

Abstract

**TRANSPARENCY IN ADMINISTRATION: A STUDY OF
IMPLEMENTATION OF RIGHT TO INFORMATION ACT IN MIZORAM**

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Introduction

India is the largest democratic country in the world having 81.5 crore voters as per General Elections of 2014. However, the quality of democracy is essential for socio- economic development and justice. The very purpose of the RTI Act is to strengthen democracy and ensure good governance in the country.¹ Democracy ought to be founded on the notion of an informed public adequately equipped to participate thoughtfully and actively in the governance of the country. If transparency and accountability are the imperatives for sustaining democratic governance, access to information is a vital instrument of societal transformation and the Right to Information Act, 2005 helps in achieving the same. Besides, apart from ensuring greater transparency it also acts as a deterrent against the arbitrary exercise of public powers. The governance is, therefore, undoubtedly strengthened by the RTI.

RTI has played a very important role in establishment of good governance and development by ensuring transparency, openness and accountability in the governance. By realizing this significance, the Second Administrative Reforms Commission (2004-07) had prepared a detailed blueprint for revamping the public administrative system and published its first volume of its reports- *Right to Information: Master key to Good Governance*. Good governance is characterized by political and administrative accountability, availability of freedom, availability of information, effectiveness, efficiency, law-abiding citizens and cooperation between government and society.²

RTI users and activists in practically every nook and corner of the country are asking questions on varied subjects. The Act has produced a better impact on the

1 *The Tribune*, Chandigarh, March 1, 2015, p.14.

2 *Right to Information: Master Key to Good Governance*, First Report of Second Administrative Reforms Commission, p. 13.

quality of the life of the poor and marginalized. During the past five years, the Act has brought positive changes in the levels of corruption and accountability. Students appearing for competitive and board examinations who were not convinced with their mark sheets have demanded original answer sheets under RTI and most have received them, these are the few examples where with the help of RTI the implementation of law has reached till the grass root levels.

RTI is a powerful tool that can deliver significant social benefits. It provides a strong support to democracy and promotes good governance, by empowering the citizen's ability to participate effectively and hold government officials accountable. Rather than just providing information, RTI Act in most of the countries has served to be an effective watchdog ensuring all those coming in purview of the Act to work in accordance with rules and regulations, without any irregularities. Currently, the RTI Act in India is passing through a decisive phase, much more needs to be done to facilitate its growth and development.

The right to information is implicitly guaranteed by the Constitution. However, with a view to set out a practical regime for securing information, the Indian Parliament enacted the Right to Information Act, 2005 and thus gave a powerful tool to the citizens to get information from the Government as a matter of right. This law is very comprehensive and covers almost all matters of governance and has the widest possible reach, being applicable to Government at all levels- Union, State and Local as well as recipients of government grants.³

Governance is an all-inclusive term covering various aspects of the organization and structure of government, which have an impact on the efficiency of government and the delivery of public services, and incorporates accountability,

³ <http://rti.gov.in> (Accessed on 2.11.2017)

transparency, financial devolution, political/administrative decentralization and administrative vigilance to check corruption.

The present Right to Information Act, 2005 is one of the most empowering and progressive legislations passed in the post Independent India, and it has a very long and interesting history. It has a constitutional foundation from fundamental right of freedom of speech and expression under Article 19 (1) (a) of the Indian Constitution.

The Supreme Court of India has, from time to time, interpreted Article 19 of the Constitution, which upholds the right to freedom of speech and expression, to implicitly include the right to receive and impart information. This has resulted in establishment of the fact that the citizens' right to know is embedded in the Constitutional provisions guaranteeing fundamental rights.

Irrespective of the availability of this constitutional sanction, the free flow of information has been severely restricted in the country by three (3) factors: first, the restrictive legislation, especially The Officials Secret Act, 1923 which discouraged government officials from giving out information to the citizens, even if that information may not disclose government secrets; second, the pervasive culture of secrecy and arrogance within the Indian bureaucracy; thirdly, the low level of literacy and rights consciousness amongst the people of India, especially at the grassroots level. It may be remembered that the Right to Information for the citizens has not come on a platter and there have been many activists whose continuous efforts and movements have brought about the passage of this historic Act.⁴

⁴ *Proceedings of 2015 International Seminar on Governance in India: Problems and Prospects (Vol I)*, November 5-6, 2015, Aizawl, Mizoram, pp.317-319.

In India, after many deliberations over the years, the RTI Act was passed by the Parliament in October 12, 2005, thus opening up the governance processes of our country to the public. The Right to Information Act is considered to be the most revolutionary of all enactments in Independent India. The right to information and the assurance of widespread citizen participation in public affairs and an active civil society are essential for the full realization of democracy. The RTI Act, which if used sensibly and efficiently can take the country in the direction of new democracy and good governance.⁵

The Act also requires the Government to compile a guide in easily comprehensible form and to update it from time to time. The Government has already published four guides in the past, one each for the information seekers, the public authorities, the Central Public Information Officers and the Appellate Authorities. This would help all the information seekers in getting information; public information officers in dealing with RTI applications; first appellate authorities in taking cogent decisions on appeals and public authorities in implementing various provisions of the Act effectively will help all stakeholders in furthering the objectives of the RTI Act, 2005.⁶

⁵ *Second Administrative Reform Commission, First Report on Right to Information: Master Key to Good Governance, June 2006, para1.1.1, p.1.*

⁶ *Shantanu Consul, Secretary, New Delhi Department of Personnel & Training, October, 2009 Ministry of Personnel, Public Grievances and Pensions*

Chapterisation:

Chapter	I:	Introduction
Chapter	II:	Good Governance and Transparency: A conceptual study
Chapter	III:	Main provisions of RTI Act, 2005
Chapter	IV:	Two case studies of select Departments under Government of Mizoram and the RTI Act
Chapter	V:	Conclusion

Methodology

The study is based on both primary and secondary data. Primary data was collected through field study and personal interviews with the help of questionnaires. Both the government officials and citizens including RTI activists have been contacted for the purpose. The actual sample was decided after a pilot study. The purposive non-probability sampling method has been used for the study. Secondary sources of data include books, journals, articles, newspapers, reports, documents and internet sources. Two Departments of the Government of Mizoram, namely, Land Revenue & Settlement and Disaster Management & Rehabilitation Department have been selected for the study. These two Departments have been selected on the basis of their exposure and working in relation to the Right to Information Act in Mizoram.

Important features of Right to Information Act, 2005

- >>> All citizens possess the right to information
- >>> The term Information includes any mode of information in any form of record, document, e-mail, circular, press release, contract sample or electronic data etc.
- >>> Rights to information covers inspection of work, document, record and its certified copy and information in form of diskettes, floppies, tapes, video cassettes in any electronic mode or stored information in computer etc.

- »» Applicant can obtain information within 30 days from the date of request in a normal case
- »» Information can be obtained within 48 hours from time of request, if it is a matter of life or liberty of a person.
- »» Every public authority is under obligation to provide information on written request or request by electronic means.
- »» Certain informations are prohibited.
- »» Restrictions made for third party information Appeal against the decision of the Central Information Commission or State Information Commission can be made to an officer who is senior in rank.
- »» Penalty for refusal to receive an application for information or for not providing information is Rs. 250/- per day but the total amount of penalty should not exceed Rs. 25,000/-.
- »» Central Information Commission and State Information Commission are to be constituted by the Central Government and the respective State Governments.
- »» No Court can entertain any suit, application or other proceedings in respect of any order made under the Act.⁷

The aforesaid mentioned promote transparency in government organizations, makes them function more objectively thereby enhancing predictability. In a fundamental sense, right to information is a basic necessity of good governance.

Links between RTI and Good Governance

Since Independence government of India and state governments have been entrusted by the legislature on behalf of people of India, billions of crores of rupees for various schemes for the welfare of the people so that the disadvantaged group of

⁷ <https://mic.mizoram.gov.in> (accessed on 4.11.2017)

people can enjoy the fruits of freedom. Clearly, the Act has laid emphasis on good governance, of which the major elements that have been identified are: informed citizenry for encouraging people's participation in development process, transparency, accountability and reduction in corruption. Thus, the major objectives of the Act are:

‘Right to Information’ (RTI) refers to the right of every citizen to access information held by or under the control of public authorities. Information is crucial for good governance as it reflects and captures Government activities and processes. It is said that information is the oxygen of democracy. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Access to information not only promotes openness, transparency and accountability in administration, but also facilitates active participation of people in the democratic governance process. The RTI ACT is a tool helping to ensure rights already promised in the constitution.⁸

Public participation in Government, respect for the rule of law, freedom of expression and association, transparency and accountability, legitimacy of Government, and the like which are the core values of good governance, can be realized only if the right to information is implemented in the right spirit.⁹

Freedom of Information (FOI) in the Promotion of Good Governance

Over 50 countries now have freedom of information laws and another 15-20 are actively considering adopting one. These nations are joined by a growing number of inter-Governmental bodies – including the World Bank, European Union and UNDP – that have established FOI policies.

⁸ <https://www.opendemocracy.org.za> (Accessed on 5.11.2017)

⁹ *The Right to Information Act, 2005*, A Guide for Civil Society Organizations (2006), p.16.

It provides that all citizens enjoy rights of freedom of opinion and expression, including the right to “seek, receive, and impart information and ideas, a guarantee now generally considered to include an obligation of openness on the part of Government.

Performance of the Right to Information Act, 2005

The passage of RTI Act has up to a certain extent infused transparency and accountability in the working of public departments. This has increased the efficiency of decision making process. This has led to reduction in corruption in the country as evident from the following:

i) The Transparency International (TI) has reported that perceived corruption in India (a score of 3.5 out of 10) has declined at the rate of about 15-20 per cent per year, due mainly to the implementation of the RTI Act.

ii) The Centre for Media Studies in collaboration with TI has recently accomplished an all India survey study (un-published) of the poor below the poverty line. The views of the poor have been elicited in respect of all the flagship programmes that have been implemented for alleviation of poverty. At least 40 per cent of the respondents have reported that corruption has declined.

iii) It has also been observed that wherever NGOs are actively involved in the development activities, the perceived corruption is abysmally low. The progress of RTI Act has been studied by PRIA (Society for Participatory Research in Asia) in August 2006.

»» Inadequate infrastructure and working staff has been provided to the SIC.

»» There has been a general tendency of non imposition of penalties on the PIOs who have indulged in dereliction of duty.

»» People belonging to rural areas feel that appeal process is very expensive.

>>> Public Information Officers have been appointed in most public authorities in the states. The process of accessing information by people has started slowly through Right to Information Act. However, there exists great confusion in the definition of public authority.

>>> Most of the PIOs at state level and district level are not cooperative and they sometimes threaten applicants to withdraw applications. PIOs should be given more training so that they are sensitive to people's need and PIOs who are guilty of deliberate denial of information should be penalized.

Need for Right to Information

The RTI had already received judicial recognition as a part to the fundamental right to freedom of speech and expression. Soli Sorabji has aptly stressed "Lack of transparency was one of the main causes for all pervading corruption and Right to Information would lead to openness, accountability and integrity". The common people did not have any legal right to know about the public policies and expenditures. It was quite ironical that people who voted the persons responsible for policy formation to power and contributed towards the financing of huge costs of public activities were denied access to the relevant information.¹⁰

Rti and the Fight Against Corruption

The political mobilization against corruption started with the RTI.¹¹ The culture of secrecy, as known, encourages the government officials to indulge in corrupt practices, which result in lower investments due to misuse of power and diversion of funds for private purposes. As a result, the government's social spending yields no worthwhile benefits, because, for instance, the teachers do not teach, doctors

¹⁰ <http://books.google.co.in> (Accessed on 5.9.2017)

¹¹ <http://www.indianexpress.com/news/governance> (Accessed on 5.11.2017)

and nurses do not attend health centers, ration card holders do not receive subsidized food grains and, thus, livelihood support is denied, and the promised jobs are not provided to the poor, who are assured of income support. In the process, it perpetuates poverty and harms the poor. It creates an environment of distrust between the people and the government, which impinge upon the development and jeopardize democratic governance.

The legislation on RTI can act like an antidote to vested interests which try to conceal or misinterpret information or which try to manipulate the media directly or indirectly to plant misinformation. The Right to Information Act 2005 has provided us the right to get information from the government. Through this we can now expose corruption and also bring to light those duties that are not being performed by the officials

Experiences suggest that in the states where the Right to Information Act has been implemented, it has become an important tool of social development and governance. Tackling pendency at the Information Commission and stringent punishment to guilty officials as well as massive awareness campaigns among the masses for proper use of RTI constitutes the key to the success of RTI regime.

In order to understand the effectiveness of an act it is important to analyze the various aspects in which the act has been utilized and its outcomes. In order to understand its effectiveness and use, various cases registered under RTI have been gathered .A few sample cases have been taken to highlight the various facets of the act. They have been categorized under various to heads, in order to come to conclusion about what all could be done with the RTI.

After collecting information and data from books, articles and reports, we have interviewed officials, RTI activists and civil society organizations like PRISM, opinions and ideas for studying the implementation of the RTI Act in Mizoram.

Research Questions

The study has attempted to answer the following questions:-

1. What are the main reasons for the enactment of the RTI Act?
2. How does the RTI Act contribute to good governance and transparency?
3. What are the major problems and challenges pertaining to the implementation of the RTI Act in Mizoram?
4. What are the steps necessary to make the implementation of the RTI Act effective in Mizoram?

Suggestions and Conclusion

Based on the findings of the research, the answers to the research questions are discussed below:

Mal-administration, mismanagement, corruption and delays are the melodies plaguing the public offices which a common person is facing in his daily life, the objective of the Act, as stated in the Preamble of the Act, is to provide for setting out practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability and also to contain and prevent corruption in the working of every public authority. The greater the access of the citizen to information, the greater becomes the receptivity of the government to community needs. Alternatively, the greater the restrictions that are placed on access, the greater the feelings of 'powerlessness' and 'alienation'. Without information, people cannot adequately exercise their rights as citizens or make informed choices.

Access to information held by a public authority was not possible until 2005. Lack of Information barred a person to realize his socio- economic aspirations, because he had no basis to participate in the debate or question the decision making process even if it was harming him. Official Secrets Act, 1923 acted as a relic of colonial rule covering everything in secrecy. The common people did not have any legal right to know about the public policies and expenditures. It was quite ironical that people who voted the persons responsible for policy formation to power and contributed towards the financing of huge costs of public activities were denied access to the relevant information.

With a view to curbing corruption and mal-administration etc. in the public offices and to promote transparency and accountability amongst the public officers, the Parliament enacted a new legislation in the year 2005 namely, The Right to Information Act, 2005. Prior to the passage of the RTI Act, 2005 and because of the stringent provisions contained in the Official Secrets Act, 1923, it was almost impossible for a citizen to obtain any information regarding the official working and performance of a public officer holding a public office.

If people do not know what is happening in their society and if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Access to information not only promotes openness, transparency and accountability in administration, but also facilitates active participation of people in the democratic governance process. The RTI ACT is a tool helping to ensure rights already promised in the constitution. This new legislation has brought about the sense of devotion towards duty and tendency to adhere to the laws and norms amongst the public servants in discharge of their official duties as they have been made to realize under this Act that any willful breach of the laws, norms and the official duties on

their part may invite punitive action against them under the provisions of the RTI Act, 2005.

According to the interviews conducted by the scholar with the officials of the Disaster Management & Rehabilitation Department functioning under the Government of Mizoram, there were 27 applications filed with the said department between the financial years; 2005-2015, of which most of the queries/complaints were concerned with the distribution of silpauline as a consequence of land slide during monsoon seasons. All these complaints had been positively reciprocated to the satisfaction of the applicants under the RTI Act itself. The Department is of the opinion that there is no paucity or curtailment with the RTI Act that befalls the proper administrative work of its Department. The implementation of the RTI Act in respect with the Disaster Management & Rehabilitation Department proves conducive to the safety and security of the people. Hence, it is exceptional that the RTI Act and the functioning of this particular Department are complementary to one another which ensure that RTI has brought about transparency in the real sense of the term.

Consistently, in the Land Revenue & Settlement Department too, of the 454 RTI complaints and queries filed therein between the financial years; 2005- 2015, it is evident that the number of RTI Act users is still on the rise. Meanwhile, it is observed that the time taken for processing and receiving information from public authorities is still quite long considering the quality of information which the applicants applied for. According to the interviews held with the Department officials, the reason for this has been attributed to the shortfall of the office staffs.

The Act not only promotes transparency and accountability amongst the public servants regarding their performances in their public offices but also ensures that the concept of rule of law is not subverted and foiled. 'Right to Information' (RTI) refers

to the right of every citizen to access information held by or under the control of public authorities. Information is crucial for good governance as it reflects and captures government activities and processes. It is said that information is the oxygen of democracy.

Public participation in Government, respect for the rule of law, freedom of expression and association, transparency and accountability, legitimacy of government, and the like which are the core values of good governance, can be realized only if the right to information is implemented in the right spirit.

The quality of RTI awareness in common public is significantly low. While the Act has been clear in defining the responsibility of the appropriate state government, with respect to creating awareness on the Act, there has been lack of initiative from the government's side. The efforts made by state governments and Public Authorities have been restricted to publishing of rules and FAQs on websites. These efforts have not been helpful in generating mass awareness of the RTI Act.

It is important to note that one of the most dynamic Civil Society Organizations in Mizoram, 'People's Right to Information and Development Implementing Society of Mizoram' (PRISM), have been taking drastic steps in regards to the creation of RTI awareness among the people since its inception. PRISM had set up on 1st August, 2009, a 'Help Centre' called 'INFORMA' for imparting knowledge to any citizens willing to avail of the RTI Act for access to the government documents.¹² However, the appropriate Government or the Civil Society Organization is not in a position to have an objective measure to gauge the level of implementation of the RTI Act and its progress year-on-year.

¹² *PRISM DAN BU*, PRISM Publication Cell: Aizawl, p.9.

The RTI Act under section 27(1) and 28(1), specifies to the appropriate Governments and the Competent Authorities to make rules pertaining to implementation of the Act. Under Section 6 of the RTI Act, Public Information Officers (PIOs) are required to provide reasonable assistance to the applicant in drafting and submission of the application. Lack of user guides results in substantial efforts on the part of the information seeker to gather knowledge about the process for submitting a RTI request.

Secondly, there is inconveniences and cumbersomeness in the submission channels for RTI application: As per Section 6(1) of the Act a citizen can make a request “in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made....” However, inadequate efforts have been made to receive RTI applications through electronic means i.e., on email or website etc, which can be done by the appropriate Government using Section 26(3c). This ultimately leads to the discouragement and timidities of the citizens in the application of the RTI Act in Mizoram

With the Right to Information (RTI) Act, 2005 completing a decade of its enactment, it is high time for our judicial fraternity to revisit its hitherto adopted conservative approach with respect to submitting itself before this progressive piece of legislation aimed at insuring transparency and accountability in working of every authority so that it gives a clear and strong signal to all those critics who often decry and question its image as an institution functioning in a clandestine and opaque manner. Introduction of the RTI Act in the school syllabus is also very important so that the children who are considered as the future leaders of the country may get a brief idea of the Act and they could be encouraged to knowing further in future.

