information. Bringing about this radical change would require sustained training and awareness generation programmes.”³

² <https://cic.gov.in/sites/default/files/court%20orders/BhagatSingh-Vs-CICandOrs.pdf>

³ Government of India, Department of Administrative Reforms and Public Grievances, *Right to Information Master Key to Good Governance*, First Report, Second Administrative Reforms Commission June, 2006.p.33.

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APPENDICES

QUESTIONNAIRE
On
RIGHT TO INFORMATION AND GOOD GOVERNANCE IN MIZORAM
(For State Public Information Officers)

Sir/Madam, _____

I am requesting you to kindly fill up the following questionnaire prepared by me for my research leading to the degree of Doctor of Philosophy (Ph.D) under the supervision of Prof Dr.Lalrintluanga, Department of Public Administration, Mizoram University. The data collected will be used for such purpose only and personal information will not be disclosed at any cost.

I shall be very thankful to you if you could kindly cooperate with me in my endeavour to generate new knowledge.

(MARY
LALNGAIHAWMI)
Research Scholar (Ph.D)
Dept of Public Administration
Mizoram University

A. Particulars of Public Official:

- (a) Name :
- (b) Department :
- (c) Designation :
- (d) Department Website

A. Section 4 implementation

1. As per section 4 of the RTI Act, has your Department prepared a 17 point document about your organization and its activities?

- (a) Yes ()
- (b) No ()
- (c) No need ()
- (d) Being prepared ()

2. Has your Office/Department made any arrangements to store information using electronic means like computerization and web based information?

- (a) Yes ()
- (b) No ()
- (c) NA ()
- (d) Being prepared ()

3. Have you received training on how to prepare Proactive Disclosure as per Section 4 of the Act?

- (a) Yes ()
- (b) No ()

4. Have you undergone any training/workshop on RTI?

- (a) Yes ()
- (b) No ()

B. General questions

1. How long have you been a PIO/SPIO?

- (a) 1-3 years ()

- (b) 3-5 years ()
- (c) More than 5 years ()

2. What difficulties are faced by you in dealing with RTI applications?

- (a) Frivolous applications()
- (b) Lack of awareness on the part of applicant ()
- (c) Requests for voluminous information()
- (d) Any other, Please specify_____.

3. Which institutional problems do you face the most relating to Right to Information?

- (a) Budget sanction ()
- (b) Staff problems ()
- (c) Infrastructure ()
- (d) Budget & infrastructure ()
- (e) Others pls specify_____.

4. What are the main problems faced by you in providing the information?

- (a) Non availability of information ()
- (b) Lack of coordination within Dept ()
- (c) Both a & b ()
- (d) Lack of infrastructure ()
- (e) Any other, Please specify_____.

5. What is the biggest stumbling block in implementation of RTI Act? Tick multiple

- (a) Inadequate staff ()
- (b) Lack of proper record maintenance system ()
- (c) Lack of awareness of real purpose of the Act ()
- (d) Lack of financial resources ()
- (e) Lack of clarity of roles and responsibilities ()
- (f) All ()
- (g) Others pls specify_____

C. Questions relating to Impact of Right to Information

1. Do you think that the RTI Act has improved the quality of governance in Mizoram?

- (a) Yes ()
- (b) No ()
- (c) Partly ()

2. Has the Right to Information resulted in more open advertisements of vacant posts?

- (a) Yes ()
- (b) No ()
- (c) Partly()

3. Has it exposed wrongful expenditure of public officials?

- (a) Yes ()
- (b) No ()
- (c) Partly ()
- (d) Do not know ()

4. Has the Right to Information helped to decrease favouritism and nepotism in recruitment?

(a) Yes ()

(b) No ()

(c) Partly ()

5. Do you feel that RTI has resulted in behavioural/ attitudinal changes on the part of Government officials?

(a) Yes ()

(b) No ()

(c) To some extent ()

6. Do you think that awareness relating to Right to Information is reaching the people?

(a) Yes ()

(b) No ()

QUESTIONNAIRE

On

RIGHT TO INFORMATION AND GOOD GOVERNANCE (For citizens)

Sir/Madam, _____

I am requesting you to kindly fill up the following questionnaire prepared by me for my research leading to the degree of Doctor of Philosophy (Ph.D) under the supervision of Prof Dr.Lalrintluanga, Department of Public Administration, Mizoram University. The data collected will be used for such purpose only and personal information will not be disclosed at any cost.

I shall be very thankful to you if you could kindly cooperate with me in my endeavour to generate new knowledge.

(MARY LALNGAIHAWMI)

Research Scholar (Ph.D)

Dept of Public Administration

Mizoram University

Ph:

A. Particulars of respondent

1. Name :

A. Questions on problems faced:

1. What was the main reason for submission of appeal/complaints?

- (a) Delays ()
- (b) Denial of information ()
- (c) Dissatisfaction with given information ()

2. What do you think is the main reason for the delay in supplying information?

- (a) Lack of coordination ()
- (b) Others_____.

