(B)

G. S. PAPER IV

Information Sharing and Transparency in Governance

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Section A: Introduction

Good governance in modern times means democratization of governance, rather than governance being the monopoly of the elected leaders. It also encompasses the interaction between government & other actors of the social sphere.

When governance becomes the privilege of a select few, or when people who are governed are kept out of the affairs of governance, it degenerates into misgovernance & makes a mockery of democracy!!!

Non-transparency and unaccountability often lead to increased corruption, nepotism & social exclusion. On the other hand, when a government is open and transparent, there is less opportunity for the authorities to abuse the system for their own interests. The budgets of such a government may be reviewed by anyone, and its laws and decisions are open to discussion,

Openness and transparency are key ingredients to fight corruption & build accountability and trust, which are necessary for the functioning of a democracy. Transparency in governance empowers citizens & fosters their participation in public affairs.

People are the biggest stakeholder in governance. They have a critical & crucial role to play. Governance must not be restricted only to the government. Rather, society must be included in the process of decision-making, implementation & accountability.

The biggest step towards this has been the Right to Information Act 2005, which enabled monitoring, transparency and accountability. The recent National Data Sharing & Accessibility Policy (NDSAP), 2012, which has been designed to promote data sharing, is also a step in the same direction.

Section B: Transparency in Governance

As a concept, transparency is relatively new to government functioning in India. While *inclusion* has been an underlying theme since independence, transparency was assumed, but not enshrined.

So what does Transparency mean? Transparency means that the criteria, processes and systems of decision-making are openly known to all. For example, the selection of beneficiaries for any government scheme would be based on explicitly known and publicly communicated criteria; it will also be known as to who will apply these criteria, when and how? And, what benefits would accrue to those families and individuals who fit these criteria? When will these benefits accrue, at what costs or mutual obligations?

Transparency is necessary for making the system of democratic governance effective; it enables information in the hands of citizens in a manner that they may be able to claim their entitlements.

Though transparency is often used interchangeably with access to information, however transparency is a wider term with information sharing a tool to achieve transparency in governance.

Transparency or openness can be said to have three basic components, which are:

- Participative governance or people's engagement in decision-making
- Access to information or information sharing
- Accountability for actions of the government or executive

Section C: Participative Governance

Participative governance is one of the means to achieve transparency in governance through the ***bottom up approach***. It entails participation of people in decision-making at the grass root level. In the pre-independence period, Gandhiji's vision of good governance essentially meant democratic decentralization, which meant power to the Gram Panchayats and people at the lowest level of political hierarchy.

The ***73rd & 74th amendments,*** by giving constitutional status to Panchayats and Urban Local bodies, have been the single-most substantial countrywide initiatives that seek to improve transparency in governance through participative form of governance. People now could take part in the issues that affected them directly, thereby having a say in decision-making.

However, there exists much scope of improvement, as the framework is yet to achieve its intended potential. The reluctance of government officials, an inadequate framework of financial independence and a general lack of awareness among citizens are the oft-quoted reasons for hampering effective participation of civil society in planning and decision-making. Nevertheless, this is a deep change that can be seen in the efforts these institutions are taking to make governance more accountable & transparent. Following are some of the initiatives in that direction:

- **PRI-** The 73rd amendment devolved power to villages, tehsils and districts. It allowed each village to participate in local governance through an elected Panchayat, conferred with constitutional recognition. The Government has been trying to implement capacity-building programs for elected representatives so as to ensure awareness, literacy and capacity for understanding local issues and implementing Government schemes and programs in the most effective manner.

- **Social Audit-** There had been concern on news related with social audits being manipulated and existing only on paper. Thus the idea of a social audit was floated in order to improve checks and balances within the Panchayati Raj Institutions. In 2005, social audits were made statutory through National Rural Employment Guarantee Act (NREGA), allowing people to *directly question elected representatives on a continual basis*. Social audit is a very powerful tool for citizens for participation in governance and where the social audit has been genuine and effectively conducted; for e.g., in the case of Andhra Pradesh, as per a report, state-wide social audits found fraud of large amounts ***resulting in administrative or criminal charges against about 7,000 officials.***

- **Urban local bodies-** These bodies were meant to allow local communities decide on the usage and charges for basic utilities. However, there is an impression that State Governments continue to dictate matters such as rates of user charges, property tax, octroi etc. with little reference to the ULBs affected by these decisions, which needs to be addressed.

- **Resident Welfare Association & Bhagidari (Participation)-** These include state-specific incentives to incorporate the views of society or to devolve the decision-making power for basic civic functions. These initiatives have been applauded for their implementation and intent of engaging common citizens.

  The Bhagidari scheme of the Delhi Government directly involves citizens through RWAs in monthly meetings in order to take responsibility for their areas. These RWAs are also the first point of contact for state utilities while planning changes.