Public officials, such as district collectors and deputy commissioners, who are responsible for the administration at district level, must be given responsibility of monitoring and implementation of the Act through various departmental authorities within their respective district. It is evident from the past few years that the life of whistleblowers is no safe in this country. There is rapid increase in the number of attacks and also some result in death of these activist. It is the moral responsibility of the government to protect RTI activists and users and take legal action against the attackers; punishment of such type of offenders must be enhanced.

Officials representing public authority must be trained so that they are made aware of their duties and obligations under the RTI Act. Political influence on the public authorities may be hindrance in the efficient working of these authorities, so they have to maintain integrity by ignoring the vested interest. Finally, democratization of information and knowledge resources is critical for people's empowerment to realize the entitlements as well as to augment opportunities for enhancing the options for improving quality of life. The strengthening of information regime is therefore *sine quo non* for promoting democratic governance and right to development.

With a view to realizing the development goals, the followings are suggested to strengthen the RTI regime:

As per the Act, the information has to be provided within the stipulated time. It is a known fact that the record keeping process within the government is a big challenge. This situation is further aggravated due to non-availability of trained PIOs and the enabling infrastructure (computers, scanners, internet connectivity, photocopiers etc.). Public Authorities need to meet the requirements of the RTI Act to

review their current record keeping procedures and other constraints and plan out the resources.

In addition to lack of resources, PIOs lack the motivation to implement RTI Act. During the RTI workshops organized in the surveyed states, PIOs cited that there were no incentives for taking on the responsibility of a PIO; however penalties were imposed in cases of non compliance. It was also observed that there is a wide variance in the seniority levels of PIOs. One of the most important roles of the Information Commission is to monitor and review the Public Authority and initiate actions to make them comply with the spirit of the Act. However this has been one of the weakest links in the implementation of the Act. It is acknowledged and appreciated that the Information Commissions have been primarily been spending most of their time in “hearings” and disposing off appeals. However monitoring the Public Authority for compliance of the Act is also an important aspect of the role of the Information Commission, which could result in reducing the number of appeals.

As per Section 20 of the RTI Act “Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information.....it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees”. Hence, given that more than half of the RTI applications get processed after 30 days, there is a very strong perception in the citizens and the Civil Society Organizations that the Information Commission is

lenient towards the erring PIO. The activists and Civil Society Organizations have been emphatic in demanding that the Information Commissions should implement section 20 in all cases of default.

All the development projects, particularly poverty alleviation programmes should incorporate transparency and accountability norms to allow for objective scrutiny of the process of execution of programmes and to assess the extent of adherence of the norms of equity and justice in delivery of essential services to the persons who are entitled for the specified benefits.

Second, with a view to reaping the benefits of RTI for rapid poverty reduction, the government should develop the capacities for access to information. The capacities of both the public authorities (i.e. the duty – bearers) and the citizens (i.e. the claim holders) may have to be enhanced, for which a two-pronged strategy would be needed.

A comprehensive Information Management System should be developed by each public authority for storage and retrieval of data and information that may be shared with anyone who seeks to inspect the records and use the information for development purposes. Use of information technologies would not only facilitate faster dissemination of information but would also reduce the costs of servicing and sharing information.

Third, in view of high illiteracy among the poor, a multimedia approach should be adopted to educate and train people of diverse linguistic backgrounds. Besides, they should also know as to how to make best use of information for effective participation in economic and political processes. This alone can ensure cost-effective use of the provisions of the RTI Act and promote efficient use of resources that are allocated for development purposes, including poverty alleviation.

Fourth, the role of NGOs is critical for creating effective demand for maximum disclosure of information relating to public activities so that an informed citizenry can participate in designing and implementation of socio-economic programmes. This task is challenging in deed. Increase in awareness about the human rights and how to realize them would lead to a strong multiplier effects to eradicate poverty and to create necessary conditions for good governance, of which all the stakeholders would be duly proud of.

Finally, democratization of information and knowledge resources is critical for people's empowerment to realize the entitlements as well as to augment opportunities for enhancing the options for improving quality of life. The strengthening of information regime is therefore sine quo non for promoting democratic governance and right to development.

The general awareness amongst people about the RTI Act and how it can be used for their benefit is still low. Moreover, there is a lack of sincerity on the part of government officials in disclosing information, who often threaten the applicant or refuse to provide information. Additionally, the Information Commissioners have time and again cited the lack of man power required to comply with all the provisions of the Act.

The RTI Act, as it stands today, is a strong tool to uphold the spirit of democracy. The need of the hour is that the RTI Act should be implemented to ensure that the objects of the RTI Act are fulfilled. Any attempt to dilute the provisions of the RTI Act will only suppress its success.



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Under the Guidance of

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CERTIFICATE

Certified that Mr. Joseph Lalmalsawma, a student of M. Phil programme in the Department of Public Administration, Mizoram University has prepared the present dissertation titled ‘Transparency in Administration: A Study of Implementation of Right to Information Act in Mizoram’. This is an original work of research which has not been used previously and which has not been submitted to any other University for any purpose. It covers the topic of research adequately.

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DECLARATION

I, Joseph Lalmalsawma, do hereby declare that the subject matter of this dissertation is the record of work done by me, that the contents of this dissertation did not form the basis of the award of any previous degree to me or to do the best of my knowledge to anybody else, and that the dissertation has not been submitted by me for any research degree in any other University/Institute.

This is being submitted to the Mizoram University for the degree of Master of Philosophy in Public Administration.

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ABBREVIATIONS

APIOs	:	Assistant Public Information Officers
CBO	:	Community- Based Organizations
CD	:	Compact Disc
CIC	:	Chief Information Commission
CID	:	Crime Investigation Department
CPIO	:	Central Public Information Officer
CSO	:	Civil Society Organizations
DAA	:	Departmental Appellate Authority
DAAs	:	Departmental Appellate Authorities
DARPG	:	Department of Administrative Reforms and Public Grievances
DC	:	Deputy Commissioner
DRI	:	Directorate of Revenue Intelligence
FOI	:	Freedom of Information
IB	:	Intelligence Bureau
IFS	:	Indian Foreign Service
IPO	:	Indian Postal Order
MCS	:	Mizoram Civil Service
MGNREGS	:	Mahatma Gandhi National Rural Employment Guarantee Scheme
MSIC	:	Mizoram State Information Commission
NAC	:	National Advisory Council
NCPRI	:	National Committee for People's Right to Information
NCT	:	National Capital Territory
NGOs	:	Non- Governmental Organizations
OECD	:	Organization for Economic Cooperation and Development

PIO	:	Public Information Officer
PRISM	:	People’s Right to Information and Development Implementing Society of Mizoram
PPP	:	Public Private Partnership
PRIA	:	Society for Participatory Research in Asia
RAW	:	Research and Analysis Wing
Rtd.	:	Retired
RTI	:	Right to Information
SPIO	:	State Public Information Officer
SVC	:	State Vigilance Commission
TPDS	:	Targeted Public Distribution System
TI	:	Transparency International
UN	:	United Nations
UNDP	:	United Nations Development Programme
UPA	:	United Progressive Alliance

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CHAPTER I

Introduction

Public administration in a democracy is a means to serve the people, with their growth and development being the end. Transparency seeks to promote functioning of government as per the law. It is about sharing of information, the objective of which is to ensure that the functioning of government is as per the law. Transparency in public administration means an open and accountable government implementing policies for the welfare of the people. The electors have the right to be informed about the success and failure of the government and its day to day measures affecting the common people.

The United Nations recognized as the biggest impediment and authorized the Secretary General through General Assembly's resolution dated January 28, 1997 to help states to design strategies to prevent and control this. Pioneering work has been done to identify the causes and remedies of corruption which not only prevents a country from deriving optimum benefit from its resources in nation-building but also endangers national security and is known to be disproportionately harmful towards the most vulnerable, including the poor and deprived. If caught in a 'corruption trap', i.e. where corruption feeds on itself breeding more corruption, the economy of a country collapse leading to civil strife.

The right to information laws have existed since 1776, when Sweden passed its Freedom of the Press Act, the last ten years have seen an unprecedented number of states adopting access to information legislation.¹ Sweden was the first country to make available Right to Information to the people through a law in eighteenth century. The United States enacted a detailed Freedom of Information Act in 1966

¹ Sharbjit Sharma and Krishan Gopal, *Right to Information-Implementing Information Regime*, New Delhi, 2006, p. 7.

and other states followed this. England enacted this law in 2000 as a right granted as a matter of grace of Her Majesty to the people. Now over 150 nations- both democratic and autocratic- have such a law but none of them creates a punishable offence where information is not properly given or is delayed.

Governance and good governance have become the theme and matter of discussion and deliberations. Government has played a vital role in the life of man. The act and process by which a government governs our people is called governance. The need of good governance is universally accepted. It has recognized that the state and its machinery should work for the welfare of the peoples. Good governance constitutes the cornerstone of every democracy. Good governance includes wide range of issues like economic, political, administrative and judicial as well.

Governance is a process or a system that ensures certain activities to be carried out, managed or controlled within the parameters of accountability, legitimacy and transparency. Good governance rests on positive, responsive and sensitive administration. It is a value-laden concept, which emphasize on public interest, public welfare, public service and public goods. According to the World Bank, good governance entails sound public sector management (efficiency, effectiveness and economy), accountability, exchange and free flow of information (transparency), and a legal framework for development (justice, respect for human rights and liberties).

In seeming agreement with the World Bank, the Overseas Development Administration of the United Kingdom of Great Britain and Northern Ireland (now the Department for International Development), defines good governance by focusing on four major components namely legitimacy (government should have the consent of the governed); accountability (ensuring transparency, being answerable for actions

and media freedom); competence (effective policy making, implementation and service delivery); and respect for law and protection of human rights.

The Transparency International's Annual Report, 2003 highlights the magnitude of devastation caused by corruption on the governing process of the developing world and calls for an urgent need to arrest its growth. Right to Information is a great deterrent for corrupt politicians and administrators. A large number of people in the developing countries including India continue to live in extreme poverty. They are still deprived of adequate food, clean water, and other basic necessities of life despite the massive administrative structure created to spearhead national developmental programmes.

In India, the Right to Information has been developed through diverse strands for almost the entire period of the country's independent history. After decades of hectic lobbying, the efforts of civil society for entrenching the right to information in India were finally rewarded on 12th October, 2005 with implementation of the Right to Information (RTI) Act, 2005.

The concepts of Right to Information and good governance are intertwined. In a way, they can be said to be two sides of the same coin, or two aspects of the same aspiration, viz., to strengthen, stabilize and broaden the working of the democratic system. Access to information by the public is the essential element and pre-requisite of good governance. Unless people have full information about an issue or policy of public importance, it will not be possible to find out as to what effect it has in the ultimate analysis, on the totality of good governance.

Transparency or right to get information emanates from the fundamental rights such as right to speech and expression guaranteed under Article 19 (1) (a) of the Indian Constitution. Denial of information means a restriction on right to speech and

expression. It naturally thus becomes part and parcel of good governance and has a crucial role to play in ensuring human rights and good governance in a democratic country 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 right to know every public act. The denial of the right to know which is derived from the concept of freedom of speech and expression, though not absolute yet is a factor which should make one worry as suggested by the Supreme Court of India.

The Government of India and State Governments come out with new ideas and approaches but these do not succeed when put to action because of lack of good governance. Everybody expects that the government should be good and effective. It should be in a position to maintain peace and security and provide all facilities of life. But it is not easy to have good governance though the people want it. In all democratic countries, there are many factors that put obstacles in the way of good governance.

Governance becomes good when the government takes quick decisions for implementing the laws and policies in an impartial and effective manner and there is improvement in the quality of life of the people. Good governance was closely connected with strictness and order in the past years. But today state is a welfare state and good governance is linked with effective law and order as well as enlightened citizenship and development.

Good governance is something which covers the entire gamut of our lives such as political, economic and social. We cannot talk of good governance without ensuring the basic necessities of life. We can define good governance as a system of governance that is able to identify clearly the basic values of the society and pursue

these values through an accountable and honest administration in order to achieve the goal of maximizing the welfare of people in all spheres of life.

In the context of good governance, corruption is to be understood as the behavior of persons, representatives, and public officials that deviates from their official responsibilities and takes advantage of their power for private aims and enrichment. This behavior is also often facilitated by private enterprises. Corruption is, therefore, a symptom of poor governance and an important development policy problem.

Government should ensure that public resources are distributed systematically and equitably, and it does not abuse its competencies. It does not intervene improperly. It should try to build public confidence and foster public welfare. It also means that reforms take effect and result in an administrative change that handles resources carefully and fulfill its service functions with regard to the poor and the needy persons. These goals can be achieved by reforms including policies with adequate control mechanisms, transparency and public responsibility so as to minimize corruption.

The process of implementation of the Right to Information Act, 2005 has enthused the public even during the short period it has been in force and has aroused a lot of interest in the hope that it provides transparency and openness in governance and thus gives meaning and significance to the working of democracy in Mizoram. It enables access to information even from a private party that comes under a regulatory framework of the government. This assumes an added significance in the context of an increasing number of projects being taken up in the Public Private Partnership mode. Nevertheless, information about the Act among the general public and even among knowledgeable sections is not adequate and to the point as the law is yet to

evolve and makes its impact felt all around. This makes it very necessary that from the perspective of the people there is the need for understanding of the legal approach as contained in the Act including structural arrangements and procedures in order to ensure that the desired results are achieved.

There is a broad consensus of the importance of right to information laws in enhancing transparency and accountability, thus reducing the opportunities for corruption. Nevertheless, empirical evidence of the impact of RTI laws remains scarce. In general, several studies have found that access to information is positively correlated to control of corruption, but the actual impact of RTI laws seems to depend on a series of other factors. As demonstrated by several studies, the RTI law alone can have a positive impact and help in the solution of specific cases, but it is unlikely to bring sustainable change if not effectively implemented and accompanied of other measures, such as guaranteed freedom of press and association, effective checks and balances mechanisms, including the prosecution and dismissal of public officials found to be involved in corruption, and coherent policy responses to problems detected in service delivery.

In addition, cases of successful implementation of RTI laws requires a strong leadership and political will as well as the establishment of independent and well-resourced oversight institutions, a clear legal framework and appeal mechanisms, training and capacity building of public officials, and awareness raising activities to inform citizens, civil society, the media and companies on how to exercise their right to know.

Statement of the Problem

With the implementation of RTI Act, 2005 in the whole country and the subsequent establishment of State Information Commission in Mizoram since 5th July, 2006 as an authority which supervises the implementation of RTI Act, 2005, Mizoram took a step towards good governance. The reason being that transparency is identified with citizen's right to access information. It has been recognized as one of the critical elements in winning trust of the people at large. It is believed that RTI would mitigate corruption. It would also make administrative and civic bodies responsible and accountable. In other words, transparency would promote efficiency. It would save the applicants seeking information a lot of trouble and avoidable wastage of money, time, and effort. Perhaps the most important aspect of RTI is its contribution to empowerment. A poor, hapless villager, from remote village of the state can now demand and get information from public authorities as a matter of his or her right.²

Even as people recognize and celebrate the efficacy and effectiveness of the Right to Information Act, it requires a critical study. There are concerns that need to be discussed and addressed. There is a need to strike a balance between the need for disclosure of information and the limited time and resources available with the public authorities. A situation in which a public authority is flooded with request for information having no bearing on public interest is something not desirable. There is the need to study the actual information requirements of the citizens as against unnecessary queries being raised without any stated purpose. An impartial study is necessary to analyze such a situation.

² Lallianchunga, *Right to Information: Transparency and good Governance: A Study of the Right to Information Act, 2005 in Mizoram*, Proceedings of 2015 International Seminar on Good Governance in India: Problems and Prospects (Vol.I), Aizawl, 2015, p. 321.

Another concern that has been raised is that the Right to Information could end up discouraging honest, well-meaning public servants from working to their maximum capability. There is a need to remember that a particular action under public scrutiny and discussion in an isolated manner may sometime present a distorted or incomplete picture of what really happened in the process of making the final decisions. The Right to Information should not adversely affect the deliberative processes in the government. It is important to take a critical look at the exemption clauses in the Right to Information Act to determine whether they serve the larger good and whether a change is needed in them. There are also issues of privacy. The Act does have provisions to deal with private issues but there are certain areas that require further debate.

The state government and the various public authorities under it should be supportive of the actual implementation of RTI Act, 2005 in Mizoram. The state government is responsible for the creation of right to information culture by instructing all of its departments and public undertakings to implement Section 4 (10) of RTI Act, 2005 through various means of communication, including internet, so that the public have the minimum resort to the use of this Act to obtain information. Many of the departments, boards, public undertakings and other public authorities have their own websites, but they do not update their websites at regular intervals, which is in compliance with Section 4 (1) of RTI Act, 2005.

Review of Literature

There exist a large number of books, journals, articles, reports and other sources in relation to the Right to Information Act, 2005, transparency and good governance out of which a few relevant and available materials are reviewed below.

U.N. Gupta (2009) in his book '*The Right to Information Act, 2005*' offers a comprehensive study on the Right to Information giving all necessary details. He has also provided information on different issues which are directly or indirectly related to this Act that creates awareness among the citizens about their rights. He has also discussed the drawbacks and difficulties in the execution of the Right to Information Act.

S.L. Goel (2007) in his book '*Good Governance: An Integral Approach*' attempts to highlight the conceptual background and operational implications of good governance. He juxtaposes the issues of good governance which are essential for India. He has highlighted the importance of people's participation, human rights and duties which are essential for good governance. He has also carried out an extensive study of the role of the legislature in good governance.

Ramesh K. Arora and Meena Sogani (2010) in '*Governance in India: Paradigms and Practices*' focus on key paradigms of governance in India in the perspectives of their multifarious concerns, applications and impact. He has brought in great details several issues pertaining to administrative structures, organizational behavior, transparency, accountability, ethics and effectiveness in a most dispassionate manner. The articles contain empirical, analytical as well as institutional studies. They provide guidelines for enhancing the efficacy of multi-level governance systems in India.

Sarbjit Sharma and Krishan Gopal (2006) in '*Right to Information: Implementing Information Regime*' attempt to outline the significance of the Right to Information and its role in creating a better society. The study tries to empower the ordinary citizens by providing authentic information on the potential of this fundamental human right, which has proved to be indispensable for the functioning of democracy. It also looks at significant developments at national and international levels, recognizing the need for right to information.

Transparency International (2006) in '*Global Corruption Report, 2006*' highlights the issues related to corruption and health. It focused mainly on the problem of corruption and attempts to assess the extent of damage caused already and warn of dangers in the future if this evil is not checked. It also points out the immense challenges that can only be tackled by a concerted effort of the Government and the civil society organizations.

Farzana Begum (2010) in her book '*Right to Information in Global Perspective*' attempts to elucidate the salient issues relating to Right to Information Act in a global perspective. She has given an elaborate description of all salient features such as basic concepts theories and practices. She has gathered the vital information under the main theme of Freedom of Information. She has also mentioned some deficiencies and operational problems relating to the implementation of the Right to Information Act.