3. Did you face any difficulty in asking for information?

- (a) Yes ()
- (b) No ()

4. What are the problems faced by you in exercising your Right to Information?

- (a) Non availability of information ()
- (b) Negative response from PIO ()
- (c) Lack of coordination within Dept ()
- (d) Any other, Please specify_____.

5. Do you think that Departments have a good system of storing information through electronic means like computerization and web based information?

- (a) Yes ()
- (b) No ()
- (c) Partly ()

6. What constraints did you face in filing an appeal to Information Commission?

- (a) No constraints ()
- (b) Uncooperative officials ()
- (c) Others pls specify_____

7. What was the outcome of second appeal/complaint?

- (a) Information given ()
- (b) Information not given ()

8. How would you rate the quality of information given to you?

- (a) Satisfactory ()
- (b) Not satisfactory ()
- (c) Average ()

B. Questions pertaining to Impact of Right to Information

1. Do you think that the RTI Act has improved the quality of governance in Mizoram?

- (a) Yes ()
- (b) No ()
- (c) Partly ()

2. Has the Right to Information resulted in more open advertisements of vacant posts?

- (a) Yes ()
- (b) No ()
- (c) Partly ()

3. Has it exposed wrongful expenditure of public officials?

- (a) Yes ()
- (b) No ()
- (c) Partly ()
- (d) Do not know ()

4. Has the Right to Information helped to decrease favouritism and nepotism in recruitment?

- (a) Yes ()
- (b) No ()
- (c) Partly ()

5. Do you feel that RTI has resulted in behavioural/ attitudinal changes on the part of Government officials?

- (a) Yes ()
- (b) No ()
- (c) To some extent ()

6. Do you think that awareness relating to Right to Information is reaching the people?

- (a) Yes ()
- (b) No ()

PARTICULARS OF CANDIDATE

Name of the Candidate : MARY LALNGAIHAWMI

Degree : Ph.D

Department : Public Administration

Title of Thesis : *Right to Information and
Good Governance*
In Mizoram

Date of Admission : 13.08.2012

Commencement of Thesis : 22.04.2013

Approval of Research Proposal :

 1. BOS : 10-04-2013

 2. SSS : 22-04-2013

Registration No. & Date : MZU/Ph.D/586 of 22.04.2013

Due Date of Submission : 22.04.2018

Extension (if any) : NIL

(Prof. SRINIBAS PATHI)

**RIGHT TO INFORMATION AND GOOD
GOVERNANCE IN MIZORAM**

*Thesis submitted in partial fulfilment for the Degree of Doctor
of Philosophy in Public Administration*

Submitted By

MARY LALNGAIHAWMI

(Regd. No.MZU/Ph.D/586 of 22.04.2013)

Under the Supervision of

Prof. LALRINTLUANGA

Department of Public Administration

School of Social Sciences

Mizoram University, Aizawl

October 2018

RIGHT TO INFORMATION AND GOOD GOVERNANCE IN MIZORAM

1. Introduction

In India, the Right to Information Act was enacted in 2005, in light of the need for transparency relating to governance. This act is an empowering legislation and a force that has the capacity to ensure transparency. It ensures freedom of information to the common man relating to governance. It is an important tool for bringing about transparency and efficiency in administration, containing corruption and holding the Government responsible and accountable. By opening up the records of the Government, RTI enables people to have informed opinions about the working of the Government. It arms them with a powerful tool for judging the functioning of the Government thus making it accountable. The more informed people are about the functioning of the Government, the more their participation in governance is ensured. The RTI Act 2005 itself has highlighted that information is crucial for Good Governance as it reflects and captures Government activities and processes.

The Right to Information is the right to seek information from the Government and it is the duty of the Government to ensure that information is available except those exempted from disclosure. Section 4 of the RTI Act directs public authorities to prepare Proactive Disclosure of information so that there is minimum resort to the exercise of the Right. It also directs public authorities to maintain, catalogue and computerize records and update such on a regular basis. The directions of Section 4 of the RTI Act, if taken seriously and implemented in full earnestness by the stakeholders, is intended to usher in transparency.

RTI is not only a tool to enable the citizens to have access to official information. It also empowers citizens to file complaints and make appeals against the action or inaction of those who hold information and accordingly, Public Information Officers (PIOs) can be held accountable for their action or inaction. The effectiveness of the Right depends to a great extent on the efforts taken by Public Authorities to make information available, their commitment relating to Proactive

Disclosure as well as maintenance of records. It also depends for its success, on a great deal of participation of citizens by exercising their Right.

If the law is to work properly, public authorities must ensure that they are well versed with the Clauses of the Act. To guarantee accessibility, Proactive Disclosure and maintenance of records should be given priority. To ensure accountability of Public Authorities, strict observance of penalty provisions must be adhered to by those in authority. To make certain that RTI fully empowers the citizens, judgements in their favour needs to be the top most priority.