In another example, the Government of Kerala in the beginning of the 9th Plan took a bold decision to devolve 35% of the state development budget down from a centralized bureaucracy to local Governments where local people could determine and implement their own development priorities under the People's Plan Campaign (PPC).

Bhagidari has tremendous potential and with sustained efforts from the Government and involved RWA members, this can be one of the most effective tools of local self-governance in urban areas.

Section D: Information Sharing

At the International level, *Right to Information* and its aspects find articulation as a human right in most important basic human rights documents, namely, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The Supreme Court of India in Secretary Ministry of I&B vs. Cricket Association of Bengal, 1995 judgment stated that article 19 of the constitution, i.e. freedom of speech & expression, includes the right to acquire information and to disseminate it as well. Therefore, Right to Information is a fundamental right of every citizen of India.

In the initial years after independence, the executive functioned with considerable autonomy. But, common people have been increasingly asserting their voice demanding accountability from the executive. People today want to know the nitty-gritty of governance & policy making rather than being a silent spectator & receiver of the government policies.

Accordingly, the Indian parliament passed the Freedom of Information Act in 2002. It put an obligation upon public authorities to furnish such information "wherever asked" for. However the Bill did not provide for the government making information public, without a request. This Act was severely criticized for permitting too many exemptions. There were no penalties for not complying with a request for information. This Act, consequently, never came into "effective" force because of the lacunae in its draft. Subsequently, the "Right to Information Act" (RTI) was passed in 2005.

Section E: Right to Information- RTI, 2005

RTI Act empowers the citizen of India to seek information from a public authority, thus facilitating transparency & accountability of government & its auxiliaries.

- Under the provisions of the Act, **any citizen** may request information from a "public authority" (a body of Government or "instrumentality of State"), which is required to reply *expeditiously or within thirty days*.
- The Act requires every public authority to computerize their records for wide dissemination and **to "pro-actively"** publish certain categories of information so that the citizens need minimum recourse to request for information formally (*i.e. disclosure of information with respect to functioning of the government must be a rule rather than an exception & must be provided proactively, without asking for it*).
- It applies to all States and Union Territories of India *except the State of Jammu and Kashmir,* which has its own J&K RTI Act in force.
- It *replaces* the erstwhile Freedom of Information Act, 2002.
- Department of Personnel & Training has been made the Nodal Department for the RTI implementation at the Central level.
- As per the Act, Information Commissions are expected to issue orders/directions to the Public Authorities to carry out their duties as per the mandate of the Act.

Section F: Downside of Sharing of Information

Freedom brings with it added responsibility as well. That is why our constitution also incorporated Fundamental duties along with Fundamental rights to the citizens. Though it is true that the Right to Information is a strong instrument in hands of common people to fight corruption & mis-governance, however it must be used with caution & should be used only when getting information through this channel is the last resort. Non-serious applications should be avoided.

Also, information can be used by anti- social elements to create disharmony in the state of affairs of the country & create a sense of mistrust & despair among the stakeholders towards the state of affairs of the country, which can be very discouraging & harmful for the country in the long run. Thus adequate checks & balances need to be built to ensure that this right or the information got by exercising the right is not misused to attack the integrity & sovereignty of the Nation in any sense.

Section G: RTI Amendment Bill, 2013

- It seeks to keep the six national political parties outside the purview of the RTI Act
- The amendment will ensure that political parties are not obliged to disclose the basis to chose their candidates & the source of their funding
- All the parties feel that bringing them under RTI disclosure rule would undermine the political party system & opposition can utilize the information of inner party deliberation for their own benefit.
- This amendment bill was drafted in the light of an order by Central Information Commission that the national parties come under the purview of RTI & have to share their details as per asked through RTI for better transparency
- At present parties are required to declare to the EC, donations in excess of Rs 20,000 & have to submit their accounts to Income Tax Department under Representation of People Act, 1951 & as well as Income tax act 1961. However violation of the rule is common.

How viable it is to bring the parties under RTI or pass this bill to exclude them is under debate. Though transparency is required but not at the cost of a scenario, which will lead to instability in the country's political scene.