K.V. Reddy (2015) in his article '*Governance and Development in Northeast India: Evolving Challenges in Mizoram*' attempts to elucidate the conceptual issues of socio- political dynamics in the Northeast India which are vital in the context of governance and development. He has made a deep insight into the social, economic, cultural and political perspectives of development in Mizoram. He has also focused

on the state and non-state actors and their various initiatives towards the socio-economic development in Mizoram and also on certain limitations and challenging perspectives.

Anita Bagai (2016) in her article '*India's North- East: Government without Governance*' has discussed the roots of the growing problems of governability. She has analyzed the discourses of governance initiatives by various governments, their failure to negotiate the embedded ideas of community, and she concludes by establishing that peace and stability can be brought only by restoring governance and a liberal sharing of space and rights in the Northeast India. She has emphasised on sharing of information and participation of citizens.

Lallianchhunga (2015) in his article '*Transparency & Governance: A study of the Right to Information Act, 2005 in Mizoram*' has discussed the yardstick to measure the level of transparency in government through the working of RTI Act in Mizoram. He also looks into the actual implementation of the RTI Act in Mizoram and how the citizens, NGOs and government departments respond to it.

Anita Chowdhary (2016) in her article '*Issues and Challenges facing RTI Act*' has discussed some of the important challenges and issues being faced in the context of implementation of the RTI Act in India. She has provided an insight into the challenging scope and different scenario of Right to Information and relevant case laws as well as the significance of Right to Information.

Niranjan Pani, Santap S. Mishra and Bijaya S. Sahu (2004) in their book '*Modern System of Government- Good Governance vs E-Governance*' carried out a study of problems connected with modern system of governance and presented all the facts relating to the new concepts of late 20th century in a clear, categorical and

concise manner. The book provides necessary up to date information to policy makers, academicians, students and common readers.

Chawngsailova (2015) in his article '*Challenges of Good Governance*' has highlighted the relationship between the governance systems and the processes involved in multifaceted development. He has also discussed the salient aspects of governance, particularly in the context of their impact on the lives of the people.

O.P. Dhiman and C.P. Sharma (2013) in their book '*Corruption and Lokpal*' has discussed the history of corruption and Lokpal bills since Nehru era in a simple and intelligible way in the light of present socio-politico-economic conditions in India. They have endeavored to enlighten the readers how the present government has been trying to suppress crusaders against corruption and black money.

B.S. Ghuman, Anil Monga and Ramanjit Kaur Johal (2012) in their book '*Corruption and Quality of Governance*' had examined the issue of corruption and the mechanisms put in place by the government to redress corruption in India, specifically the anti-corruption agencies tasked with investigation and prosecution to evaluate the approach of the state towards tackling th problem of corruption.

After thoroughly delving into the above mentioned books and articles, it is found that there are hardly studies on transparency in administration and implementation of Right to Information Act in the context of Mizoram. Therefore, it has been decided to take up the present study.

Scope of the Study

It is significant to note that information brings about transparency and accountability, both of which help to reduce corruption and increase efficiency in governance which ultimately leads to good governance. It also encourages participation of people in a democracy. Ironically, one of the most neglected rights in

democracies throughout the world has been the Right to Information. The Right to Information is considered to be a customary international law, which is exemplified from its enshrinement in various international covenants and treaties.

The main aims of RTI Act, 2005 include empowering the citizens, promoting transparency and accountability in the working of the government, containing corruption, and making democracy work for the citizens. An informed citizen is better equipped to keep necessary vigil on the process of governance and make the government more accountable. Though the Act is a positive step towards making the citizens informed about the activities of the government, yet it has a long way to go in accomplishing its tasks so that informed citizens can be the active participants in the democratic regime.

The Mizoram Information Commission (MIC) and its annual reports are accepted as the sources from which one can get information on the actual implementation of the RTI Act, 2005 in the state as is the case anywhere else in India. Whether the RTI Act, 2005 has become instrumental in ensuring good governance and transparency or not in the state, is known from the implementation of RTI Act, 2005

Any material in any form, including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in written or electronic form and information which can be accessed by a public authority under any law, is treated as information for this purpose. The present study is completed by way of compiling and analyzing two departments under the Government of Mizoram in relation to the implementation of the RTI Act.

Objectives of Study

1. To study the concepts of good governance and transparency in relation to RTI
2. To study the main provisions of RTI Act
3. To study the problems and challenges confronting the effective implementation of RTI Act in Mizoram and
4. To provide suggestions for remedial measures for effective implementation of RTI Act in Mizoram

Research Questions

The research attempts to answer the following questions:-

1. What are the main reasons for the enactment of the RTI Act?
2. How does the RTI Act contribute to good governance and transparency?
3. What are the major problems and challenges pertaining to the implementation of the RTI Act in Mizoram?
4. What are the steps necessary to make the implementation of the RTI Act effective in Mizoram?

Methodology

The study is based on both primary and secondary data. Primary data was collected through field study and personal interviews with the help of questionnaires. Both the government officials and citizens including RTI activists have been contacted for the purpose. The actual sample was decided after a pilot study. The purposive non-probability sampling method has been used for the study. Secondary sources of data include books, journals, articles, newspapers, reports, documents and internet sources. Two Departments of the Government of Mizoram, namely, Land Revenue & Settlement and Disaster Management & Rehabilitation Department have

been selected for the study. These two Departments have been selected on the basis of their exposure and working in relation to the Right to Information Act in Mizoram.

Chapterisation:

The present study is divided into five Chapters:

Chapter I deals with the introduction which includes the meaning, concepts and the historical background of the Right to Information from international experience and various movements of Right to Information in India. It also covers the main aims of the RTI Act, 2005 and summary of the chapter.

Chapter II deals with the discussion on the theory, concepts, ideas and different aspects of good governance and transparency.

Chapter III traces the background information on RTI, the need for RTI, civil society groups, mass media etc, demanding for RTI, Original Act and status for RTI and how it finds acceptance after the enactment of RTI Act of 2005. It also includes all the relevant provisions and information about the RTI Act of 2005.

Chapter IV deals with the implementation of the RTI Act in the state of Mizoram, institutional mechanism to implement RTI Act in Mizoram and a discussion about the two Departments of Government of Mizoram selected for case studies and the implementation of RTI Act in these two Departments.

Chapter V is the last chapter and it deals with the summary and major findings of the present study, remedial measures for effective implementation of the RTI Act in Mizoram and concluding observations.

Summary

This Chapter deals mainly with the meaning and significance of transparency and the Right to Information in the functioning of the Government. It gives a brief idea of the Freedom of Information at the global, national and State level context and

the different stage of its adoption in different continents along with data of the pioneers of Right to Information. The inclusion and experiences of the Freedom of Information in world body like the UN, OECD and Commonwealth countries is also highlighted in this Chapter.

It has also been brought out that governance based on freedom of information is evolving from a moral indictment of secrecy to a tool for market regulation, efficient governing structure facilitating economic and technological growth. It has also been discussed that how free flow of information could affect the ethics of Public Authorities and the individual life of a citizen. It also reveals the magnitude of corruption all over the world and the urgent need to check its growth and how transparency promotes efficiency and effectiveness.

It traces the problems faced by the state of Mizoram and the prevailing stumbling block of corruptions in government institutions and the role of civil servants with the data obtained by Transparency International in general. In order to validate its authenticity, twenty five books, twenty Articles and Government documents relating to the Chapter are reviewed and analyzed. In order to bring out the feasibility of the research, four research questions have been sketched out here. The method to be adopted for conducting research and chapterization has also been made here.

Lastly, it throws light upon the importance and requirements of a strong leadership, political will, media and companies and the establishment of independent and well- resourced institutions. It is also discussed how the state of Mizoram takes step towards good governance in general and the concern on how Right to Information could adversely affect the deliberative processes of the government.

CHAPTER II

Good Governance and Transparency: A Conceptual Study

The previous chapter was an introduction to the present study. It has dealt with the aspects of theories, concepts, ideas and different aspects of good governance and transparency with global, national and state-level data and information. There is a direct and undeniable link between good governance and transparency. Democracy requires accountability, and transparency is the pre-requisite for such accountability. Good governance requires that transparency be promoted through devolution of information, having an accountability mechanism for the public functionaries. The terms 'governance' and 'good governance' are being increasingly used in development literature. Concomitantly, bad governance is being regarded as one of the root causes of all evils in our political and social system. Obviously, good governance is a buzz word. Major donors and international financial institutions, hence, are extending their aid and loans on the condition to have reforms that will ensure 'good governance'.

Good Governance: The Concept

Good governance has entered the vocabulary of public administration since the 90s. This concept appears as a much publicized nostrum for the ailing Third World countries, but its real pedigree has to be traced to the crisis of First World administration in the era of market dominance.

The expression 'good governance' connotes certain value assumptions whereas governance as a process denotes a value free dispensation. *Oxford Dictionary* defines governance 'as act or manner of governing' while 'govern' is defined as rule or control with authority conduct the policy and affairs etc. Evidently, governance

refers to a process or the act or function of exercising usually (legitimate) authority to regulate affairs of people in a given territory generally a state. ¹

Governance takes different qualitative connotations, if the basic functions that the state must perform are either not done at all or done perfunctorily. Good governance is thus a function of installation of positive virtues of administration and elimination of vices of dysfunctions. In short, it must have the attributes of an effective, credible and legitimate administrative system, citizen friendly, value caring and people sharing.²

Governance also refers to the forms of political system and the manner in which power is exercised in utilizing the country's economic and social resources for development. It deals with the capacity of the government to design, formulate and implement, and in general, to discharge government's functions.³ Governance is associated with efficient and effective administration in a democratic framework. It is equivalent to purposive and development oriented administration which is committed to improvement of quality of life of the people. It implies the high level of organizational effectiveness. It also relates to the capacity of the centre of power of political and administrative system to cope up with the emerging challenges of the society.

Good governance means anything to anybody depending on one's perception of what is good and for whom. It is equated with a range of ideas not always consistent with one another. It may mean less government and it may also mean more government. Many advocates of governance are now gathering concrete evidences

¹ B.K. Dey, 'Defining good Governance', *Indian Journal of Public Administration* (Annual Issue), 1997, p.412.

² *Ibid*, p.414.

³ O.P. Minocha, *Governance in an Era of turbulence* (in) Souvenir of Indian Institute of Public Administration, Delhi Regional Branch, New Delhi, 1996, p.21.

from different parts of the globe in a bid to pinning down the conditions under which ‘governance without government’ can succeed.

Characteristics of Good Governance

Good governance has eight major characteristics. It is participatory, consensus oriented, acceptable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. The characteristics of good governance must be initiated into public services delivery mechanism. Good governance itself depends on various factors which include development stage of a country, administrative patterns, political will, citizen’s awareness and participation. ⁴It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision making. It is also responsive to the present and future needs of society.

- 1. Participation:** Participation by both men and women is the cornerstone of good governance. Participation could be either direct or through legitimate intermediate institutions or representatives. It is important to point out that representative democracy does not necessarily mean that the concerns of the most vulnerable in society would be taken into consideration in decision making. Participation needs to be informed and organized. This means freedom of association and expression and expression on the one hand and an organized civil society on the other.
- 2. Rule of Law:** Good governance requires fair legal frameworks that are enforced impartially. A fair, predictable and stable legal framework is essential so that businesses and individuals may assess economic opportunities and act on them without fear of arbitrary interference or expropriation. This

⁴NavreetKaur, LhoukhokaiSithou, *Indian Journal of Public Administration*, Vol. 63, Issue 2, June 2017, p 253.

requires that the rules be known in advance, that they be actually in force and applied consistently and fairly, that conflicts be resolvable by an independent judicial system, and that procedures for amending and repealing the rules exist and are publicly known.

- 3. Transparency:** Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means 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 in easily understandable forms and readily available media. Transparency means information is freely available and directly accessible to those who will be affected by these decisions and their enforcement. Access to information is a great enabler of transparency. In the context of governance, transparency refers to availability of information to the general public and clarity about functioning of government institutions. Transparency and accountability are interrelated and mutually reinforcing concepts. Without transparency, that is, unfettered access to timely and reliable information on decisions and performance, it would be difficult to call public sector entities to account. Unless there is accountability, that is, mechanisms to report on the usage of public resources and consequences for failing to meet stated performance objectives, transparency would be of little value. The existence of both conditions is a prerequisite to effective, efficient and equitable management in public institutions.
- 4. Responsiveness:** Good governance requires that institutions and processes try to serve all stakeholders within a reasonable time frame. A responsive administration is one which responds or reacts to issues, characters and

situations and takes decisions only after a thorough and dispassionate screening of all the implications as also the alternative courses of action open. Speed is the essence in the decision-making process although speed does not necessarily mean haste or inadvertence. Tomorrow will be too late and one has to take the bull by its horns at the appropriate moment without the slightest procrastination or vacillation or delay. Any attempt to delay decision-making or allow a critical situation to drift could be suicidal in consequences. The term 'good governance' is used with great flexibility; this is an advantage, but also a source of some difficulty at the organizational level. It includes institutions and organizations that compose civil society.⁵

5. **Consensus:** Further, several actors and as many viewpoints exist in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved. It also requires a broad and long-term perspective on what is needed for a sustainable human development and how to achieve the goals of such development. This can only result from an understanding of the historical, cultural and social contexts of a given society or community.
6. **Equity and Inclusiveness:** A society's well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded the mainstream of society this requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their over being. Technically, democracy is a tool whereby the majority decide, individually, how they would like to be ruled, based on what they perceive to be the best

⁵David Zothansanga, *Administrative Studies* (A National Referred Annual Journal, Vol.I, Issue No. 1, Nov, 2015, p.21.

available choice. Naturally, the chosen government can be expected to serve the majority's interests. However, democracy's unique selling point is the space the system provides for negotiating with sectoral interests to accommodate them in the mainstream — not ignoring or suppressing them for the sake of protecting or pleasing the majority. Though it is challenging, good governance can be measured by the degree of success achieved in this area.⁶

7. Effectiveness and Efficiency: Good governance means the processes and institutions that produce results to meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the productive and effective use of natural resources and the protection of the environment.

8. Accountability: Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. Who is accountable to whom, varies depending upon whether decisions or actions taken are internal or external to an organization or institution. In general an organization or institution is accountable to those who will be affected by its decisions or actions.

Accountability cannot be enforced without transparency and the rule of law. Good governance, therefore, is an ideal which is difficult to achieve in its totality. Very few countries and societies have come close to achieving good governance in its entirety. However, to ensure sustainable human development, actions must be taken to work towards this ideal with the aim of making it a reality.

⁶ www.governancepro.com (Accessed on 11.11.2017)

Every progressive society strives towards good governance. As a matter of fact it is the measure of the efficiency of any administration and in a democracy; citizens elect their representatives upon this assurance of good governance. Further, a democratic set-up requires an informed citizenry based on the fact that citizens are the direct stakeholders in every public authority and therefore, have the right to know the process of working of the government.

Hence, a transparent public system of governance promises a democratic and accountable state- but a balance has to be achieved between the ‘thrust of disclosure requirements’ and parry of ‘administrative privileges’ for an efficient governance. While building up such theories, the global development, changes and approaches which have an impeccable footprint on the governance structure must also be kept in mind.

Difference between Government and Governance

At the national level in addition to the above actors, media, lobbyists, international donors, Multinational Corporations etc., may play a role in decision making or in influencing the decision making process. All actors other than government and the military are grouped together as part of the ‘Civil Society’. In some countries in addition to the civil society, organized crime syndicates also influence decision making, particularly in urban areas and at the national level.

Similarly, formal government structures are one means by which decisions are arrived at and implemented. At the national level, informal decision making structures, such as ‘kitchen cabinets’ or informal advisory may exist. In urban areas, organized crime syndicates such as the ‘land mafia’ may influence decision making. In some rural areas locally powerful families may make or influence decision making.

Often such, informal decision making is the result of corrupt practices or leads to corrupt practices.

Good Governance, Misgovernance and Malgovernance

The concept of good governance derives its relevance in the context of misgovernance which includes non-feasance, over-feasance and mal-feasance.⁷ According to Gandhi the 'swaraj' is nothing but 'self-rule' of which 'good government' cannot be a substitute. Hence, only in clean politics there is possibility of 'good governance'. With the help of the good governance the whole society can be transformed into an ideal society as there are only selfless activities and selfish activities are rarely observed.

In many countries, the democratic form of government has proved to be ineffective for checking swindling of public funds for private gains by the elected leaders as well as permanent bureaucrats. Misuse of power, fraud, chicanery and embezzlement of funds are systematically perpetrated by the leaders of government and their unions. Mis-governance is rampant all around, especially in the developing countries. The concept of good governance becomes attractive as a remedy against this state of affairs.

All the three wings of government, the three arms and instrumentalities of governance- legislative, executive and judiciary-have, it seems collaborated to set up a joint venture in mal-governance.⁸ In our functional anarchy, where legislative and executive have conspired to sacrifice governance at the altar of expediency; an 'activist' judiciary in a very brief flicker of hope, seemed a saviour, but engulfed in a thick blanket of darkness.

⁷Ashok Mukhopadhyay, '*Reinventing Government for Good Governance*', Indian Journal of Public Administration (Annual Issue), 1997, p.282.

⁸R.C. Sekhar, *Ethical Choices in Business*, New Delhi, Sage, 1997, p. 247.

The delays, complications in legal dispensations, volumes of pendencies, the high cost of justice, the vagaries of lawyers- all combine to make courts of justice a dreaded place, almost a prohibited area for most sufferers. Bureaucrats, judges and politicians, the three pillars of governance edifice do not bother about deadlines, because they deal in other people's money, time and moral.⁹

Global Idea

On the background conditions of the good governance concept, it is pointed out that contemporary western aid and overseas development policy have three defining features. First, the aim of aid has been to promote open market friendly and competitive economies. This policy was embodied in the new conditionality of structural adjustment lending, developed in the 1980s. Later in the 1990s, two further features have been added to structural adjustment. These are support for democratization and improvement of human rights records, and insistence on what has come to be called 'good governance'.

Development assistance to the third world countries in the post-cold war era has, thus, been subjected to the new politics of 'good governance'. In 1989, the concept of governance was for the first time highlighted in a World Bank document on sub-Saharan Africa. By good governance was meant, at that time, sound development management. Four key dimensions identified in this context were:

1. Public Sector Management
2. Accountability
3. Legal Framework for development
4. Information and Transparency.

⁹ *Opcit.*, pg 247.

The Bank document on Sub-Saharan Africa had this to say. Improving Governance would begin with an assessment of the institutional environment which determines the patrimonial profile of the country, high when all other factors are absent and low when they are present.¹⁰

World Bank Prescription

World's Bank document, entitled, 'Governance and Development' puts it, "Governance is defined as the manner in which power is exercised in the management of a country's economic and social resources for development." From its lending experience in many developing countries, the Bank came to realize that 'good governance is central to creating and sustaining an environment which fosters strong and equitable development and it is essential complement to sound economic policies'. Three distinct aspects are identified in the conceptualization of governance.¹¹

1. The form of political regime (parliamentary or presidential, military or civilian and authoritarian or democratic).
2. The process by which authority is exercised in the management of a country's economic and social resources.
3. The capacity of governments to design, formulate and implement policies, and in general, to discharge government functions.