2. Rationale of the study

In India, the veil of secrecy handed down by the British in the form of the Official Secrets Act has had its repercussions. The administration went from being secretive to corruptive, inefficient and irresponsible. In Mizoram too, corruption, bribery, delays, secrecy, inefficiency and the like are common indicators of the weaknesses of the system of governance. Though the State boasts of an ‘open society’ where men and women mingle and interact freely, the same cannot be said of the Government in its relation to the public. There are lots of apprehensions on the part of the common citizens to approach the Government departments. Inefficiency, red-tape, delays, unresponsiveness, not to mention corruption, are some of the dilemmas facing Public Administration in Mizoram.

The discontentment of the public towards the Government has manifested itself in many forms. Civil society including the Church has often raised their voices but to no avail. The RTI Act was also passed under heavy pressure from the public particularly the civil society. The use of the Act has uncovered a series of events in various aspects of governance. Acts of injustice, corruption and the like has been revealed as a result of RTI. As such, it is necessary to find out as to how RTI has been interpreted and made use of by various stakeholders in Mizoram and how far it has contributed to good governance.

The RTI Act has been heralded as the most important piece of legislation in India. It is expected to be an innovative law to change various aspects of mal-

administration like secrecy, corruption, delays, misinformation and others. An in depth study of its working is very significant.

3. Objectives of the Study

The main objectives of the study are:

- (1) to study the evolution of the Right to Information with special reference to Mizoram.
- (2) to study the Government institutional mechanisms responsible for implementation of the Right to Information.
- (3) to study the role of the civil society vis-à-vis the Right to Information.
- (4) to analyze the impact of the Right to Information on Good Governance.
- (5) to examine the problems in implementation of the Right to Information.

4. Research Questions

The research questions are:

- (1) What are the steps taken by the Government agencies in promoting the working of the Right to Information Act?
- (2) What are the main activities of the Civil Society in relation to the Right to Information?
- (3) What is the impact of the Right to Information on Good Governance?
- (4) What are the problems faced in implementation of the Right to Information?

5. Research Methodology

The study employs descriptive research, Content Analysis as well as empirical methods. Descriptive research has been carried out to study the process of

evolution of RTI in Mizoram and the steps taken by public authorities pertaining to RTI awareness generation as well as the role of CSOs in the field of RTI. For studying the performance of Government institutional mechanisms responsible for RTI implementation pertaining to Section 4 (1) (b) and for finding out the impact of RTI on transparency, Content Analysis has been done of the Annual Reports of MSIC and Official websites of Government Departments and on-the-spot inspection has also been carried out.

Further, Content Analysis of original Documents of MSIC pertaining to judgment orders is also carried out to understand the nature of adjudications of Second Appeals and Complaints and for finding out the impact on accountability and citizen empowerment. On the other hand, Empirical research has been conducted to study and analyze the problems in implementation of RTI and to substantiate feedbacks relating to impact of the RTI.

The population for the study includes all Public Authorities of Mizoram, State Public Information Officers (SPIOs) of Government of Mizoram and all appellants and complainants of Aizawl District. However, for the study, a Sample of 40 (forty) representing Public Authorities was selected through Purposive Sampling Method and another Sample of 40 (forty) SPIOs representing the SPIOs was selected through Random Sampling Method. Simultaneously, a Sample of 24 (twenty-four) people representing members of civil society who had filed Second Appeals and Complaints to MSIC was selected through Random Sampling Method.

Consequent upon the selection of Samples, two sets of Questionnaires were prepared for collecting primary data. One set of Questionnaires was administered to the SPIOs for finding out, *inter alia*, the problems faced by them in course of implementation of RTI whereas another set of Questionnaires was administered to the Appellants and Complainants with a view to finding out the problems faced by them while seeking information from Government Offices. By way of filling information gaps, the researcher also conducted informal Interviews for collecting primary data from the members of Civil Society Organisations (CSOs) and the Public Officials.

Primary data were also collected from the Annual Reports of Mizoram Information Commission and Documents, Government Records and Documents; Records and Documents of the CSOs.

Secondary Data were collected from books, journals, newspapers, websites, and other relevant published or unpublished works.

6. Scope of the Study

The study was conducted mostly in Aizawl District where the highest number of information-seekers is operating. It has examined the steps taken by the relevant Public Authorities in the context of the RTI and also scrutinized the Annual Reports of Mizoram State Information Commission (MSIC) from 2006-2016 for assessing the performance of various Public Authorities as well as the adjudications of Second Appeals and Complaints by the MSIC as a monitoring agency of RTI implementation in Mizoram. This work has also highlighted cases, where exercise of RTI by Civil Society Organisations (CSOs) has exposed irregularities in disbursement of cash, unfair appointments and the like within the State Administration.

Assessment of the impact of RTI is self-contained within the Annual Reports and Adjudications of MSIC. The criteria for determining the impact of RTI includes analysis of performance of public authorities relating to Proactive Disclosure, that is, Section 4 (1) (b) to assess level of transparency; analysis of performance of MSIC regarding penalty provisions, that is, Section 20 (1) to assess the factor of accountability and lastly, analysis of success rate of Second Appeals and Complaints to assess the level of citizen empowerment.

Accordingly, the rating scale or benchmark for judging the impact has been determined as follows:

High level: 60% to 100%

Average: 40% to 59%

Low level: Below 40%

Moreover, it has identified the hurdles in the implementation of RTI and made suggestions for making effective implementation of the RTI in Mizoram.

However, the study relating to Section 4 of the RTI Act has been delimited to Section 4 (1) (b), that is, Proactive Disclosure, and 40 (forty) Public Authorities who had responded affirmatively (“Yes”) to the implementation of this Section for five consecutive years (2011-2016) as per the Annual Reports submitted to MSIC were selected as sample for the present study. The criteria for classification into *Satisfactory*, *Average* and *Unsatisfactory* in the rating for judgement of their performance are: *Satisfactory*- fulfilling of all 17 points of Proactive Disclosure, *Average* for incomplete or not updated 17 points Disclosure and *Unsatisfactory* for lack of evidence of implementation of Proactive Disclosure.

7. Organization of the Study

The present study has been organized into *seven* Chapters.

The *first* Chapter is the introduction which deals with the profile of Mizoram and the Mizo society including their culture and traditions related to information under the administration of their traditional Chiefs. The chapter also presents background of the present study, statement of the problems, literature review, objectives of the study, the research questions, scope and methodology adopted for carrying out the present study.

The *second* Chapter presents the conceptual framework and talks about the meaning of RTI, salient features, scope and objectives of the RTI Act, as well as concept of “Good Governance” and the link between RTI and Good Governance.

The *third* chapter makes an exhaustive study of the evolution of RTI with a focus on the International initiatives and the Indian scenario with regard to RTI. Thereafter, this Chapter has examined the events leading up to the adoption of the RTI Act in Mizoram.

In the *fourth* Chapter, an analysis of the various institutional agencies responsible for the successful working of RTI is done with a focus on Mizoram State Information Commission (MSIC), Administrative Training Institute (ATI) and other Public Authorities.

The *fifth* Chapter is a descriptive study of the activities of Civil Society Organisations (CSOs) particularly those involved in the exercise of RTI. It has highlighted cases where exercise of RTI by Civil Society Organisations (CSOs) has exposed fraud, irregularities in disbursement of cash, unfair appointments and the like within the State Administration.

The *sixth* Chapter analyses the impact of RTI for promoting Good Governance in Mizoram and also examined the problems in the implementation of RTI based on the data collected through Questionnaires.

The *seventh* Chapter is the concluding Chapter which brings out the findings of the study with the suggestions for improvement of the use of RTI for Good Governance in Mizoram.

8. Major Findings

Major Findings of the whole work relating to Right to Information (RTI) and Good Governance in Mizoram are the following:

8.1. Findings Relating to Government Institutional Mechanisms

(A) Awareness Generation of Right to Information and Capacity Building

Though Information and Public Relations Department is the nodal agency for implementation of RTI, it plays little part on its own. Administrative Training Institute (ATI) and Mizoram State Information Commission (MSIC) are the major agencies in spreading awareness pertaining to the Right to Information. In fact, both ATI and MSIC have covered all the Districts of Mizoram to propagate the understanding of the right. MSIC organises RTI Week every year during the month of October, in collaboration with the nodal department, Information & Public

Relations Department. It has disseminated awareness about RTI through pamphlets, posters, brochures, guidebooks, workshop, seminars and the like. It has launched a state-wide campaign and thus has covered all the Districts. It has also taken steps to print more than 6000 copies of RTI leaflets and distributed them to spread the awareness. For awareness generation and capacity building, MSIC have distributed books like 'RTI Act on Braille version', 'Guidelines for SPIOs and Information seekers or applicants', 'Guidelines for SPIOs and ASPIOs', 'Guidelines for Proactive Disclosures', Templates for Disclosures, Booklet on educational Talk on RTI Act 2005 in English and local language. RTI Theme song entitled "RTI kan ram tan" has also been composed.

Apart from spreading awareness in all the Districts of Mizoram, ATI in collaboration with Young Mizo Association (Y.M.A) has organised public meetings for spreading the awareness. ATI has conducted training programmes, workshops for various stakeholders and has disseminated information/awareness through pamphlets, posters, brochures and others. RTI Workshops and training is also included in their Annual training calendar.

(B) Implementation of Section 4 (1) (b) of the RTI Act by Public Authorities

Feedback of SPIOs

Out of 40 PIOs, 32.5% holds that they have prepared a 17 point Document as required by Section 4 of the Act, 35% replied in the negative, 15% contended that it is being prepared while the remaining 17.5% did not respond. Regarding training, it was found from the feedback that among the SPIOs, training or workshop on RTI related matters have been attended by 92.5%. In relation to Proactive Disclosure only 52.5% have received training on how to prepare Proactive Disclosure.

Findings from verification through MSIC Annual Report, website inspection and on-the-inspection

Out of 40 (forty) selected public authorities who claimed that they have prepared Proactive Disclosure in the Annual Reports submitted to MSIC, verification through website and on-the-spot inspection revealed that only 28 public

authorities could provide proof of existence of Proactive Disclosure. Out of 28, the disclosure of 6 public authorities is not updated. The remaining 12 public authorities could not produce evidence of implementation of Proactive Disclosure.