World Bank Conceptualization

These aspects of good governance have assumed significance for the developed and developing countries. The following are the factors deal with political and administrative aspects.

¹⁰Mohit Bhattacharya, 'Conceptualising Good Governance', Indian Journal of Public Administration (Annual Issue), 1997, pp.290-291.

¹¹*Ibid.*

1. Political accountability, including the acceptability of political system by the people and regular elections to legitimize the exercise of political power.
2. Freedom of association and participation by various religious, social, cultural and professional groups in the process of governance.
3. An established legal framework based on the rule of law and independence of judiciary to protect human rights, secure social justice and guard against exploitation and abuse of power.
4. Bureaucratic accountability ensuring a system to monitor and control the performance of government offices and officials in relation to quality of service, inefficiency and abuse of discretionary of power.
5. Freedom of information and expression needed for formulating of public policies, decision making, monitoring and evaluation of government performance.
6. A sound administrative system leading to efficiency and effectiveness.
7. Cooperation between the government and civil society organizations.

Views of OECD Countries (Organization for Economic Cooperation and Development)

More pronounced political meaning of ‘governance’ appeared in the policy directives of the OECD countries, laying down conditions for receiving economic assistance. The OECD documents¹² sought to link development assistance, with-

- (a) Participatory development
- (b) Human rights and
- (c) Democratization.

The key components of ‘governance’ were identified as:

¹²Mohit Bhattacharya, *Opcit*, pp. 291-292.

- Legitimacy of government.
- Accountability of political and official elements of government.
- Competence of governments to make policy and deliver services, and
- Respect for human rights and rule of law.

What emerges out of the combined efforts of the aid giving countries and the international funding agencies is that entitlement to aid would depend on the degree to which a client country would be having a liberal democratic state with a pluralistic polity in which legislatures are constituted through free and fair elections.

Links between RTI and the Elements of Good Governance

Since Independence government of India and state governments have been entrusted by the legislature on behalf of people of India, billions of crores of rupees for various schemes for the welfare of the people so that the disadvantaged group of people can enjoy the fruits of freedom. Clearly, the Act has laid emphasis on good governance, of which the major elements that have been identified are: informed citizenry for encouraging people's participation in development process, transparency, accountability and reduction in corruption. Thus, the major objectives of the Act are:

Greater Transparency: Greater transparency provide as much information suomotu to the public at regular intervals through various means of communication, including internet, so that the public have minimum resort to the use of this Act to obtain information. In addition, a public authority, 4(1) (d) of the Act, is required to 'provide reasons for its administrative or quasi-judicial decisions to the affected persons'. To facilitate the access to information, a citizen has, under section 2 (j) of the Act, the right to:

- (i) Inspection of work, documents, records;
- (ii) Taking notes extracts or certified copies of the documents or records;

- (iii) Taking certified sample of material; and
- (iv) Obtaining information in electronic form, if available.

The Commission, under section 20(1) of the Act, has the mandate, inter-alia, to impose penalty and/or to recommend disciplinary action against the information providers, if held responsible for obstructing the free flow of information. The Commission may also award compensation for any detriment suffered by a requester for seeking information.

The information seekers and the Non-Governmental Organizations NGOs have put pressure on the public authorities for promoting the culture of openness in functioning of the Government. Of the millions of applications for information, less than five per cent have been denied information under various exemption categories, under section 8(1) of the Act, on the grounds of national interest, personal or third party information or those pertaining to commercial confidence, the disclosure of which would affect competitiveness of public authorities.

In effect, thus, there is greater transparency than ever before in the working of the public bodies. The media and civil society have raised development issues, based on facts about the use of funds as well as the best practices in formulation and implementation of pro-poor schemes. The citizens are thus better informed about the performance and contributions of the elected representatives, which augurs well for a healthy democracy and democratic governance of projects.

Greater Accountability: Every public authority is required ‘to provide reasons for its administrative or quasi-judicial decisions to the affected persons’ under section 4(1) (d) of the Act. There is therefore no scope for any arbitrary decision.

The world wide governance indicators report on six broad dimensions of governance for over 200 countries over the period 1996-2011: ¹³

- »» Voice and accountability
- »» Political stability and absence of violence
- »» Government effectiveness
- »» Regulatory quality
- »» Rule of law
- »» Control of corruption

Freedom of Information (FOI) in the Promotion of Good Governance

Over 50 countries now have freedom of information laws and another 15-20 are actively considering adopting one. These nations are joined by a growing number of inter-Governmental bodies – including the World Bank, European Union and United Nations Development Programme (UNDP) – that have established FOI policies.

It provides that all citizens enjoy rights of freedom of opinion and expression, including the right to seek, receive, and impart information and ideas, a guarantee now generally considered to include an obligation of openness on the part of Government.

Whistle Blowers Protection Act, 2011

Whistle Blowers Protection Act, 2011 is an Act in the Parliament of India which provides a mechanism to investigate alleged corruption and misuse of power by public servants and also protect anyone who exposes alleged wrongdoing in government bodies, projects and offices. The wrongdoing might take the form of fraud, corruption or mismanagement. The Act was approved by the Cabinet of India as

¹³<http://info.worldbank.org/governance> (accessed on 5.11.2017)

part of a drive to eliminate corruption in the country's bureaucracy and passed by the Lok Sabha on 27 December 2011. The Bill was passed by Rajya Sabha on 21 February 2014 and received the President's assent on 9 May 2014.

Intent

An Act to establish a mechanism to receive complaints relating to disclosure on any allegation of corruption or willful misuse of power or willful misuse of discretion against any public servant and to inquire or cause an inquiry into such disclosure and to provide adequate safeguards against victimization of the person making such complaint and for matters connected therewith and incidental thereto.

A whistleblower is a person who exposes any kind of information or activity that is deemed illegal, unethical, or not correct within an organization that is either private or public. The information of alleged wrongdoing can be classified in many ways: violation of company policy/rules, law, regulation, or threat to public interest/national security, as well as fraud, and corruption. Those who become whistleblowers can choose to bring information or allegations to surface either internally or externally. Internally, a whistleblower can bring his/her accusations to the attention of other people within the accused organization such as an immediate supervisor. Externally, a whistleblower can bring allegations to light by contacting a third party outside of an accused organization such as the media, government, law enforcement, or those who are concerned. Whistleblowers, however, take the risk of facing stiff reprisal and retaliation from those who are accused or alleged of wrongdoing.

Because of this, a number of laws exist to protect whistleblowers. Some third party groups even offer protection to whistleblowers, but that protection can only go so far. Whistleblowers face legal action, criminal charges, social stigma, and

termination from any position, office, or job. Two other classifications of whistleblowing are private and public. The classifications relate to the type of organizations someone chooses to whistle-blow on: private sector, or public sector. Depending on many factors, both can have varying results. However, whistleblowing in the public sector organization is more likely to result in criminal charges and possible custodial sentences. A whistleblower who chooses to accuse a private sector organization or agency is more likely to face termination and legal and civil charges.

Deeper questions and theories of whistleblowing and why people choose to do so can be studied through an ethical approach. Whistleblowing is a topic of ongoing ethical debate. Leading arguments in the ideological camp that whistleblowing is ethical maintain that whistleblowing is a form of civil disobedience, and aims to protect the public from government wrongdoing.

In the opposite camp, some see whistleblowing as unethical for breaching confidentiality, especially in industries that handle sensitive client or patient information. Legal protection can also be granted to protect whistleblowers, but that protection is subject to many stipulations. Hundreds of laws grant protection to whistleblowers, but stipulations can easily cloud that protection and leave whistleblowers vulnerable to retaliation and legal trouble. However, the decision and action has become far more complicated with recent advancements in technology and communication. Whistleblowers frequently face reprisal, sometimes at the hands of the organization or group they have accused, sometimes from related organizations, and sometimes under law. Questions about the legitimacy of whistleblowing, the moral responsibility of whistleblowing, and the appraisal of the institutions of whistleblowing are part of the field of political ethics.¹⁴

¹⁴<https://en.m.wikipedia> (Accessed on 12.11.22017)

Performance of the Right to Information Act, 2005

The passage of RTI Act has up to a certain extent infused transparency and accountability in the working of public departments. This has increased the efficiency of decision making process. This has led to reduction in corruption in the country as evident from the following:

- i) The Transparency International (TI) has reported that perceived corruption in India (a score of 3.5 out of 10) has declined at the rate of about 15-20 per cent per year, due mainly to the implementation of the RTI Act.
- ii) The Centre for Media Studies in collaboration with TI has recently accomplished an all India survey study (un-published) of the poor below the poverty line. The views of the poor have been elicited in respect of all the flagship programmes that have been implemented for alleviation of poverty. At least 40 per cent of the respondents have reported that corruption has declined.
- iii) It has also been observed that wherever NGOs are actively involved in the development activities, the perceived corruption is abysmally low. The progress of RTI Act has been studied by Society for Participatory Research in Asia (PRIA) in August 2006.

Most of the PIOs at state level and district level are not cooperative and they sometimes threaten applicants to withdraw applications. PIOs should be given more training so that they are sensitive to people's need and PIOs who are guilty of deliberate denial of information should be penalized. Eleven years of implementation and the Act is considered to be the best thing that could happen to good governance.

People are still filing the RTI's but the wait for a final resolution seems to be getting longer.¹⁵

Growth Parameters of RTI

RTI has been experiencing phenomenal growth overtime. The number of public authorities listed registered with Central Information Commission's (CIC) database has increased from 938 in the year 2005-2006 to 20,30 in the year 2014-2015 with the number falling from 2012 to 2013 onwards. Number of public authorities, which submitted annual returns relating to RTI, has increased from 837 in 2005-2006 to 1,651 in 2013-2014 but their percentage has come down from 89.23 percent in 2005-2006 to 72.54 per cent in 2013-2014 and further improved to 75.27 per cent in 2014-2015. Number of RTI application has experienced phenomenal increase between 2005-2006 and 2014-2015. The number of applications was 24,436 in 2005-2006 and rose to 845,032 in ther year 2014-2015 thus registering 35 times increase. Another positive development in the field of RTI is that the rejection rate of the application has come down from 13.9 per cent in 2005-2006 to 8.39 percent in 2014-2015. Disciplinary action taken against officers in respect of the administration of RTI Act has followed an erratic trend. The number of cases was 2 in 2005-2006 which increased to 432 in the year 20110-2011, came down to 28 in the year 2011-2012, again rose to 502 in the year 2012-2013 and drastically fell to just 8 and 4 in the years 2013-2014 and 2014-2015, respectively. Total numbers of fees, additional charges and penalty levied have shown continuous increase over the period. For example, the amount was Rs. 509,000 in the year 2005-2006 which increased to Rs.10.5 million in 2014-2015 (see Table II/1).

¹⁵ T Chatterjee, *Documentation in Public Administration*, Indian Institute of Public Administration, Vol. XLIV, July-September, 2016, No.3.

Table II/1: Growth Parameters of RTI

Year	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Total no. of public authorities listed/registered	938	1,412	1,597	1,770	1,847	2,149	2,314	2,333	2,276	2,030
No. of public authorities who submitted annual return (%)	837 (89.23)	1,168 (82.72)	1,382 (86.54)	1,528 (86.33)	1,427 (77.6)	1,452 (67.5)	1,593 (68.8)	1,864 (79.9)	1,651 (72.54)	1,528 (75.27)
Total No. of requests received	24,436	183,424	287,187	326,520	626,748	437,744	705,976	886,681	926,630	845,032
Total no. of Rejected request (%)	3,387 (13.9)	15,388 (9)	18,966 (7.20)	23,954 (7.26)	34,057 (6.43)	21,413 (5.1)	52,313 (8.3)	62,231 (7.7)	60,127 (7.21)	63,351 (8.39)
Total number of cases where disciplinary action was taken	2	7	20	9	35	432	28	502	8	4
Total amount of fees, additional charges and penalty levied (in Rupees)	508,749	3,071,167	4,356,782	5,539,162	8,548,568	8,086,216	10,059,199	12,030,964	11,406,379	10,507,823

Source: Data compiled from *Annual Reports of the years from 2007-2008 to 2014-2015 of CIC.*

Even in the State of Mizoram, the RTI Act is gaining momentum as individuals, NGOs and Community Based Organizations are becoming have realized the significance of the Act deeper and come forward to the rescue of the people who are deprived of their rights. Table II/2 shows that the number of RTI users is steadily increasing in the State of Mizoram since its inception. In spite of the fluctuations in the applications received by SPIOs between 2006-2007 and 2010-2011, it is notable

that there is a significant trend that the applications received by SPIOs between 2011-2012 and 2016-2017 is increasing without any decline till 2016-2017 which indicates a phenomenal growth of applications filed under the RTI Act, 2005. In a nutshell, the implementation of the RTI Act, 2005 in Mizoram has been one of the most important landmarks in the history of legislations thus far.

Table No.II/2: Computation of Applications received by SPIOs, 1st Appeals by Departmental Appellate Authorities (DAAs), 2nd Appeals and Complaints by Mizoram Information Commission year-wise.

Year	Applications	1st Appeals	2nd Appeals	Complaints to MIC
2006-07	476	6	1	6
2007-08	371	2	5	9
2008-09	177	2	5	15
2009-10	695	8	3	13
2010-11	741	12	8	12
2011-12	1045	2	8	16
2012-13	1316	17	1	8
2013-14	1750	42	11	10
2014-15	1593	14	10	10
2015-16	2144	23	7	22
2016-17	1642	3	4	7
Total:	11950	131	63	128

Source: *Right to Information Act, 2005, Annual Report 2016-17, Mizoram Information Commission.*

Summary

This chapter has outlined the wider meaning and implications than those of the government. The concepts of good governance and transparency has been dealt with in a more detailed and systematic way. The process of consultation with the participation of citizens in decision making would gradually become more pronounced in order to ensure more accountability. At the same time good citizenry would also need to be emphasized for all round development of the society. Besides enjoying their rights, the citizens would need to behave responsibly and perform their

duties towards the state. Clearly defined ethical standards would also have to be instilled in the contemporary society. In order to achieve all this, innovative use of information technology would be critical.

The essential qualities of good governance have been brought out in more qualitative connotations, how it deals with the capacity of the government to formulate and implement and how it discharge its functions. The distinction of the the concept of governance and transparency and their relative terms and theories has been discussed in detail. It examines the framework of good governance with the global, national and state level perspectives. The links between RTI and the elements of good governance has also been highlighted.

The role and vulnerability of whistleblowers is given briefly. It has been highlighted how the positions of whistleblowers can turn against them and become the victims of their own rights. It also discussed the privileges of whistleblowers as where such bodies like Lokayukta or Lokayukta do not exist, the Whistleblowers Bill permits the State Government to designate any authority to inquire into complaints of wrongdoing and protect the whistleblower.

It also traces the growth parameters of RTI Act in India and Mizoram after ten years of experiencing the RTI Act, 2005, and it delineates that transparency and RTI are complementary to each other and that the right to information itself is an offshoot of the freedom of speech and expression, a constitutionally guaranteed right under the Indian Constitution.

CHAPTER III

Main Provisions of RTI Act, 2005

The last chapter was the second chapter of the present study which has dealt with the different aspects of good governance and transparency. If the power of the state, exercised in improper ways then the poor will suffer the most, as poor governance generates and reinforces corruption, poverty etc. So, it is essential to strengthen the governance and it is also the precondition for to improve the lives of the poor. Many significant efforts or initiatives have been launched to improve the quality of the governance, over the past few years. With the introduction of these initiatives it is indicated that the existing political system is very much willing to respond to the increasing challenges of the governance.

India is the largest democratic country in the world having 81.5 crore voters as per General Elections of 2014. However, the quality of democracy is essential for socio- economic development and justice. The very purpose of the RTI Act is to strengthen democracy and ensure good governance in the country.¹ India's RTI Act is claimed as one of the world's best law with an excellent implementation track record. It is one of the most empowering and most progressive legislations passed in the post Independent India. From the day the Act came into force, enlightened citizenry had started using the law by making information requests in order to get the police to act or get their entitlements of food grain under the public distribution system or expose the corrupt officials.

The Right to Information Act 2005 came into force on 12th October, 2005. The Act extends to the whole of India except the State of Jammu & Kashmir. This Act will have jurisdiction over every public authority in the country. In States, which

¹ *The Tribune*, Chandigarh, March 1, 2015, p.14.

have already passed or plan to pass such laws, both the state and the Central Acts will co-exist - giving citizens a choice. According to the Act, 'Information' means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force. In keeping with best practice in some of the Indian States, information has been broadly defined to permit the inspection of public works, including taking samples of materials. The definition also includes 'information relating to a private body which can be accessed by a public authority under any law'.

The main objective of the Act, as stated in the Preamble of the Act, is to provide for setting out practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability and also to contain and prevent corruption in the working of every public authority. The provisions of the Act included obligations of Public Authorities; constitution of Information Commissions under Central and State Governments; designation of Departmental Appellate Authorities (DAASs), Public Information Officers (PIOs) ² and Assistant Public Information Officers (APIOs) and the power to make rules by various competent authorities. All the Departments and Undertakings of various Governments and other Bodies established, constituted, owned, controlled or substantially financed by governments including Non-Governmental Organizations (NGOs) come under RTI Act.

Under the Act, every citizen of India has the right to seek, access and obtain information (apart from some exceptions) which are held by or under the control of

² *ibid.*

any Public Authority. Information includes inspection of work, documents, records, taking notes, extracts or certified copies of documents or records, taking certified samples of materials, 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 computer or in any other device. An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.³

When a request for information has been rejected, the State Public Information Officer shall communicate to the person making the request- the reasons for such rejection, the period within which an appeal against such rejection may be preferred, and the particulars of the Appellate Authority. An appeal against the decision of PIO should be lodged within thirty days before the First or Departmental Authority (DAA) designated by the concerned authority. Fourthly, a person desirous of obtaining under the Act has to make a request in writing to the Central Public Information Officer (CPIO) or State Public Information Officer (SPIO). Such application can be made either in English, Hindi or in the official language of the area in which the application is made.

Fifthly, the CPIO or the SPIO shall provide the required information or reject the request within 30 days of receipt of such request. But, information concerning the life and liberty of a person has to be given within 48 hours from receipt of the application. Sixthly, the CIC or SIC has the power to impose penalty upon, and to recommend disciplinary actions against, the PIO on grounds specified under the Act. It is interesting to note here that Courts (Civil and Criminal) have no jurisdiction under this Act.

³ N.K. Jain, *Right to Information, Concept, Law and Practice*, 2007, p.60.

The Act ensures time-bound delivery of information within thirty days of receipt of request. However, information concerning the life and liberty is to be provided within forty eight hours. The Act in Sec 8 mentions certain exemption with regard to the disclosure of information. The institutional mechanism under RTI Act includes setting up of PIO for providing information sought under RTI and Appellate Authority for redressing the grievances of complainant relating to the Act, institutions, namely; Central Information Commission (CIC) and State Information Commission (SIC) are set up at the Centre and State levels respectively to oversee the implementation of RTI Act hear the grievances of citizens and redress them and impose penalty on errant officials.