The Public Authorities having updated Disclosure are ATI, MPSC, Health, I.G. Police, Labour Employment & Industrial Training, Information & Communication Technology, Food Civil Supply & Consumer Affairs, Animal Husbandry & Veterinary Science, Tourism, Excise & Narcotics, Disaster Management & Rehabilitation, Cooperation, Public Works Department, Commissioner of Taxes, Finance, Rural Development, Commerce & Industries, Art & Culture, Higher & Technical Education, Urban Development and Poverty Alleviation, Local Administration Department, and Law & Judicial.

The Public Authorities whose Proactive Disclosure is available but incomplete and not updated are the Departments of Soil and Water Conservation, Environment, Forests & Climate Change, General Administration Department, Mizoram Board of School Education, Fisheries Directorate and I.G. Prisons.

The 12 (twelve) Public Authorities who could not show evidence of preparation of Proactive Disclosure are Transport Department, Sports & Youth, Printing & Stationery, Office of Deputy Commissioner, Aizawl, Land Revenue & Settlement, Social Welfare Directorate, Anti-Corruption Bureau, Sericulture, Agriculture (Crop Husbandry), Power & Electricity Department, Secretariat Administration Department, and Directorate of School Education.

Regarding steps taken in maintenance of records and computerisation of these, 40% of respondent PIOs conveyed that they have made provisions for cataloguing, indexing and computerization of records. On the other hand, it was found that none of the respondent citizens were satisfied with the state of record maintenance of public authorities. Moreover, the negative response of the respondent citizens was also expressed by an Archives Officer in a workshop conducted by ATI that his Department has very good provisions for record maintenance and such information has been imparted to various departments as such

but none of them has taken steps in that direction. This reveals that efforts taken to maintain records are poor.

(C) Receipt and Disposal of Information Requests

The total number of information requests received by SPIOs as given in the Annual Reports of MSIC is 10308 with 8834 applications disposed within the time limit which constitutes 85.7% disposal rate. Out of 10308 applications, 78 requests for information were rejected as claimed by Public Authorities in their reports submitted to MSIC.

Examination of MSIC Reports reveal that Land Revenue & Settlement Department topped the list in Mizoram with 1,144 information requests followed by the Police Department with 714 requests, and the Engineer-in-Chief of State Public Works Department close behind with 707 requests.

It was revealed through analysis of Second Appeals and Complaints that, out of 70 cases (25 Second Appeals and 45 Complaints) examined by the researcher, 7 cases were dismissed for reasonable reasons by the MSIC. Out of the remaining 63 cases, the reasons for rejection and taking resort to submit Complaints/Appeals were; plain denials of information or delays (31.74%), ongoing investigation (19.04%%), improper transfer of application (9.52%%), incomplete/dissatisfaction with given information (7.93%%), Third Party exemption (7.93%), absence of original copy of request (4.76%), Office Byelaws (4.76%), absence of respondents (3.17%%), wrong address of applicant (3.17%) non availability of information (1.58%) claim of information given (1.58%), claim of fake information given (1.58%), transfer of official (1.58%) and signature issue (1.58%).

Relating to denial of information, on the basis of analysis of the Judgement orders of MSIC, it was found that the most frequently invoked Exemption was 'ongoing investigation', that is, Section 8(1) (h) information which would impede the process of investigation or apprehension or prosecution of offenders. Eight (8) Second Appeals and four (4) Complaints were rejected on grounds of ongoing investigation. A close examination of Public Authorities who rejected application for

the last ten years on grounds of Section 8 shows a trend that Vigilance Department and Police Department are the most frequent invokers of Section 8. Section 8 was invoked 12 times out of which 4 were invoked by Vigilance Department which were all upheld by the Commission. Mizoram Building and other Construction Workers Welfare Board and Police Department invoked Section 8 two times respectively.

(D) Receipt and Disposal of First Appeals

According to the Annual Reports of MSIC, the total number of First Appeals received by DAAs during 2006-2016 is 128 which is 1.25% of total information requests received by PIOs. Due to incorrect data entry by a number of Public Authorities, the number of First Appeals could be much higher than projected in the Annual Reports of MSIC. As a result, it was not possible to assess the trends in disposal of first appeals. There is clearly lack of understanding among the Public Authorities in providing the vital data relating to number of appeals received; number of appeals disposed within the time limit; number of appeals rejected and number of appeals allowed.

(E) Role of Mizoram State Information Commission as Final Appellate Body

Upon inspection of MSIC Annual Report relating to Second Appeals and Complaints, it was seen that the Commission has no pendency cases. During 2006-2016, MSIC entertained 56 Second Appeals and 115 Complaints and out of 171 cases received by the Commission, there are 74 judgement orders (28 Second Appeals and 46 Complaints) available on its website. Out of 25 (twenty five) cases of Second Appeals examined by researcher, 3 (three) cases were dismissed by the Commission due to lack of original application; premature appeal and appeal against decision of MSIC. Out of 45 cases of Complaints examined, 4 cases were dismissed due to correct information given (2 times), appeal against decision of MSIC, and one withdrawn case by appellant.