Every state has to constitute a State Information Commission to exercise the powers conferred on, and to perform the functions assigned to it under the Act. The State Information Commission shall consist of the State Chief Information Commissioner and the State Information Commissioners, not exceeding ten.⁴ The procedure for seeking information under the RTI Act is simple and easy. The applicant only needs to write an application with details pertaining to the information being sought. The process of getting information under the Act is shown in Figure III/1.

The obligations of the Information Commissioners are to:-

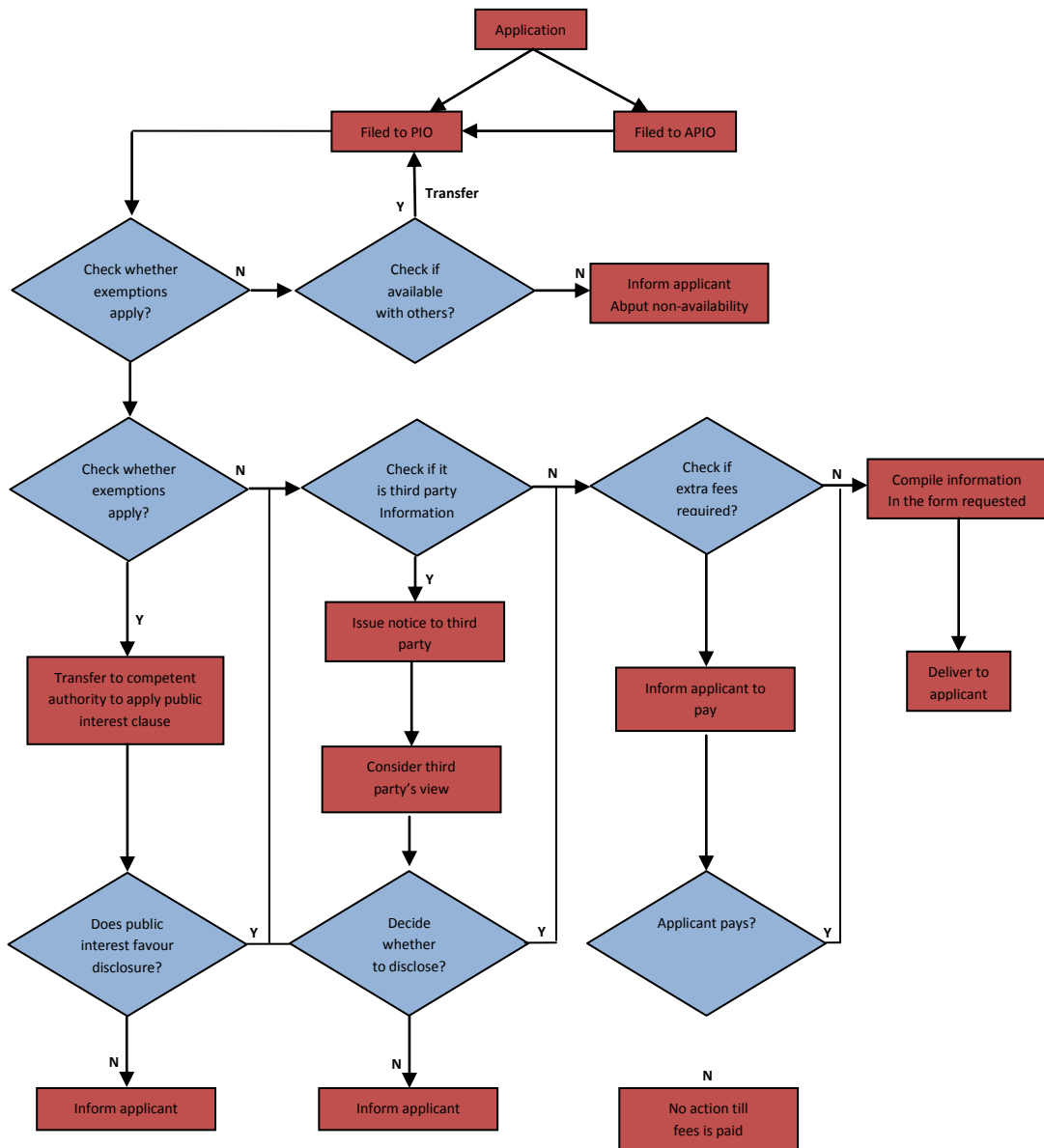
- 1) receive and enquire into complaints (Section 18[1]),
- 2) give notice of decisions, including any right of appeal, to the complainant and the public authority [Section 19(9)]
- 3) decide on appeals in accordance with the procedure (Section 19[10]) and

⁴ J.K. Singh, *Right to Information and Freedom of Press*, 2014, New Delhi, p. 68.

- 4) prepare a report on the implementation of the provision of the Act (Section 25[1];

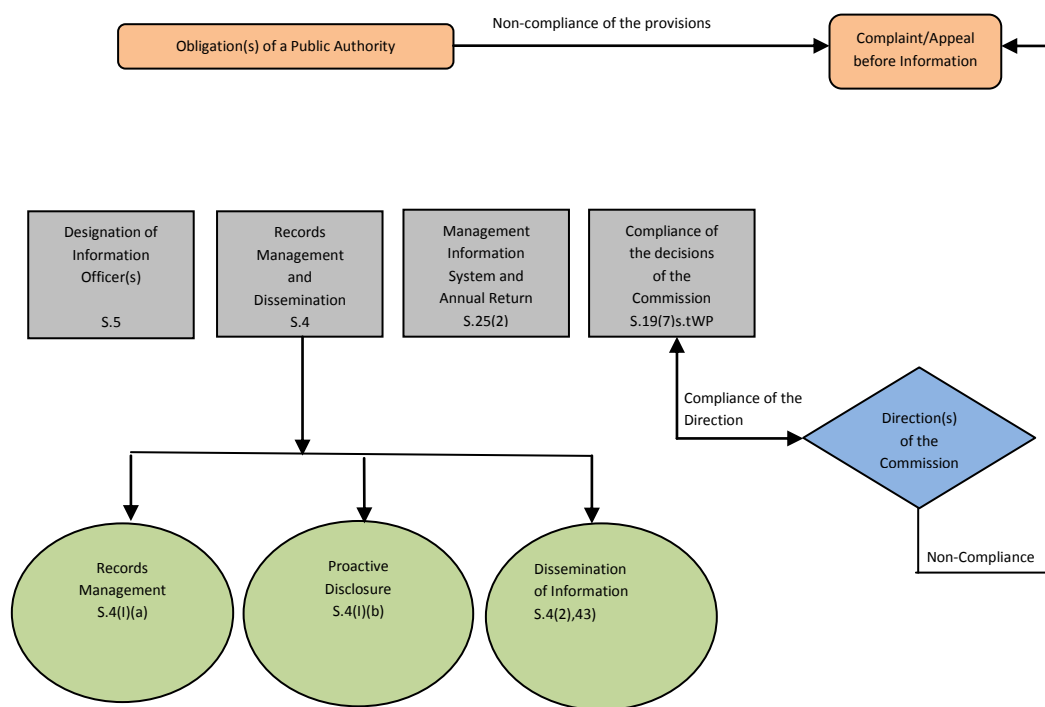
The Act places certain obligations on public authorities and information commissions, compliance of which is important for the successful implementation of the Act (See figure 2).

Figure III/1: Flowchart of the Process Involved in Getting Information under the Act.



Source: Government of India (2006).

Figure III/2: Framework of Compliance



Source: *Shreyaskar (2013).*

Right to Information and Public Services

There is an interesting variation on promoting disclosure by private bodies. It has been designed to keep the onus on the Government to collect information from private bodies, rather than requiring the public to chase private bodies themselves. It empowers all individuals by providing penalties on erring officials for not providing information or misinforming, and thus ensures administration accountable, and to bring transparency in sections of the government like intelligence and security agencies.

Under the Act, ten categories of information are exempted from disclosure. However, it allows a public authority to disclose even exempted information if disclosure is in public interest for instances human rights violations or corruption.

Information Exempted from Disclosure

Under the Act, the following categories of information are exempted from disclosure. However, it allows a public authority to disclose even exempted information if disclosure is in public interest like human rights violations or corruption : (i) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence.

(ii) Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court. (ii) Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature. (iv) Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

(v) Information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.

(vi) Information received in confidence from foreign governments.

(vii) Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.

(viii) Information which would impede the process of investigation or apprehension or prosecution of offenders.

(viii) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers.

Exempted Intelligence and Security Organization (Section 24)

1. Intelligence Bureau (IB)
2. Research & Analysis Wing (R&AW)
3. Directorate of Revenue Intelligence (DRI)
4. Central Economic Intelligence Bureau
5. Directorate of Enforcement
6. Narcotics Control Bureau
7. Aviation Research Centre
8. Special Frontier Force
9. Border Security Force
10. Central Reserve Police Force
11. Indo-Tibetan Border Police
12. Central Industrial Security Force
13. National Security Guards
14. Assam Rifles
15. Special Service Bureau
16. Special Branch (CID), Andaman and Nicobar
17. The Crime Branch-C.I.D. - CB, Dadra and Nagar Haveli
18. Special Branch, Lakshadweep Police

The exclusion of the above organizations, however, is not absolute. These organizations have an obligation to provide information pertaining to allegations of corruption and human rights violations. Further, information relating to allegations of human rights violation could be given but only with the approval of the Central or State Information Commission.

Appellate Bodies: There will be independent information commissions at the central and state levels to enforce the Act, and Right to Information and Public Services impose harsher penalties on officials who do not comply. In case of any information termed as ‘confidential’, provisions have been made for additional fifteen days third party hearing and provide the information sought. Similarly, although information about the private sector cannot be sought directly, it can be accessed by a public authority under any other law for the time being in force.

Thus, this Act chiefly provides:

1. The President will appoint a Chief Information Commissioner and Governors of states State Information Commissioners to implement the Act. They will be autonomous functionaries with five-year terms.
2. The Chief Information Commissioner and State Information Commissioners will publish an annual report on the implementation of the Act.
3. The annual reports will be tabled before Parliament/state legislatures.
4. ‘Information’ about events that took place ten years before the date of request can be provided.
5. Provision for varying penalties or fines (Rs. 250 per day and to a maximum of Rs. 25,000) for delaying without reasonable cause beyond the stipulated thirty days, including malafide refusal to give or destroying information or knowingly giving out wrong information to an RTI applicant.
6. Government bodies have to publish details of staff payments and budgets.
7. An applicant has been given the choice to make a request either under provisions of the Central Act or the State Act. (Eight State governments have their own Right to Information laws).

Appeal Procedure

According to Appeal Procedure, **First** Appeal has to be filed with the senior officer of the concerned PIO within ninety days, failing which the **Second** Appeal can be filed with the Central/State Information Commission (CIC). Suggestive contents of Appeal have been given at the end of this chapter.

Road Map:

Who – Every Indian citizen can seek any information, which is not sensitive and having no security implications.

What – Any information, which is normally available to a Member of Parliament or Member of Assembly, related to any occurrence, event or matter that has taken place twenty years before the date on which the request is made. There is no need to give reasons for seeking information.

Where – Every Department has a Public Information Officer (PIO) to facilitate the process. A detailed list of PIO (along with contact details) is available.

Whom - In case of any difficulty, send your request to the concerned PIO c/o concerned Head of the Department. Information can be sought either under the Central Act or the concerned State's Act, depending on the choice of the Application. There are nine State Governments which have their respective information laws.

How – File an RTI application stating the details of the information being sought on a blank sheet of paper with an Application Fee of Rupees ten to the concerned APIO/PIO of the Department concerned.

When – Time limit to get the information is 30 days from the date of application. Five days are to be added in case the Application has been submitted to the Assistant Public Information Officer. If an interest of a third party is involved, then the time limit is forty days. Failure to provide information within the specified period is

deemed as refusal. In case the information sought relates to life and liberty of a person, the time limit is 48 hours.

Appeal - Failure to provide information, including not accepting Application, delaying information without reasonable cause, malafidely denying information, knowingly giving incomplete, incorrect, and misleading information, destroying or obstructing the furnishing information without reasonable cause is considered a deemed refusal. In such cases, the Applicant is advised to appeal to the next higher officer to the APIO/PIO whom the Application was initially submitted. If he is also failed to satisfy, then the Applicant can file his appeal to the Central Information Commission or the concerned State Information Commission.

Penalty - After the specified time limit, every PIO is liable for a fine of Rs. 250/- per day, up to a maximum of Rs. 25,000/-, for failure or delaying information without reasonable cause.

Genesis and Development of Right to Information Regime in India

After Independence in 1947, there had been two major landmarks in the process of India's governance. The Indian Constitution is considered the cornerstone of social revolution. The founding fathers of the Constitution have given India a sovereign, socialist, secular, democratic and republic status; it has been their major endeavor to secure for the citizens of India, social, economic and political justice, liberty, equality, dignity of individuals and unity and integrity of the Indian nation.

To achieve these objectives, India ushered in a planned economic development to raise standards of living and to open for the people of India new opportunities for a rich and varied life. Passage of a national level law, however, proved to be very difficult task.⁵ The approach to development, however, did not

⁵ J.K. Singh, *Right to Information and Freedom of Press*, 2014, p.42.

mean augmenting of resources but a process of building institutional framework adequate to the need and aspirations of people. Therefore, stress was laid on politico-administrative set-up as a prerequisite to successful implementation of the plan document. These prerequisites being: (i) a large measure of agreement among the members of community as to the end of policy; (ii) effective power, based on active cooperation of citizens; and (iii) efficient administrative set-up with personnel of requisite capacity and quality.

In the initial period, politico-administrative reform was rather ad hoc and slow. Various committees headed by N.Gopaldaswami Ayyenger (1949) and A.D.Gorwala (April, 1951) suggested measures for improvement in methods of transaction of government business for ensuring efficient and impartial administration as the first condition to the success of the administrative machinery to ensure greater speed, effectiveness and responsiveness. Similarly, Paul H.Appleby, in his two reports submitted in 1953 and 1965 strongly stressed on citizens' satisfaction as a part and parcel of administrative reforms outcome in India.

Besides, Asoka Chanda in 1954 suggested ways to remove delay in execution of projects. T.T. Krishnamachary's report dealt with training of IAS officers and improvement in District Administration. K Santhanam's report dealt with corruption. In January, 1966, a high-powered Administrative Commission was set up to give consideration to ensuring the highest standard of efficiency and integrity in public services, making public administration a fit instrument for carrying out the social and economic policies of the government and achieving social and economic goals of development as also one which is responsive to the people.

In the Conference of the Chief Secretaries of States/ Union Territories on Effective and Responsive Administration in November 20, 1996 followed by a

Conference of Chief Ministers on May 24, 1997, it was recognized that governance has to extend beyond conventional bureaucracies and to involve actively citizens and customer groups at all levels to empower and inform the public and the disadvantaged groups, so as to ensure service delivery and programme execution through autonomous elected bodies.

As a result of these two high level Conferences and efforts of the Department of Administrative Reforms and Public Grievances (DARPG), Citizen's Charter has been finalized by the end of the financial year, 1997- 98 by various Central departments and agencies, and by the government of NCT, Delhi, Haryana and Tamil Nadu. Model charters have also been prepared for the Targeted Public Distribution System (TPDS) by the Ministry of Food and Consumer Affairs. The DARPG has been coordination the entire exercise with the involvement of consumer groups.

Thus, in India, consensus has been at least emerged on achieving the goals of accountability, citizen-friendly government, transparency, right to information and improving performance and integrity of public services at the Central and State levels. It is against this administrative backdrop and support that a movement for right to information in the country had gained momentum in the late 90s, leading to its actual realization in the year 2005 after a long journey.

The Need for the Right to Information

In recent years, there has been an almost unstoppable global trend towards recognition of the right to information by countries intergovernmental organizations, civil society and the people. The right to information has been recognized as a fundamental human right, which upholds the inherent dignity of all human being. The right to information forms the crucial underpinning participatory democracy– it is essential to ensure accountability and good governance.

The movement for the right to information has caught the imagination of disparate sets of people. It has touched the middle classes as well as the poor because of the despair of their unending interface with a corrupt bureaucracy.⁶ The greater the access of the citizen to information, the greater the responsiveness of government to community needs. Alternatively, the greater the restrictions that are placed on access, the greater the feelings of ‘powerlessness’ and ‘alienation’. Without information, people cannot adequately exercise their rights as citizens or make informed choices.

However, the free flow of information remains severely restricted by three factors:

- › The legislative framework includes several pieces of restrictive legislation, such as the Official Secrets Act, 1923;
- › The pervasive culture of secrecy and arrogance within the bureaucracy; and
- › The low levels of literacy and rights awareness amongst India’s people.

Access to information held by a public authority was not possible until 2005.

Lack of Information barred a person to realize his socio- economic aspirations, because he had no basis to participate in the debate or question the decision making process even if it was harming him. Official Secrets Act, 1923 acted as a relic of colonial rule covering everything in secrecy. The common people did not have any legal right to know about the public policies and expenditures. It was quite ironical that people who voted the persons responsible for policy formation to power and contributed towards the financing of huge costs of public activities were denied access to the relevant information.

This culture of secrecy resulted in fertile growth of corruption. In face of non-accountability of the public authorities and lack of openness in the functioning of

⁶ *Opcit.*, p. 40

government, abuse of power and corrupt diversion of the public money was the order of the day. Limitations to the free flow of information led to the germination of feelings such as ‘powerlessness’ and ‘alienation’ among the citizens.

It has been realized by most of the countries that greater access of the citizens to information enhances the responsiveness of government to community needs. In turn, this facility provides a platform of public grievances and thus improves feeling of goodwill towards the government. Under such circumstances, public and various NGOs demanded greater access to the information held by public authorities. This law would lay down the procedure for translating this right into reality. In this Age of Information, its value as a critical factor in socio-cultural, economic and political development is being increasingly felt. In a fast developing country like India, availability of information needs to be assured in the fastest and simplest form possible. This is important because every developmental process depends on the availability of information. Right to know is also closely linked with other basic rights such as freedom of speech and expression and right to education. Its independent existence as an attribute of liberty cannot be disputed. Viewed from this angle, information or knowledge becomes an important resource. An equitable access to this resource must be guaranteed.

RTI and Civil Society Organizations (CSO)

The Civil Society is one of the key actors in governance; a pro-active Civil Society is a key instrument for securing good governance. Civil Society could be defined as 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 delivering welfare services, social workers in private practice etc. Therefore, any people’s association or organization can be referred to as a Civil Society Organization (CSO). They work at international, national and local levels and play different roles like capacity building, asset creation, representation, lobbying, advocacy, service delivery etc. Figure III/1 below illustrates the involvement of Civil Society within a society. Each of the three large circles represents the whole of ‘society’, and the smaller circle within it represents the portion of ‘society’ that can be included within ‘Civil Society’. When the Civil Society is highly vocal, then the inner circle is almost as big as the outer circle. When the Civil Society is vibrant but less vocal, then the inner circle is much smaller. If the Government is more hostile to Civil Society, then the inner circle further shrinks showing least participation.

Figure III/1: Involvement of Civil Society in relation to Society.



Source: Right to Information Act, 2005, *A Guide for Civil Society Organizations:* July, 2006, p.17.

The figure above is also an indication that Governments have an immense capacity to influence the shape and condition of Civil Society. The Government’s attitude, regulations, laws and policies can determine the success or failure of Civil Society. This relationship between the State and the Civil Society can become reciprocal when CSOs are empowered with increased opportunities to influence the

political and policy processes of the State. This would enhance their awareness, self-confidence, organizational strength, political skills and wider connections.

CSOs when empowered act as change agents and influence the processes of the State to make them more responsive, accountable and transparent.⁷

RTI and the Role of Mass Media

The role of media organizations assumes considerable importance in realizing the objectives of the RTI Act. The media can not only play an important role in monitoring public service delivery by invoking provisions under the RTI Act, but can also facilitate in generating awareness and capacity building on RTI among the community. Accessing freedom of the press is not a straightforward task.⁸ Thus the media performs an important role in the governance process by acting as a bridge between the community and public agencies.

The media creates the right framework of incentives for good governance, by highlighting institutional failings to guard against as well as institutional successes for replication. It lets people voice diverse opinions on governance and reform, exposes corruption and malpractices and helps build public consensus to bring about change.

Article 19 of the Universal Declaration of Human Rights adopted by the United Nations states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

The above provision only reiterates the fact that the mass media is the most important vehicle for information, knowledge and communication in a democratic polity. The media thus can play a constructive role in the governance process by

⁷ Right to Information Act, 2005, *A Guide for Civil Society Organizations*: July, 2006, p.17.

⁸ *Ibid.*

acting as a catalyzing agent for the implementation of the core provisions of the Act. As the 'fourth pillar of democracy', the media not only has an important stake in what the RTI Act purports to provide and achieve, but also in entrenching the implementation and enforcement of this significant piece of legislation. Besides, fundamentally the media aids in providing information to the citizens and building awareness among the masses on the Act. Despite the provisions that have been made to access information, citizens resort to media like newspapers, radio, television etc. for day to day information about public authorities and their activities.

The media provides a link between the citizens and their government. The media's right to information or right to tell is not a special privilege but rather, an aspect of the public's right to know. It thereby gives voice to the Citizens. As part of the civil society, the media is obligated to articulate the needs and aspirations of the people. Using the Act, the media can highlight key issues faced by the citizens, particularly those faced by the poor and voiceless. The role of the media as a watchdog on behalf of the citizens cannot be ignored. The best service that the media provides to the public, whether in a mature or emerging democracy, is that of a community watchdog. Journalists should see and perform their role keeping in mind public interest. Using RTI, the media can expose corruption and inefficiency. However, in performing a watchdog role and digging out the truth, journalists should be careful in interpreting facts and evidence.

The multi-dimensional facets of the importance of the media reiterate that the media plays the role of an honest broker of information for its readers without deliberate bias or favoritism. The media must consider its independence to be its most valuable commercial, editorial and moral asset. Maintaining its independence through professional behaviour and a code of conduct that is subscribed to by all journalists,

the media can be a powerful user of the RTI Act and an agent for the empowerment of people through an Information Society. The objective of the Act to usher in a practical regime of right to information cannot be attained without a proactive role played by the media.

Acceptance of RTI

The first people to start working on the provision of people's right to information were Nikhil Dey, Aruna Roy and Kejriwal. Nikhil Dey and Aruna Roy were working in National Commission for People's Right to Information (NCPRI) and after working with them for a while Kejriwal started his own organization; 'Kabir'. NCPRI was more into the formulation and advocacy to mobilize people in favor of the Act. The need for the same started in Rajasthan, when workers working under Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) were not able to see their muster rolls (these are official documents mentioning hours of work done by a worker and his/her estimated income). It was a mean devised by contractors and government officials to usurp the worker's share of income.

As the first step, the NCPRI and the Press Council of India formulated an initial draft of a Right to Information law. This draft, after extensive discussions, was sent to the Government of India in 1996. The Government finally introduced the Freedom of Information Bill in Parliament, in 2002. This was a very watered down version of the Bill first drafted by the NCPRI and others in 1996. Meanwhile, the NCPRI was also campaigning for state RTI acts and supporting the efforts of state governments, like Karnataka, Delhi and Rajasthan.

In August 2004 the NCPRI forwarded to the National Advisory Council (NAC) a set of suggested amendments to the Freedom of Information Act 2002.

These amendments, designed to strengthen and make more effective the 2002 Act, were based on extensive discussions with civil society groups working on transparency and other related issues and were in response to the undertaking given by the United Progressive Alliance (UPA) government, in their Common Minimum Programme, that the 'Right to Information Act will be made more progressive, participatory and meaningful.'

The NAC endorsed most of the suggested amendments and recommended them to the Prime Minister of India for further action. These formed the basis of the subsequent Right to Information Bill, introduced in Parliament on 22 December 2004. However, this bill, as introduced in Parliament, had many weaknesses. Most significantly, unlike the NCPRI suggestion, it did not apply to the whole country but only to the Union Government. The consequent outrage from civil society groups, including the NCPRI, forced the government to review the changes.

The Bill was referred to a Standing Committee of the Parliament and to a Group of Ministers. The standing committee asked several of the NCPRI members to give evidence before it, and ultimately endorsed the stand taken by the NCPRI in most matters. . In the next session of Parliament, the bill was passed after over a hundred amendments introduced by the government to accommodate the recommendations of the Parliamentary Committee and the Group of Ministers. Most important, the jurisdiction of the Bill was extended to cover the whole of India. The RTI Act then came into effect all over India, from 13 October 2005.

Summary

This chapter deals with the commencement, jurisdiction, development and important landmarks of the RTI Act, 2005 in India with strong enthusiasm of the citizens after the long experiences of the country under the Officials Secret Act, 1923. It brings out the main purpose of the RTI Act which is to strengthen the democratic set-up of the country in general and to combat maladministration and corruption in particular.

It describes the insitutional mechanisms like the PIOs and other Public Authorities, Commissions as well as the roles and responsibilities of the citizens associated with the RTI Act and liabilities of the Public Authorities without harming the spirit of unity and integrity of the nation. It shows that the free flow of information is a must for a democratic society as it helps the society to grow and retain a continuous debate and discussion among the people. It also describes where to draw a line between exemptions and disclosure of information in detail.

The need of the RTI and the different demands by civil society organizations and the role of mass media have also been discussed in this Chapter. By securing access to relevant information and knowledge, the citizens would be able to access Government performance and participate in and influence the process of policy formulation and programme implementation, particularly on issues relating to public service delivery. From the day the Act came into force, enlightened citizens had started using the law by making information requests in order to get the police to act or get their entitlements of food grain under public distribution system or expose the corrupt officials. Participation, transparency, legitimacy and responsiveness form the pillars of good governance.

CHAPTER IV

Two Case Studies of Select Departments under Government of Mizoram and the RTI Act

The last chapter was the third chapter of the present study which has dealt with the aspects RTI Rules, Regulations as implemented by the Government of Mizoram, Mizoram Information Commission and introduction about the two Departments of Government of Mizoram selected for case studies and the study of implementation of RTI in these two departments.

Constitution of the Mizoram Information Commission

For the first time, 'The Mizoram Right to Information Rules, 2006' was made effective from 27.6.2006. Now it is repealed by the 'Mizoram Right to Information Rules, 2010. Furthermore, the 'Mizoram Legislative Assembly Right to Information Rules, 2006' is also made effective from 23.3.2006. However, on 29th June, 2006, Mizoram Information Commission was constituted consisting of Chief Information Commissioner and two State Information Commissioners under Notification No. F. 13011/11/2005-IPR, the 29th June, 2006. By virtue of Section 24 (4) of the RTI Act, the Government of Mizoram had notified exemptions from applicability of the rigour of the said Act under Notification No. F. 13011/16/2005-IPR, the 27th March, 2007. The Government of Mizoram further notified 'Head of Account' to deposit fees to the government on the 25th September, 2006 in the following head of account:

0070 – Other Administrative Services

60 – Other Services

119 – Receipts under the Right to Information Act, 2005.

The Gauhati High Court (Right to Information) Rules, 2008 will also be applicable pertaining to judiciary in Mizoram as now fully implemented the scheme of Separation of Judiciary in Mizoram as per Notification Dated 1st July, 2008.¹

In accordance with this provision of the RTI Act, the Mizoram Information Commission, consisting one State Chief Information Commissioner and two State Information Commissioners, was established by the Government of Mizoram on 29th June, 2006 vide Government of Mizoram, Information & Public Relations Department's Notification No.F.13011/11/2005-IPR dt.29.06.2006 and Mizoram Information Commission was officially functioning w.e.f. 05.07.2006. The office of the Mizoram Information Commission, from the inception to till date, is accommodated in the building constructed for All India Services's Transit Accommodation at Khatla, New Secretariat Complex, Mizoram.

Mr. Robert Hrangdawla, IAS (Rtd.) was the State Chief Information Commissioner from 5.7.2006 to 1.2.2010 and Mr. K.Tlanthanga, IB(P)S (Rtd.) was the State Information Commissioner from 5.7.2006 to 30.6.2011. Also, Mr. Lal Dingliana, IFS (Rtd) was the State Chief Information Commissioner from 08.08.2011 to 07.08.2016 and Mr. L. Hrangnawna, IPS (Rtd) was the State Information Commissioner from 21.05.2012 to 31.12.2016.

State of RTI Act, 2005 in Mizoram

The Mizoram Information Commission (MIC) based on its Annual Reports, however, has been recognized as an area where from one can get real information on the actual implementation of the RTI Act, 2005 in the state as is anywhere else in India; it is from this area that anyone can get information on the actual implementation of the provisions of this Act; whether the RTI Act, 2005 has become

¹Dr. H.T.C. Lalrinchhana, *Proceedings of 2015 International Seminar on Governance in India: Problems and Prospects*, Vol. I, 2015, p. 351

instrumental in ensuring transparency or not in the State; whether the common man becomes empowered by the implementation of RTI Act, 2005.

Informations have been collected from the Annual Reports of MIC. The MIC has been publishing its Annual Reports since 2006. In Table IV/1, one interesting trend is the variation in the number of Public Authorities in Mizoram. In recent years 2006-2007, the number of Public Authorities was 125 which was a good start; it, however, fell to 57 in 2007-2008 and 67 in 2008-2009 respectively. During 2009-2013, there was fluctuation in the number of the number of Public Authorities, but the most remarkable achievement during this period is the number of Public Authorities has reached 191 in 2013-2014, which is the highest; it signifies that more and more Public Authorities have now recognized the indispensability of citizen's right to access information in the democratic governance of the country.

Table No. IV/1: Number of Public Authorities

2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
125	57	67	158	115	120	113	191

Source: MIC *Annual Reports, from 2006-2014*

Another yardstick with which a citizen can access how far the citizens or groups make use of RTI Act, 2005 is collected from the number of applications received and the response of the departmental Information Officers (SPIOs) thereto. It is interesting to note here that the number of applications has been increasing since 2009-2010, although the years 2007-2008 and 2008-2009 witnessed a significant decline in the number of applications from 476 in 2006-2007. In spite of this, there is not much differences in the percentage of disposing the applications with the exception of 59.59% in 2007-2008. (See Table IV/2)

Table No. IV/2: Implementation of the Provisions of Section 6&7 of RTI Act, 2005

No. of Applications Received (Sec.6)	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
	476	371	177	695	741	1045	1316	1750
Application disposed within prescribed time limit. (Sec.7)	410	221	135	715	586	850	1095	1523
	86.13 %	59.56 %	76.27 %	102.88 %	79.08 %	81.33 %	83.20 %	87.02 %

Source: MIC Annual Reports, from 2006-2014

In Table IV/3, Section 8 and Section 9 of RTI Act, 2005 have been used to measure the veracity of the RTI Act and whether this Act has been a user-friendly or not. Under Section 8, the number of applications denied information has been less than ten since 2006, and it is to be noted that it is 'Nil' in 2009-2010, which is an indication of its veracity. In the meantime, information given on the ground of larger public interest under Section 8 has been ceases; it was 'Nil' with the exception of one each in 2010-2011 and 2011-2012.

Table No. IV/3: Implementation of the Provisions of Section 8&9 of RTI Act, 2005

	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
No. of applicants denied information under Sec.8	7	6	1	Nil	8	5	5	4
No. of applicants given information under Sec.8 on the ground of larger public interest.	13	5	17	39	31	18	4	39
No. of applications rejected on the ground specified under Sec.9	Nil	Nil	Nil	Nil	1	1	Nil	Nil

Source: MIC Annual Reports, from 2006-2014

Right to life and liberty are recognized as sacred rights of an individual and the RTI Act, 2005 under Section 7 (1) has also acknowledged it. If an application is submitted concerning the life and liberty of an individual, the required information should be obtained within 48 hours of filing the application. Therefore, how far this Act has been instrumental in getting information concerning the life and liberty of an individual can also be an effective yardstick to assess the practicability of the Act. In Table IV/4, the numbers of applications received concerning the life and liberty of a

person may not be many, but their very existences suggest that this RTI Act, 2005 has been contributory in caring the life and liberty of an individual.

Table No. IV/4: No. of applications received concerning life and liberty of a person

2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
3	Nil	5	1	8	4	7	6

Source: MIC *Annual Reports, from 2006-2014*

The Right to Information Act, 2005 promises to promote transparency and accountability in the working of every public authority. This Act is supposed to enable people to responsibly scrutinize government officials and legal processes. However, there are certain issues of bureaucratic and political cultures and secrecy which are used to centralized control of information in Mizoram.

The Mizoram RTI Rules, 2006

As per the notification (Vide No.F.13011/4/2005-IPR) made by the Government of Mizoram, the two Departments, Land Revenue and Settlement Department and the Disaster Management and Rehabilitation Department put the Right to Information Act, 2005 into effect from the 21st June, 2006 in these two Departments accordingly. The introduction of the RTI Acts and Rules has helped these two Departments in achieving the vision of a democratic welfare state so as to make a stable government based on democracy or popularity in the government. The public authority and the public have been moving side by side and cooperate with each other for efficient and smooth administration.

Notification

No.F.13011/4/2005-IPR, THE 21st June, 2006. In exercise of the power conferred by Section 27 of the Right to Information Act (No.22 of 2005), the Governor of Mizoram is pleased to make the following rules, namely:-

Rule 1. Short title and commencement:

- (1) These may be called the ‘**Mizoram Right to Information Rules, 2006**’.
- (2) They shall come into force from the date of their publication in the Mizoram Gazette.

Rule 2. Definitions:

- (1) In these rules, unless the context otherwise requires-
 - (a) ‘Act’ *means* the right to Information Act, 2005 (No.22 of 2005]
 - (b) ‘**BPL Card**’ means a card issued to any citizen who is below the poverty line.
 - (c) ‘**fee**’ *means* amount payable by the applicant for obtaining any information under the provisions of sub-section(1) of Section 6 of the said Act, excluding the cost of providing information;
 - (d) ‘**form**’ *means* the form appended to these rules;
 - (e) ‘**identity**’ *means* an evidence to show the citizenship like an electoral photo identity card, a passport or any other document which can satisfy the authority about citizenship of the person;
 - (f) ‘**Nodal Officer**’ means the Secretary to Government of Mizoram, Information & Public Relations Department;
 - (g) ‘**Public Information**;’ *means* the State Public Information Officer designated under sub-section(1) of Section 5 of the Act and includes an

Assistant Public Information Officer designated as such under sub-section(2) thereof;

- (h) **‘Appellate Authority’** means persons designated as such by the public authority.
- (i) **‘Schedule’** means the Schedule appended to these rules;
- (j) **‘State Government’** means the Government of Mizoram.
- (k) **‘Commission’** means the Mizoram State Information Commission.
- (2) Words and expressions used but not defined in these rules shall have the meaning as assigned to them in the Act.

Rule 3. Appointments & Obligations of Public Information Officers:

- (1) A public authority, if it is a Department of State Government, shall designate as many officers as it deems proper, not below the rank of Under Secretary, as Public Information Officers and first Appellate Authority/Departmental Appellate Authority shall be Secretary to the Government of the concerned department.
- (2) In each subordinate office of the Department of Government including the Heads of Department or the officers in the district and Sub-divisional level, the head of such offices shall designate as many officers as they may deem proper as Public Information Officers and Assistant Public Information Officers.
- (3) Every public authority other than those mentioned in sub-rule(2) of the said rule 3 shall be the head of the Department concerned;

Provided that every such public authority shall, while designating such officers as Public Information Officers so designated, ensure that an

officer higher in rank to Public Information Officers is available to be specified as Appellate Authority.

- (4) If, for any reason beyond the control of Public Information Officer, furnishing of information is delayed, he shall record reasons with justification thereof and shall communicate to the head of the office about such delay.

Rule 4. Procedure to obtain information:

- (1) A citizen desirous of any information may apply for information in form A to the Public Information Officers, with the required fee in the form of Treasury Challan or cash as specified in the Schedule under the appropriate Head of Account:

Provided that the application fee shall not be payable in case of persons whose name appears in the latest list of persons below poverty line for which he has to produce *BPL Card*.

Provided that a citizen seeking information through electronic means has to submit evidence regarding deposit of prescribed application fee.

- (2) The Public Information Officer or any other officer authorized by him shall furnish the acknowledgement and after being satisfied with the identity of the applicant shall also intimate in form B as soon as possible the amount of cost for providing information required to be paid by the applicant in cash, as mentioned in the Second Schedule. (Part I & II).
- (3) The applicant may deposit the said amount within the period of fifteen days from the date of receipt of such intimation, failing which the application shall stand rejected.

Rule 5. Information regarding rejection:

- (1) Where a request has been rejected under sub-section (1) of Section 7, the Public Information Officer shall intimate the applicant, the reasons for such rejection in Form C.
- (2) Wherever information applied for is available in electronic means, the Public Information may advise in Form C to the applicant to obtain the information from the appropriate website to be specified by the Public Information Officer.

Rule 6. Appointment of State Chief Information Commissioner and State Information Commissioners:

There shall be a State Chief Information Commissioner and two (2) State Information Commissioners in the Commission. The appointments of State Chief Information Commissioner and State Information Commissioner, their terms and office, conditions of service and removal from office, shall be governed by the relevant provisions of the Act.

Rule 7. Meeting of recommending Committee:

For the purpose of the appointment of the State Chief Information Commissioner and the State Information Commissioners under sub-section(3) of Section 15, the Nodal Officer/Secretary to the Government of Mizoram of the Nodal Committee, convene meeting of the Committee for their recommendation

Rule 8. Salaries & Allowances of the State Chief Information Commissioner and the State Information Commissioner:

Subject to the conditions of Sub-Section(5) of Section 16, the scale of pay of the State Chief Information Commissioner and State Information Commissioner shall be fixed as under:-

- (a) State Chief Information Commissioner-Rs 30,000 fixed.
(Revised to 90,000)**
- (b) State Information Commissioner-Rs. 26,000 fixed **(Revised to 80,000)**
[** Revision of pay vide Notification No.A.26019/1/09-FIN(PRU) dt.2nd September, 2010]

Rule 9. Officers and Staff of the Commission:

The Commission shall have the Officers and Staff as indicated in column 2 of the First Schedule.