Out of 74 cases available on its website, MSIC conducted hearings in 52 cases (18 Second Appeals and 34 complaints). It was found that out of 52 adjudications, MSIC decided in favour of citizens in 40 cases. Penalty was imposed

on 3 SPIOs due to lack of response from public authority; wrong interpretation of Section 8 and ignorance about transferring of request. In one case, the appellant/complainant was advised by Mizoram Information Commission to refrain from clubbing together of diverse questions under one application. Warning was also given to one appellant not to misuse the Act and another appeal was hailed as grievance rather than request for extracting information.

9.2. Findings relating to Civil Society's Exercise of RTI

In studying the role of the civil society, the following are cases, among others, where exercise of RTI by members of CSOs had exposed fraud, irregularities in disbursement of cash, unfair appointments and others.

Firstly, through RTI it was found preferential treatment to non-NET holders who had been appointed as college lecturers in lieu of NET holders. (Higher & Technical Education). Gauhati High Court (MZP) No RTI WP(c) (PIL) No 40 of 2007.

Secondly, through the exercise of the right, irregularities in disbursement of cash to passion fruit growers have been uncovered which led to return of money to beneficiaries. (Rural Development). Interview with Sainghinga, Secretary, Mizoram Upa Pawl (MUP).

Thirdly, use of RTI also brought out in the open, indiscretion relating to appointment of a forest guard where a person selected for the post was not given appointment and it resulted in appointment of the selected candidate. (Environment & Forests). Interview with Vanlalruata, President, PRISM.

Fourthly, it also uncovered mis-utilization of public money faking conduct of orientation workshops on days where the mentioned venue was engaged by other individuals. (Health Directorate). Interview with Vanlalruata, PRISM.

Lastly, exercise of RTI led to exposure of 14 fake travel bills of Ministers and Members of Legislative Assembly during 2004 to 2006. (Mizoram Legislative

Assembly Secretariat). *Zozam Weekly*, Volume III issue no 1 dated August 22-28, 2006.

Feedback of Appellants/Complainants regarding RTI

According to 45.83% of respondents, the main reason for submitting appeals is mostly due to delays in receiving sought information whereas others are due to denial of information (25%) and dissatisfaction with given information (29.16%).

The respondents, feel that the main reasons for delays are lack of coordination (33.33%), fear of upper level officials (25%), problems which may result out of giving correct information (16.68%), bureaucratic apathy (8.33%), different interpretations of 'Public Authority' and 'Exemption Clauses'(8.33%) and negligence(8.33%). The quality of information given is satisfactory for 33.33% of respondents, not satisfactory for 25% and average for 41.67% of respondents.

Cent percent of the respondent citizens confirmed that departments do not have a good system of storing information. According to the citizens, (Appellants and Complainants) a stumbling block in implementation of the RTI Act is the lack of political and bureaucratic will to implement the Act in its true spirit. Further, they revealed that they face lots of problems relating to interpretation of 'Public Authority' and 'Exemption Clauses.'

9.3. Findings Relating to Impact of RTI

(1) Average Level of Transparency through Proactive Disclosure

Section 4 of the RTI Act mandates preparation of Proactive Disclosure by public authorities. It was found that though preparation of Proactive Disclosure has been done by 40 public authorities (70%), the disclosure of only 22 out of 40 public authorities (55%) was found *satisfactory*. 6 disclosures (15%) were incomplete and not updated (*average*) and the remaining 12 (30%) could not provide existence of Proactive Disclosure. Thus, the impact of RTI for promoting transparency of public authorities through Proactive Disclosure is average.

(2) Low level of Accountability due to leniency in Penalty Imposition

Section 20 (1) of the RTI Act empowers Information Commissions to impose penalty on PIOs for delay or denial of information. The study found that there is leniency in imposition of penalty. Inspection of Annual Reports of MSIC pertaining to adjudications on Second Appeals and Complaints show that penalties were imposed only on cases where SPIOs failed to give explanation or had no reasons to deny information. In some cases where show cause notices as to why penalty should not be imposed were issued, it was withdrawn after explanation is given by respondent SPIOs. Out of 10 cases of show cause notices as to why penalty should not be imposed, the actual number of penalty imposition is 3. As such, the impact that RTI has on Public Authorities' being held accountable for their action or inaction is low. (30%)

(3) High level of Citizen Empowerment through Success Rates of Second Appeals and Complaints

Section 18 and 19 of the RTI Act empowers MSIC to hear Second Appeals and Complaints. The MSIC can, depending on the grounds for denial of information, direct the PIO to give the requested information, or allow inspection, or issue penalty imposition, as the case may be. At the same time, it may also rule in favour of the PIO and deny information. On examination of 52 Second Appeals and Complaints decided by the MSIC, it was found that the MSIC ruled in favour of citizens in 40 cases (76.92%)

The success rate of adjudication of Second Appeals is determined on the basis of directions to provide requested information, allowed inspection of requested information and penalty imposition on erring PIOs. The success rate of Second Appeals is 72.22% since out of total of 18 adjudications of second appeals, information was directed to be given 10 times, allowed inspection in two cases and penalty imposition in one case. On the other hand, the success rate of Complaints is decided, based on penalty orders issued to PIOs and directions to give requested information. The success rate of Complaints is 79.41% as out of 34 Complaints adjudicated upon, penalty was imposed two times and information was directed to be given in 25 cases. Thus the impact of RTI on citizen empowerment is high.