- (a) The posts shall be filled up either by direct recruitment, or by deputation of Government servants of equivalent rank from any department of the State Government, Public Sector Undertakings, Government of India or by outsourcing.

Provided that the outsourcing shall be restricted to posts of Group 'D' employees (cleaning, housekeeping, home orderlies and security guards).

- (b) The method of recruitment shall be in accordance with the Mizoram Secretariat Service Rules or Service Rules of any other equivalent posts of the State government.
- (c) The allowances and facilities of officers and staffs working in the Commission shall be at par with other State Government employees of equivalent rank.
- (d) The rules governing conditions of service and disciplinary matters of the State Government employees shall mutatis-mutandis apply to the employees of the Commission subject to the modification as may be noticed by the State Government.

Rule 10. Appeals:

- (1) An appeal under sub-section (1) of section 19 shall be filed in form D to the officer as designated by the Public Authority to hear such appeal.
- (2) The Memorandum of appeal shall be accompanied with such fees as specified in the Second schedule which shall be paid in the form of court fee stamp.
- (3) Any person aggrieved by the decision under sub-section (1) of section 19, may prefer a second appeal before the Commission under sub-section (3) thereof in form E which shall be accompanied with such fee in the form of court stamp fee as specified in the Second Schedule.
- (4) The appeal preferred under sub-rules (1) and (3), if not accompanied with the required fee, shall be rejected by the concerned Appellate Authority, but no fess is payable by the applicant holding a BPL Card.
- (5) *Documents to accompany appeal:* Every appeal made to the First Appellate Authority or Commission shall be accompanied by the following documents namely:-
 - (i) self-attested copy of the order against which the appeal is being preferred;
 - (ii) copies of documents relied upon by the appellant and referred to in the appeal; and
 - (iii) an index of the documents referred to in the appeal.
- (6) *Service of notice by the Commission or Appellate Authority:*

Notice is to be issued by the Commission or by the Appellate Authority and shall be served in any of the following modes, namely:-

- (i) service by the party itself
 - (ii) by hand delivery (Dasti) through Notice Server,
 - (iii) by registered post with acknowledgement due;or
 - (iv) through Head of Office or Department.
- (7) *Place of sitting of the Commission:* The Commission shall ordinarily sit in the State Capital i.e. Aizawl or at such other place or places as may be directed by general or special order by the Commission for the disposal of a particular case or cases.
- (8) *Procedure in deciding appeal:* In deciding the appeal, the Commission or the Appellate Authority may:-
- (i) hear oral or written evidence on oath or on affidavit from concerned or interested person(s);
 - (ii) peruse or inspect documents, public records or copies thereof;
 - (iii) enquire through authorized officer further details or facts;
 - (iv) hear State Public Information Officer, State Assistant Public Information Officer or such Senior Officer who decide the first appeal, or such person against whom the complaint is made, as the case may be;
 - (v) hear third party (applicable to the Commission only); and
 - (vi) receive evidence on affidavits from State Public Information Officer, State Assistant Public Information Officer, such Senior Officer who decided the first appeal, or such person against whom the complaint is made, or third party, as the case may be,

- (vii) in case of difference of opinion in deciding the appeal or complaint, as the case may be, the Commission shall abide by majority of opinion.

Rule 11. Every order of the Appellate authority and the Commission shall be in writing and shall be communicated to the appellant concerned and to the Public Information Officer, and to the first Appellate authority in case it is a second appeal.

Rule 12. Guidelines by the State Government:

The State Government shall have the power to issue guidelines not consistent with the provisions of the Act and these rules for smooth implementation of the provisions of the Act.

Rule 13. Penalties: In the event of imposition of penalty under section 20 on the Public Information Officer concerned, such penalty may be deposited by the said officer by Treasury Challan under the appropriate receipt Head of the State Budget within a period of thirty days, failing which the amount shall be recovered from the salary of the officer concerned.

Rule 14. Calculation of cost of damage:

If any damage is caused to the public property in the course of giving any information in the form of samples of materials, the damage caused to such property shall be included while calculating further fees representing the cost of providing the information.

Rule 15. Maintenance of Register:

- (1) The Public Information Officer/Assistant Public Information Officer shall maintain a register in Form 'F' (1) and Form 'F'(2) respectively for recording the details of the application received and the information supplied by him and keep the Head of Office informed after furnishing any

information and it shall be the duty of the Head of Office to ensure required assistance if any, as would be sought for by the Public Information Officer to facilitate providing information.

- (2) The Public Information Officer/Assistant Public Information Officer shall maintain a cash register in form 'G' for recording the details of money received by him relating to providing information and deposit the money in such head of account or in any scheduled Bank in the name of such officer as the concerned Head of office decides.
- (3) Every Appellate Authority and the Commission shall maintain Register(s) for recording details of appeals received and disposals thereof in Form 'H'.

Rule 16. Deposit of Expenditure

The expenditure to be incurred for production of witness or documents before the Commission shall be deposited before the Commission by the party at whose instance the witnesses or the documents are to be produced.

Rule 17. Realization of penalties or damages:

Any penalty or damage or any other sum payable under the Act, if not paid within thirty days of the date of receipt of the order for realization of the same or cannot be recovered, it can be realized from such person from the salary in case of government employees and arrears of land revenue in case of others.

Rule 18. Miscellaneous:

For the purpose of removing any doubt it is hereby clarified that the 'form(s)', as prescribed under these rules, need not be in authorized pre-printed stationary, but any format neatly typed, hand written or in electronic form which covers essential details prescribed in the form shall be valid.

Rule 19. Power to amend Rules:

The State Government, in consultation with or on recommendation of the Commission may add to, delete from or alter or amend the Rules. Such alteration or amendment of the Rules shall be approved by the State Cabinet and shall be laid before the State Legislature.

Organization and Functions of Land Revenue & Settlement Department

Land Revenue & Settlement Department is one of the very crucial departments of the Government of Mizoram. Land Records Management and Registration processes are the two most important activities of the department. The primary purpose of the revenue administrative structure is to deal with land and land revenue administration, including the assessment and collection of revenue, fees and taxes, maintenance of land records, survey for revenue purposes and records of rights, taxes on lands and buildings.

The state is divided into six revenue districts; and each district is in charge of Deputy Commissioner assisted by Settlement Officer/Assistant Settlement Officer. The district is divided into sub-divisions, sub-division is divided into revenue circles and revenue circle is sub-divided into revenue villages. For the purpose of registration Deputy Commissioner is appointed as District Registrar and Settlement Officer/Assistant Settlement Officer is appointed as Sub-Registrar. Director, Land Revenue and Settlement Department is the ex-officio Inspector General of Registration.

Existing System of Land Administration:

Land, which is a scarce natural resource, has been regarded as a measure of wealth, status and power, from time immemorial. Any developmental activity is nearly impossible to conceive without taking land into consideration. Now, it is being

widely accepted that the efficiency in land management is one of the indices of a state's developmental status. The social security of the citizens and businesses is based on sound and secured recording of the ownership and ability to provide legal title to such ownership.

Land records are maintained in different prescribed forms and registers at the district level with appropriate aggregation and consist of basic information on land, cropping patterns, ownership rights, land revenue, land transfer, etc. The Settlement Officer/Assistant Settlement Officer is the main functionary who maintains all types of records as enunciated in manuals pertaining to land settlement, land administration, land records, etc. Though, as the land records are to be maintained and updated at regular intervals, yet in practice, this is not adhered to due to variety of reasons.

The present manual system of maintenance of land information is time consuming. Mutations in the rights of the holders due to inheritance, sale, mortgage, etc. are entered in the mutation registers. The maintenance and updating become cumbersome as the staff is mostly overburdened and unable to maintain land records in time. The above situation necessitated an appropriate switch-over from purely traditional/manual method of land record maintenance to modern facilities of updating and maintaining land records using computers.

The main advantage of computer technology lies in the fact that the records can be stored in a smaller place, updated easily and retrieved quickly. In addition, the vast and valuable data maintained in land records along with other information may be utilized for purposes of village level planning as well which may be the realization of ultimate goal of decentralized administration.

Organization and Functions of Disaster Management & Rehabilitation Department

In the beginning, the Department of Relief and Rehabilitation Department (now renamed as the Disaster Management & Rehabilitation) is functioning only with few officers and staff at Directorate level. Having no District offices all the Deputy Commissioner in the Districts are entrusted with the responsibility of immediate relief payments to the victims of Natural Calamities as per the Norms of Central Relief Fund.

Disaster Management Committees are formed at the State, Districts, Blocks and Village levels to extend immediate relief to the victims of various natural disasters like earthquake, cyclone, hailstorm, cloudburst, landslide, flood, fire etc. Cyclone and Landslide being the main disaster in Mizoram a number of Tarpaulin are distributed free of cost every year to needy victims of Landslide and Cyclone, for saving dwelling houses from landslide, hailstorm, etc. and for prevention of further landslide itself.

Initially, the function of the Relief and Rehabilitation Department was confined to giving immediate relief to the victims of Natural calamities and rehabilitation of MNF Returnees. When Mizoram Union Territory became a full-fledged State a new allocation of business was notified by the Government of Mizoram vide No.J.12011/11/87-POL dt. 23.03.1987.

The purview of the Department has been widened even to the Pre-Disaster Management besides giving immediate relief and rehabilitation. As such, the Relief and Rehabilitation Department had been renamed as 'Disaster Management & Rehabilitation Department' to shoulder wider responsibility of Disaster Management

comprising the following subject vide Government Notification No.A.46013/2/2006-GAD Dt. 24.8.2006.

1. Natural Calamity/Drought and Flood Relief.

2. Gratuitous Relief.

3. Disaster Management:

a. Pre-disaster management as pro-active strategy including preparedness, prevention and mitigation, wherein every Department has important roles.

b. Post-disaster management as re-active strategy including relief, rehabilitation and reconstruction.²

Objective/ Purpose of the Public Authority

(i) Mizoram is receiving heavy rainfall for six months every year during monsoon. As such the inhabitants are likely to suffer from cyclone, landslide, cloudburst, lightning, flood etc. Therefore, the main objective of the public authority is to prevent the loss of lives and properties and to minimize the sufferings of the people owing to Monsoon.

(ii) Mizoram is lying within the Seismic Zone V (Earthquake prone area.) As such, the Government of India took initiative under the United Nations Development Programme(UNDP) – Disaster Management Programme with the Government of Mizoram to sensitize the awareness to the public for prevention/mitigation of earthquake disaster in a form of training and preparedness to face the disaster.

(iii) Rehabilitation of underground personnel who came over ground following the dialogue and Peace Accord 1986 signed between Government of India and the underground MNF Leaders are also taken up by the Department.

²<http://dmr.mizoram.gov.in>(Accessed on 4.10.2017)

Case Study

For a Case Study, we have undertaken the method of Interview Schedule for collecting information from the two Select Government Departments, namely; Land Revenue and Settlement Department and Disaster Management and Rehabilitation in order to study and gauge the degree whether or not the implementation of the RTI Act in Mizoram has brought about transparency in administration. Following are the reactions given by the interviewees as observed and recorded by us that attempt to answer the questions one by one.

1. In an interview held with the officials of Land Revenue & Settlement Department, we have observed that most of the officials have conceived the RTI Act as a powerful instrument for ensuring transparency in administration. Most of the interviewees have opined that the access of information by citizens from the Land Revenue and Settlement Department and Disaster Management and Rehabilitation Department has proved conducive to the implementation of the RTI Act. As the Act provide for the citizens, the interviewees acknowledge that the applicants can challenge arbitrary actions and corrupt officials at all levels which was nothing they could do about before the RTI Act came into force.

2. There is a broad consensus among the officials interviewed on the issue of transparency in administration as most of them attributed flagrant corruption as a social evil to the society and the only way to check and eradicate corruption is the free flow of information and that the power is in the hands of a common man.

4. Regarding the issue of good governance, the scholar has observed from the interviews that there is nothing more significant to them than transparency in the day-to-day administration that could bring about good governance. The majority of the

officials pointed out that transparency is the only viable means that could lead to good governance.

5. On asked the procedures followed by the two Departments in the implementation of the RTI Act, the officials interviewed provided the answer as (Section 5 (1)), which states, ‘In each department, at least one officer has been designated as a Public Information Officer (PIOs). He/ She accepts the request forms and provides information sought by the people’, and (Section 6(1)), which states, ‘Any person seeking information should file an application in writing or through electronic means in English or Hindi (or in the official language of the area) along with the application fees with the PIO/APIO’ respectively.

6 The average number of applications sought under the RTI Act is considerably contrasting between the two Departments. While, daily, 15-25 applicants file their applications under the Act with the Land Revenue & Settlement Department on an average, there are staggeringly 27 applications only that had been filed with the Department of Disaster Management & Rehabilitation between the years 2005 and 2015.

7. According to the interviews conducted for Case Study, we have recorded that the citizens who seek information from these Departments has been dealt with cheerfully and patiently besides the formal rules and regulations as laid down by the MIC. But sometimes there are also standoffs and serious confrontations between the applicants and the officials in the Department of Land Revenue & Settlement, as a consequence of misunderstanding and offensiveness on the part of the applicants.

8. From the interviews held with officials of the Land Revenue Department, we have observed that certain deadlocks occurred in the past. Besides, it is also noted that

the two Departments have so far, no problem faced with the implementation of the RTI Act.

9. As to the suggestions for the better implementation of the RTI Act, the officials who faced the interviews had no say on this.

The sharp differences between the numbers of applications filed with these two Select Departments may be accounted mainly, to the nature of the work and functions performed by them rather than the effectiveness and efficiency of the Department's employees or the size and areas of the Departmental functions. With the numerous queries and complaints regarding land settlement document (Periodic Patta) and land survey the Land Revenue & Settlement stands atop all the Government Departments of Mizoram bearing with most number of complaints under the RTI Act in Mizoram. On the other hand, the Disaster Management & Rehabilitation Department is the Department with the least number of RTI complaints among the Government Departments of Mizoram. There is a wide discrepancy on the use of RTI Act between these two Departments on account of the nature and functions of work performed

On an average, according to the interviews with the officials, the Revenue Department has received 400 to 500 applications yearly under the RTI Act between the years 2005-2015, which means that there are about 4,500 applications filed with the Land Revenue & Settlement Department, with most of the applications being disposed of within the prescribed time, although some applications being denied to them under the Act. Significantly, this indicates that in spite of the lack of RTI awareness among the general people, there are also many informed and responsive citizens who come forward to avail themselves of the RTI Act. It also implies that the adoption of RTI has a positive impact and has emerged as a powerful tool for the civil

society to promote transparency and hold those in power accountable. The first decadal study of the working of the Right to Information Act in these two Select Departments has revealed the increasing role it has played in the interaction between the people and its agencies.

We have also interviewed RTI Activists and officials from the People's Right to Information and Development Implementing Society of Mizoram (PRISM) for the purpose of Case Study. It may be important to note that PRISM has been taking drastic steps in regards to the creation of RTI awareness among the people since its inception. PRISM had set up on 1st August, 2009, a 'Help Centre' called 'INFORMA' for imparting knowledge to any citizens willing to avail of the RTI Act for access to the government documents.

The contribution of RTI Act to the two Departments has been positive and it has introduced a new awareness about the right rights of citizens. It empowered the citizens and highlighted openness and transparency as essential features of governance. It imparted a sense of accountability in official conduct and helped to make public servants responsible for their decisions and actions. In practical terms, it has helped citizens to access information which was otherwise denied to them. It has helped speed up payments from the government, prevent and expose corruption and to increase efficiency. People from all the sections of society have used it to claim their rights.

However, there is no room for complacency, the shortages of staffs in the Land Revenue and Settlement Departments needs be provided and equip them with better infrastructures. Computerization of all the files should be done at the earliest for easier data processing. Lastly, training should be given to the staffs responsible for the RTI Act at regular intervals.

Summary

This Chapter deals mainly with one of the two objectives of the research, a Case Study, the other being the objectives of research. The main focus of the Chapter is to prove whether or not the implementation of the RTI Act in Mizoram has rightly addressed to intent of the RTI Act- combating corruption, thereby ensuring transparency in administration and accountability in public institutions. The constitution of the Mizoram Information Commission is highlighted so that the implications of the RTI Act may be explained coherently.

The main objectives of the RTI Act, i.e., the rights of the citizens to access information through Public Authorities and the freedom of expression as envisaged in the Constitution of India is brought out in this Chapter. Good governance implies utmost concern for people's welfare wherein the government and its bureaucracy follow policies and discharge their duties with a deep sense of commitment; respecting the rule of law in a manner which is transparent, ensuring human rights and dignity, probity and public accountability.

Besides, the organizational structures and functions of the two Departments are also given here so as to throw light upon the reactions and feedbacks of the stakeholders in regards to the implementation of the RTI Act in the past ten years (2005-2015). The present manual system of maintenance of land information is time consuming. The poor maintenance of information has become cumbersome as the staff is mostly overburdened and unable to maintain land records in time. All these factors necessitate an appropriate switch-over from traditional method of land record maintenance to modern facilities of updating land records using computers. Lastly, the observations emanating from the field study as conducted by the scholar is composed along with the summary of the Chapter.

CHAPTER V

Conclusion

The present chapter is the concluding chapter of the study. It has two parts such as Part I and Part II. Part I deals with the brief summaries of all the previous four chapters. Part II deals with the answers to the research questions, problems, challenges and possible solutions to the issues of implementation of the RTI Act as well as the limitations and concluding observations.

Part I

Chapter I deals with the interpretations and implications of transparency and Right to Information in the functioning of the Government. The Right to Information Act- also known as Access to Information (ATI) which originates in Sweden is today one of the most important cornerstones of a modern democracy. It gives a brief idea of the Freedom of Information at the global, national and State level context and the different stage of its adoption in different continents along with data of the pioneers of Right to Information. The inclusion and experiences of the Freedom of Information in world body like the UN, OECD and Commonwealth countries is also highlighted in this Chapter.

It has also been highlighted that governance based on freedom of information is evolving from a moral indictment of secrecy to a tool for market regulation, efficient governing structure facilitating economic and technological growth. It has also been discussed that how free flow of information could affect the ethics of Public Authorities and the individual life of a citizen. The Chapter also reveals the magnitude of corruption all over the world and the urgent need to check its growth and how transparency promotes efficiency and effectiveness.

It also deals with the problems faced by the state of Mizoram and the prevailing stumbling block of corruptions in government institutions and the role of civil servants with the data obtained by Transparency International in general.

Lastly, it throws light upon the importance and requirements of a strong leadership, political will, media and companies and the establishment of independent and well- resourced institutions. It is also discussed how the state of Mizoram takes step towards good governance in general and the concern on how Right to Information could adversely affect the deliberative processes of the government.

Chapter II has outlined the wider meaning and implications than those of the government. The concepts of good governance and transparency has been dealt with in a more detailed and systematic way. Here the essential qualities of good governance have been brought out in more qualitative connotations, how it deals with the capacity of the government to formulate and implement and how it discharge its functions. The protection of individual liberties follows the notion of democracy as a natural corollary. Good governance implies utmost concern for people's welfare wherein the government and its bureaucracy follow policies and discharge their duties with a deep sense of commitment; respecting the rule of law in a manner which is transparent, ensuring human rights and dignity, probity and public accountability.