The findings from the feedback of 40 SPIOs and 24 Appellants and Complainants also revealed that in Mizoram, RTI has resulted in slight improvements in the quality of 'Governance' slight openness in advertisements of posts, helped to expose wrongful expenditure, slight decrease in the practices of nepotism and favouritism and slight changes in the attitude of Public Authorities. But most of all, the respondents revealed the need for more awareness generation.

9.4. Findings relating to the Problems faced in Implementation of RTI

The study revealed that only 20% have held their post for more than 5 years and another 20% for 3-5 years. 5.2.5% has been SPIOs for 1-3 years and remaining 7.5% holds that they have held their office for less than a month. This shows the fact that most of the SPIOs are frequently transferred as appointment is given to a post and results in inefficiency.

Relating to information requests, the main difficulties faced by them are request for voluminous information (25%), frivolous applications (15%), lack awareness (12.5%), all three (45%) and enforcement activities related (2.5%).

The problems they faced in relation to supply of information are lack of information (30%), lack of infrastructure (30%), both (10%), lack of coordination (5%), requests for old information, wide range of information requests, insufficiency of staff, and time limit.

According to them, the stumbling blocks in implementation are lack of awareness of real purpose of the Act (27.5%), lack of proper record maintenance system (15%), inadequate staff (5%), meagre financial resources (5%), lack of clarity of roles (7.5%), and all of these (40%).

40% of respondents are of the view that people are aware of their right while 60% feel that there is need for more awareness generation.

10. Suggestions for Improvement of the Right to Information in Mizoram

(A) Relating to Institutional Mechanisms

The *first* suggestion for the improvement of the role of Public Authorities manning the Institutional Mechanisms of the State Government is that Proactive Disclosures should be given priority as per Section 4 by all Public Authorities as it is the crux of the Act. There are some instances where some departments have put on their websites, Mizoram Right to Information Rules of 2006 and the RTI Act of 2005 where they are supposed to display their Proactive Disclosure. More awareness needs to be built around the concept of Proactive Disclosure among the Public Authorities themselves as it will avoid voluminous requests for information. Further, copies of common information should also be made readily available for convenience by each Public Authority. Quick measures relating to indexing and cataloguing of data building through use of electronic medium should also be encouraged in order to ensure a rich database of information. Regarding record maintenance, it was learnt that being placed in record maintenance room is linked as punishment and this misconception needs to change. Archives Department has good provisions for information storage and the public authorities should approach the department to ensure proper record maintenance and digitalization of records.

Secondly, the Public Authorities need to be well-versed with the Clauses of the RTI Act so that they can differentiate between right to be informed and right to privacy of individuals and this is where the importance of training in RTI related matters comes in. Extensive training or refresher course every year for SPIOs,, DAAs and other Government employees including Data entry staff should be made mandatory. Training of personnel and equipping them with necessary skills is vital for the successful implementation of RTI.

Thirdly, proactive and efficient monitoring of activities taken up by various departments should be carried out by MSIC. It is desirable if the Commission can check how far each department has gone to implement Section 4 of the RTI Act and carry out 'on-the-spot' checking of how far each Public Authority has gone to implement Section 4 of the RTI Act. It was found that data relating to this clause

were obtained in a singular whole data. There will be more far-reaching implications if such clauses are questioned piece by piece or better still, if copy of Proactive Disclosure is demanded either in hard or soft copy.

Fourthly, there were 6 complaints due to lack of proper transfer of information requests and three other complaints due to non-receipt of information where it was later found on inquiry in some cases that the Public Authorities were out of station. Care must be taken by Public Authorities to designate PIOs if and when they go out of station or are on medical leave for long periods.

Fifthly, MSIC's report is based on self-reporting by the Public Authorities and due to frequent transfers, and lack of immediate training, the newly designated officials gives their report without having a clear understanding. So one of the problems relating to RTI implementation observed is the frequent transfer of PIOs from one department to another. An information officer being transferred to another Department or office may not necessarily be the information officer of the Department he has been transferred to. Just as he is being adept at being a SPIO, he or she ends up in another with non-Public Information role. And new officials come who are new to RTI law and functions and the cycle goes on and the implementation part becomes neglected in this way in one way or another. As such, there has to be some way to chalk out a policy or programme so that SPIOs stay in their posts for a longer period of time to make themselves well acquainted with RTI Act and Rules.