The distinction of the concept of governance and transparency and their relative terms and theories has been discussed in detail. The process of consultation with the participation of citizens in decision making would gradually become more pronounced in order to ensure more accountability. At the same time good citizenry would also need to be emphasized for all round development of the society. Besides enjoying their rights, the citizens would need to behave responsibly and perform their duties towards the state. Clearly defined ethical standards would also have to be

instilled in the contemporary society. In order to achieve all this, innovative use of information technology would be critical. It examines the framework of good governance with the global, national and state level perspectives. The links between RTI and the elements of good governance has also been highlighted. This Chapter also shows the growth parameters of RTI Act in India and Mizoram after ten years of experiencing the RTI Act, 2005.

In this chapter the role and vulnerability of whistleblowers is given briefly. It has been highlighted how the positions of whistleblowers can turn against them and become the victims of their own rights. It also discussed the privileges of whistleblowers as where such bodies like Lokayukta or Lokayukta do not exist, the Whistleblowers Bill permits the State Government to designate any authority to inquire into complaints of wrongdoing and protect the whistleblower.

Chapter III deals with the commencement, jurisdiction, development and important landmarks of the RTI Act, 2005 in India with strong enthusiasm of the citizens after the long experiences of the country under the Officials Secret Act, 1923. It brings out the main purpose of the RTI Act which is to strengthen the democratic set-up of the country in general and to combat maladministration and corruption in particular.

It describes the institutional mechanisms like the PIOs and other Public Authorities, Commissions as well as the roles and responsibilities of the citizens associated with the RTI Act and liabilities of the Public Authorities without harming the spirit of unity and integrity of the nation. The obligations of Public Information Officers have also been discussed at length. It shows that the free flow of information is a must for a democratic society as it helps the society to grow and retain a continuous debate and discussion among the people. It also describes where to draw a

line between exemptions and disclosure of information in detail. In this Chapter, how far this Act has been instrumental in getting information and how far the citizens or groups make use of RTI Act, 2005 is shown with the information's and data collected from the Mizoram Information Commission.

The need of the RTI and the different demands by civil society organizations and the role of mass media have also been discussed in this Chapter. It is discussed how RTI came as a weapon of transparency and a medication to enhance accountability and a tool of participatory development in India. From the day the Act came into force, enlightened citizens had started using the law by making information requests in order to get the police to act or get their entitlements of food grain under public distribution system or expose the corrupt officials. Participation, transparency, legitimacy and responsiveness form the pillars of good governance. The concept of good governance was applied in India through the passing of Right to Information (RTI) Act, 2005, 73rd and 74th constitutional amendment.

Chapter IV deals mainly with one of the two objectives of the research, a Case Study, the other being the objectives of research. The main focus of the Chapter is to find out whether or not the implementation of the RTI Act in Mizoram has rightly addressed to intent of the RTI Act- combating corruption, thereby ensuring transparency in administration and accountability in public institutions. The constitution of the Mizoram Information Commission is highlighted so that the implications of the RTI Act may be explained coherently. Good governance is characterized by transparency, accountability and responsiveness. Consequently, the citizen's right to information is increasingly being recognized as an important mechanism to promote openness, transparency and accountability in government administration. People are the sole part in a representative form of government. So it

is necessary that they must have to know all the functioning of government activities to frame a practical regime of good governance in administrative process.

The main objectives of the RTI Act, i.e., the rights of the citizens to access information through Public Authorities and the freedom of expression as envisaged in the Constitution of India and enjoyed by the citizens is brought out in this Chapter. Besides, a brief history and organizational structures and functions of the two Departments under the Government of Mizoram is also given so as to throw light upon the reactions and feedbacks of the stakeholders in the past ten years (2005-2015).

Since its inception in 2005, exactly ten years have passed and one can safely say that RTI has made its impact felt in the functioning of Government bodies and the larger governance discourse, as the staff has become active, conscious, regular, punctual, accountable and responsible. The corruption in the division has reduced to an extent. Information makes men wise and it is competent enough to cope up with the modern world. So, it is the duty of government to inform citizens about day to day happening whatever within the government. The transformation from governance to good governance is possible, if there is possibility of increasing participation of people in governance and free access of information. The right to information act is a path making legislation which brings to light the secrecy of administration. It is an effective means to promote democratic ideology. The act is powerful instrument to fight against corruption.

Part II

After dealing with the contents of the previous four Chapters of the present study, we discussed the answers to the research questions, problems and challenges of implementation of the RTI Act in Mizoram, possible solutions and suggestions, limitations of the present study, and concluding observations.

The first research question is ‘What are the main reasons for the enactment of the RTI Act?’ We have found out that maladministration, corruption, mismanagement, delays, nepotism, favoritism diversion of public funds are the main reasons that necessitate the enactment of the RTI Act in Mizoram. Since the inflexibility of the various provisions contained in the Official Secrets Act, 1923, it was almost impossible for a citizen to obtain any information regarding the official working and performance of a public officer holding a public office. All these problems could be checked only through a transparent government and this transparency is possible to achieve it only through the disclosure of the business conduct of the government which is the very essence of the Right to Information Act.

The objective of the Act, as stated in the Preamble of the Act, is to provide for setting out practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability and also to contain and prevent corruption in the working of every public authority. The greater the access of the citizen to information, the greater becomes the receptivity of the government to community needs. Alternatively, the greater the restrictions that are placed on access, the greater the feelings of ‘powerlessness’ and ‘alienation’. Without information, people cannot adequately exercise their rights as citizens or make informed choices.

Access to information held by a public authority was not possible until 2005. Lack of Information barred a person to realize his socio- economic aspirations, because he had no basis to participate in the debate or question the decision making process even if it was harming him. Official Secrets Act, 1923 acted as a relic of colonial rule covering everything in secrecy. The common people did not have any legal right to know about the public policies and expenditures. It was quite ironical that people who voted the persons responsible for policy formation to power and contributed towards the financing of huge costs of public activities were denied access to the relevant information.

With a view to curbing corruption and mal-administration etc. in the public offices and to promote transparency and accountability amongst the public officers, the Parliament enacted a new legislation in the year 2005 namely, The Right to Information Act, 2005. Prior to the passage of the RTI Act, 2005 and because of the stringent provisions contained in the Official Secrets Act, 1923, it was almost impossible for a citizen to obtain any information regarding the official working and performance of a public officer holding a public office.

The second question is ‘How does the RTI Act contribute to good governance and transparency?’ It is found out from the study that if people do not know what is happening in their society and if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Access to information not only promotes openness, transparency and accountability in administration, but also facilitates active participation of people in the democratic governance process. The RTI ACT is a tool helping to ensure rights already promised in the constitution. This new legislation has brought about the sense of devotion towards duty and tendency to adhere to the laws and norms amongst the public servants in discharge of

their official duties as they have been made to realize under this Act that any willful breach of the laws, norms and the official duties on their part may invite punitive action against them under the provisions of the RTI Act, 2005.

The Act not only promotes transparency and accountability amongst the public servants regarding their performances in their public offices but also ensures that the concept of rule of law is not subverted and foiled. 'Right to Information' (RTI) refers to the right of every citizen to access information held by or under the control of public authorities. Information is crucial for good governance as it reflects and captures government activities and processes. It is said that information is the oxygen of democracy.

Public participation in Government, respect for the rule of law, freedom of expression and association, transparency and accountability, legitimacy of government, and the like which are the core values of good governance, can be realized only if the right to information is implemented in the right spirit.

The third question is 'What are the major problems and challenges pertaining to the implementation of the RTI Act in Mizoram?' We find that the quality of RTI awareness in common public is significantly low. While the Act has been clear in defining the responsibility of the appropriate state government, with respect to creating awareness on the Act, there has been lack of initiative from the government's side. The efforts made by state governments and Public Authorities have been restricted to publishing of rules and FAQs on websites. These efforts have not been helpful in generating mass awareness of the RTI Act.

The RTI Act under section 27(1) and 28(1), specifies to the appropriate Governments and the Competent Authorities to make rules pertaining to implementation of the Act. Under Section 6 of the RTI Act, Public Information

Officers (PIOs) are required to provide reasonable assistance to the applicant in drafting and submission of the application. Lack of user guides results in substantial efforts on the part of the information seeker to gather knowledge about the process for submitting a RTI request.

Secondly, there is inconvenience and cumbersomeness in the submission channels for RTI application: As per Section 6(1) of the Act a citizen can make a request 'in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made....' However, inadequate efforts have been made to receive RTI applications through electronic means i.e., on email or website etc, which can be done by the appropriate Government using Section 26(3c). This ultimately leads to the discouragement and timidity of the citizens in the application of the RTI Act in Mizoram

With the Right to Information (RTI) Act, 2005 completing a decade of its enactment, it is high time for our judicial fraternity to revisit its hitherto adopted conservative approach with respect to submitting itself before this progressive piece of legislation aimed at insuring transparency and accountability in working of every authority so that it gives a clear and strong signal to all those critics who often decry and question its image as an institution functioning in a clandestine and opaque manner. Introduction of the RTI Act in the school syllabus is also very important so that the children who are considered as the future leaders of the country may get a brief idea of the Act and they could be encouraged to know further in future.

Public officials, such as district collectors and deputy commissioners, who are responsible for the administration at district level, must be given responsibility of monitoring and implementation of the Act through various departmental authorities within their respective district. It is evident from the past few years that the

life of whistleblowers is no safe in this country. There is rapid increase in the number of attacks and also some result in death of these activist. It is the moral responsibility of the government to protect RTI activists and users and take legal action against the attackers; punishment of such type of offenders must be enhanced.

Officials representing public authority must be trained so that they are made aware of their duties and obligations under the RTI Act. Political influence on the public authorities may be hindrance in the efficient working of these authorities, so they have to maintain integrity by ignoring the vested interest. Finally, democratization of information and knowledge resources is critical for people's empowerment to realize the entitlements as well as to augment opportunities for enhancing the options for improving quality of life. The strengthening of information regime is therefore *sine quo non* for promoting democratic governance and right to development.

With a view to realizing the development goals, the followings are suggested to strengthen the RTI regime:

As per the Act, the information has to be provided within the stipulated time. It is a known fact that the record keeping process within the government is a big challenge. This situation is further aggravated due to non-availability of trained PIOs and the enabling infrastructure (computers, scanners, internet connectivity, photocopiers etc.). Public Authorities need to meet the requirements of the RTI Act to review their current record keeping procedures and other constraints and plan out the resources.

In addition to lack of resources, PIOs lack the motivation to implement RTI Act. During the RTI workshops organized in the surveyed states, PIOs cited that there were no incentives for taking on the responsibility of a PIO; however penalties were

imposed in cases of non-compliance. It was also observed that there is a wide variance in the seniority levels of PIOs. One of the most important roles of the Information Commission is to monitor and review the Public Authority and initiate actions to make them comply with the spirit of the Act. However this has been one of the weakest links in the implementation of the Act. It is acknowledged and appreciated that the Information Commissions have been primarily spending most of their time in 'hearings' and disposing off appeals. However monitoring the Public Authority for compliance of the Act is also an important aspect of the role of the Information Commission, which could result in reducing the number of appeals.

As per Section 20 of the RTI Act 'Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information.....it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees'. Hence, given that more than half of the RTI applications get processed after 30 days, there is a very strong perception in the citizens and the Civil Society Organizations that the Information Commission is lenient towards the erring PIO. The activists and Civil Society Organizations have been emphatic in demanding that the Information Commissions should implement section 20 in all cases of default.

The fourth question is 'What are the steps necessary to make the implementation of the RTI Act effective in Mizoram?' It is found from the study that

firstly, all the development projects, particularly poverty alleviation programmes should incorporate transparency and accountability norms to allow for objective scrutiny of the process of execution of programmes and to assess the extent of adherence of the norms of equity and justice in delivery of essential services to the persons who are entitled for the specified benefits.

Second, with a view to reaping the benefits of RTI for rapid poverty reduction, the government should develop the capacities for access to information. The capacities of both the public authorities (i.e. the duty – bearers) and the citizens (i.e. the claim holders) may have to be enhanced, for which a two-pronged strategy would be needed.

A comprehensive Information Management System should be developed by each public authority for storage and retrieval of data and information that may be shared with anyone who seeks to inspect the records and use the information for development purposes. Use of information technologies would not only facilitate faster dissemination of information but would also reduce the costs of servicing and sharing information.

Third, in view of high illiteracy among the poor, a multimedia approach should be adopted to educate and train people of diverse linguistic backgrounds. Besides, they should also know as to how to make best use of information for effective participation in economic and political processes. This alone can ensure cost-effective use of the provisions of the RTI Act and promote efficient use of resources that are allocated for development purposes, including poverty alleviation.

Fourth, the role of NGOs is critical for creating effective demand for maximum disclosure of information relating to public activities so that an informed citizenry can participate in designing and implementation of socio-economic

programmes. This task is challenging in deed. Increase in awareness about the human rights and how to realize them would lead to a strong multiplier effects to eradicate poverty and to create necessary conditions for good governance, of which all the stakeholders would be duly proud of.

Finally, democratization of information and knowledge resources is critical for people's empowerment to realize the entitlements as well as to augment opportunities for enhancing the options for improving quality of life. The strengthening of information regime is therefore sine quo non for promoting democratic governance and right to development.

Here are some of the steps in order in for the implementation of RTI Act to function more effectively:-

1. Among the Public Authorities who have not submitted their Report on Monitoring and implementation of the RTI Act, 2005 there are several of them who have failed to differentiate between the applications decided within the prescribed time limit under Section 7 and the applicants given the information under Section 8 on the ground of larger public interest. This creates confusion for the Data Entry Operator of the Commission as both the replies given to the aforementioned Sections are generally of the same numbers. The Public Authorities should be informed to be more careful to avoid repetition in their Report.

3. Names, Designations, etc. of the DAAs. SPIOs and SAPIOs should be prominently displayed at the entrance/doors etc. of the Public Authorities for easy identification of the citizens so that information seekers, etc. do not face difficulties in submitting their RTI applications. There are still a few Public Authorities who have not displayed the Names, Designations, etc. of such Officials and they may be informed accordingly.

3. It has come to the notice of the Commission that as required, a few Departmental Appellate Authorities (DAAs) do not conduct hearing while disposing the First Appeals submitted to them. The DAAs have to be more acquainted with the provisions of the RTI and Rules so that the Complainants/Appellants are relieved from unnecessary trouble of approaching the Commission.

4. There are still some Public Authorities who do not issue receipt as a token for payment of RTI application fees. This causes problems when the applicant is required to approach the Commission as the applicant is required to enclose copies of documents relied upon by the Appellant and referred to in the Appeal. All Public Authorities may take necessary action for issue of receipts to the information seekers/RTI Applicants as per the RTI Act and Rules.

5. In many cases, when the Complainants/Appellants are required to approach the Commission, it has been noticed that they do not keep/have a photocopy of the Application/First Appeal submitted to the SPIO/DAA. This creates problem for the Commission as every appeal made to the Commission has to be accompanied by self-attested true copy of the orders or the Information Seekers informed of the matters while receiving their applications.

The general awareness amongst the people about the RTI Act and how it can be used for their benefit is still low. Moreover, there is a lack of sincerity on the part of government officials in disclosing information, who often threaten the applicant or refuse to provide information. Additionally, the Information Commissioners have time and again cited the lack of man power required to comply with all the provisions of the Act.

The RTI Act, as it stands today, is a strong tool to uphold the spirit of democracy. The need of the hour is that the RTI Act should be implemented to ensure

that the objects of the RTI Act are fulfilled. Any attempt to dilute the provisions of the RTI Act will only suppress its success.

After conducting the present study we have come to the conclusion that there is great scope to make a detailed and larger study on the implementation of the RTI Act in Mizoram. The present study has a number of limitations. First of all, the time frame of the study is very limited. Next, due to practical reasons, we have taken only two administrative departments of the Government of Mizoram for the purpose of case studies. Finally, a comprehensive study covering most of the administrative departments of the Government of Mizoram can be taken of for analyzing the issues and challenges in the context of implementation of the RTI Act.

To conclude, it may be pointed out that the RTI Act is the result of long years of demand and struggle by individuals, Civil Society Groups and mass media in India. In general, the intention of the Act is constructive and positive and it promotes transparency and good governance. However, there are a number of critical issues which need to be addressed by the Government for more effective and efficient implementation of the RTI Act.



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APPENDICES

Appendix-I

INTERVIEW SCHEDULE

The following questions have been prepared to complete M. Phil. Research work titled 'Transparency in Administration: A Study of Right to Information Act in Mizoram' under the Department of Public Administration, MZU during 2017-18 academic session. The data collected will be used only for academic purposes and the personal identities and other details will not be disclosed by the researcher in any manner.

- Section I**
- (1) What do you know about RTI?
 - (2) Why should there be transparency in administration?
 - (3) What do you mean by good governance?
 - (4) How can RTI help transparency and good governance?
 - (5) What are the procedures followed by your department to implement the RTI Act?
 - (6) On an average how many people/citizens apply to your department to get information according to the RTI Act?
 - (7) How do you deal with the citizens who seek Information from the department?
 - (8) What are the problems faced by your department regarding the implementation of the RTI Act?
 - (9) What are your suggestions for the better implementation of the RTI Act?

Section II Personal data

- (1) Name: (Optional)
- (2) Educational Qualification:
- (3) Present position:
- (4) Experience/Years of experience:
- (5) Any other relevant information:

(Source: Field Study)

Appendix-II

Section 16. Terms of Office and Conditions of Service of the Chief Information Commissioner

(1) **The State Chief Information Commissioner shall hold Office for a term of five years from the date on which he enters upon his office and shall not be eligible for appointment:**

Provided that no State Chief Information Commissioner shall hold office after he has attained the age of sixty five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of Section 15.

Provided further that where the state Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

(3) The State Chief Information Commissioner or the State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

(5) The salaries and allowances payable to and other terms and conditions of service of-

(a) the State Information Commissioner shall be the same as that of an Election Commissioner,

(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government.

Appendix-III

Appendix-III

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pensions equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits.

Provided also that the salaries, allowances and other conditions or service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

Rule 8. Salaries & Allowances of the State Chief Information Commissioner and the State Information Commissioner:

Subject to the conditions of Sub-Section(5) of Section 16, the scale of pay of the State Chief Information Commissioner and State Information Commissioner shall be fixed as under:-

(a) State Chief Information Commissioner-Rs 30,000 fixed. (**Revised to 90,000)

(b) State Information Commissioner-Rs. 26,000 fixed. (Revised to 80,000)

[** Revision of pay vide Notification No.A.26019/1/09-FIN(PRU) dt.2nd September, 2010]

BIO-DATA

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X	MBSE	1996	III
XII	MBSE	1998	II
B.A	N.E.H.U.	2001	II
M.A	Presidency College (Madras University)	2003	I
M.Phil	Mizoram University	Course Work completed in 2016	I 'A' Grade awarded. 10pt. Scale grading system. 'A' corresponds to 6- 6.99pts.