Sixthly, awareness needs to be built around the importance of providing correct data among the Public Authorities. Some Public Authorities even require in depth training on how to supply feedback to the Commission for compiling of their Annual Reports. Intensive training on all aspects of RTI including how to prepare Reports and actual implication of the various slots of the questionnaire prepared by MSIC is the need of the hour.

In submitting their Annual implementation Reports to MSIC, the following Public Authorities needs to be particularly careful in preparing data relating to number of appeals received: Transport Secretariat, Industries Directorate, Anti Corruption Bureau,, Excise & Narcotics, GAD Aviation Wing, Information &

Public Relations Directorate, MAMCO, Deputy Commissioner, Aizawl, Trade & Commerce, MLA Secretariat, PHED (M), E-in C, Power & Electricity, EE PWD NH Division II, CE, Minor Irrigation, E-in-Chief PHED, PWD Divisions, Watson Divisions, District Rural Development Agencies, State Institute of Rural Development, Building Divisions, PHED Divisions, Block Development Offices of Rural Development Department.

Lastly, since transfer of RTI application is one of the problems resulting in delay or rejection of information, big departments which have a number of PIOs need to designate a nodal ASPIO who will receive information requests on behalf of the department, determine what kind of information is requested and hand it over to the appropriate PIO in order to avoid delay and confusion.

(B) Relating to the Civil Society Organisations (CSOs)

Most of the CSOs do not maintain proper files and records pertaining to information requests. As such, there are problems in accessing vital data which can reflect each of their success stories. More than ten thousand information requests have been filed and more than half of these are filed by members of organizations in individual members' names and that only a few cases could be recaptured is ample evidence of the lack of record maintenance. The Civil Society including media should work harder for the success of RTI.

The main problem with CSOs in Mizoram is that they have no provisions for record maintenance. They should not be satisfied with filing of information requests but equally interested in the resulting outcome like making provisions for record maintenance. There is urgent need for proper record maintenance of records and measures should be taken up not only by the Public Authorities but by the CSOs as well. They should maintain registers and record their activities. Files should be kept safe and uploaded in computers as well to facilitate easy access.

C) Relating to the Citizens

More awareness generation among citizens is vital. It is, therefore, suggested that the priority should be given to spreading of more awareness among the general

public. Stress should be given on awareness relating to Exempted categories and Third Party information held as confidential by the Third Party. There is need to spread more awareness of the Act relating not only to how information can be sought and appealed within the fixed time but also much awareness needs to be generated around the Exempted categories. It should be kept mind that not all Third Party Information falls under exemption, only those information held as confidential by the Third Party falls under Exempted category. Further, since Section 4 (1) (b) is a directive to be carried out by each Public Authority, citizens should make a habit of requesting for inspection of Proactive Disclosure before filing of information request and check if their intended query falls within Section 4 disclosure to avoid voluminous requests for information.

11. Concluding observations

Proactive Disclosure is an effective means to ensure transparency but the performance of Public Authorities in implementing it is average in Mizoram. At the same time, due to lack of proper record maintenance, there is not enough information accessible to the public. As long as there is dearth of information, RTI cannot be effectively exercised by the people in its entirety. The main reason behind the lack of information is that the Public Authorities themselves need to have in-depth knowledge about the Act. In order to ensure more transparency and accountability, more information needs to be built up by the Public Authorities. If information is not built up for public access, the whole point of having a right is killed and there is no scope for transparency and accountability. The larger responsibility rests with the Public Authorities as RTI carries not just rights but duties and responsibilities as well. The citizens are empowered by the RTI Act to demand information from the Government but the level of participation of the people is low in Mizoram. Even those who are aware of their Right to Information are not willing to come forward, mostly due to lack of interest and fear of being rebuked.

Since the adoption of the RTI Act 2005 by the Government of Mizoram in 2006, the citizens of Mizoram have been pushing for information and the total number of information requests has come up to 10,308 as per the Annual Report of

MSIC. Mizoram is a small State with population of 10, 91,014 as per 2011 Census. The overall percentage of number of applications received from Information-seekers for a period of ten years as against the total population is only 0.95%. However, it has been found from the Reports received by the MSIC and stressed by MSIC itself that there is definitely under-reporting due to variation in the names of Public Authorities as well as varying number of reporting Public Authorities.

In the matter of entertaining information requests, it was found that the Office of the District Collector had taken steps to provide single window application system for RTI. Unfortunately it could not come to a reality. An online RTI App has been launched by the Department of ICT but the payment Gateway was not ready at the time of study. If it works properly, it will definitely enhance the number of information requests.

In Mizoram, all the institutional agencies and mechanisms for implementation of the RTI are in place. However, the success of RTI depends on whether the Public Authorities seriously perform their duties in making information available to the applicants or whether the Public Authorities promptly disclose such information to them except those exempted from disclosure. It also depends on whether the citizens take their duties seriously and take the time to utilize their right. The importance of training and capacity building for all public officials, awareness generation and active participation of citizens cannot be stressed enough for the successful implementation of the Right to Information.