RTI in India
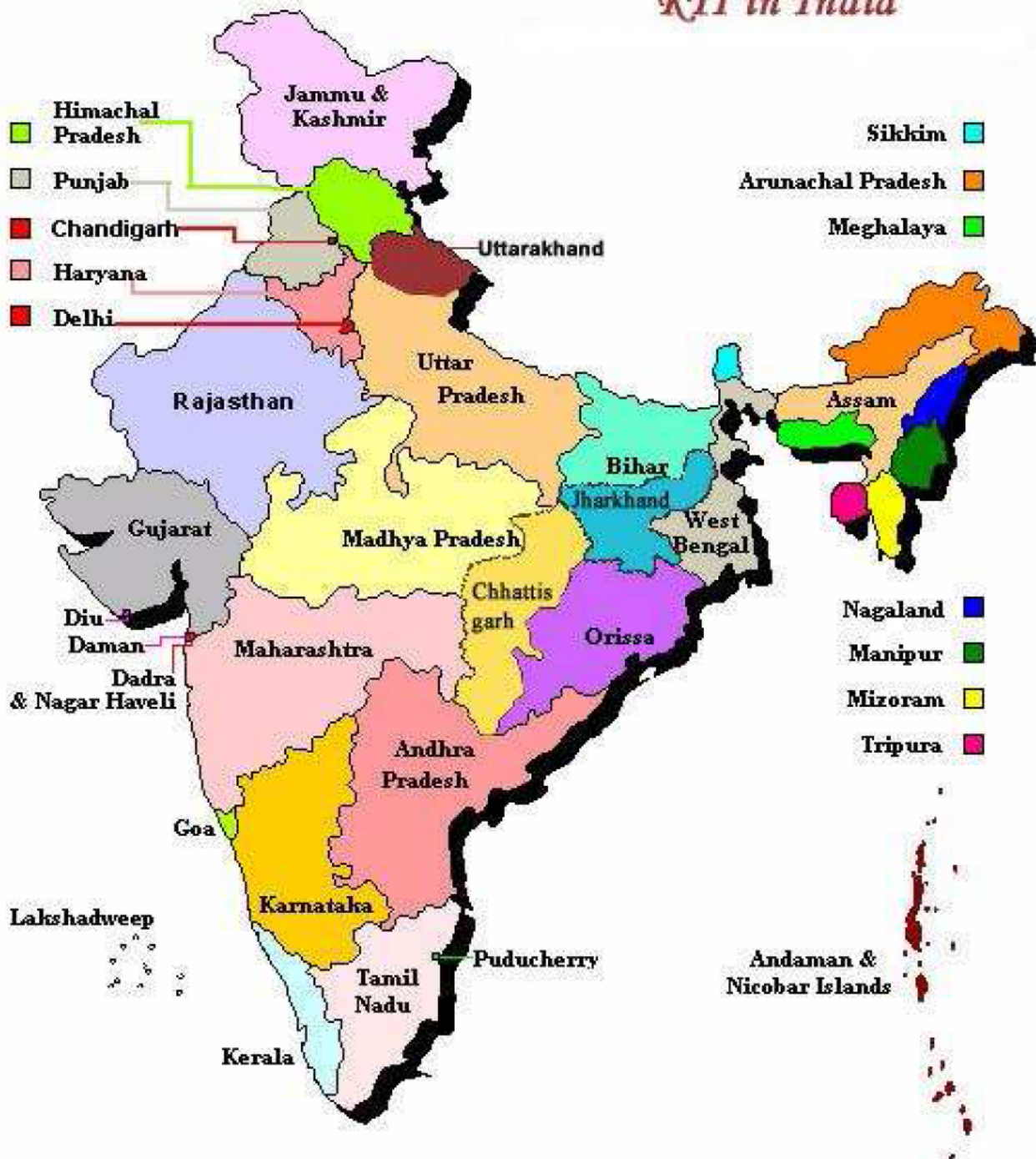
Section H: Issues in implementation of RTI Act

Though the Parliament had enacted the RTI Act for better information sharing & accountability of the executive in 2005, it would take some time before the act can be implemented with full force in reality, as it is marred by some issues in its implementation.

Department of Personnel & Training conducted a field survey (in 2008) to gauge the issues in its implementation, which were found to be as follows:

1. **Low public awareness**

    Section 26 of the RTI Act states that the concerned Government may develop and organize educational programs to advance the understanding of the public, especially disadvantaged communities, regarding how to exercise the rights contemplated under the Act.

    - However, as per the survey it was revealed that *only 15% of the respondents were aware* of the RTI Act. During the awareness survey, it was also observed that the major sources of this awareness were mass media channels like television channels, newspapers etc. & word of mouth.
    - It was further observed that awareness level is low among the disadvantaged communities like women, rural population & socially backward caste like SC/ST/OBCs.

    The efforts made by appropriate 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. As compared to RTI Act, the common citizens (and disadvantaged communities) are significantly more aware of other Government schemes focused on socio-economic development.

    While the Nodal Departments have not undertaken any substantial steps to promote the RTI Act, on the other hand, some States like **Orissa and Andhra Pradesh** have been promoting the usage of the Act through seminars and discussions at district level, which need to be followed by the nodal agencies as well.

2. **Constraints or complications in filing complaints**

    a) ***Non-"availability" of User Guides for information seekers:*** 52% of the citizens surveyed requested availability of a user guide/manual at all the Public Authorities.

        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. This often sends them away from making use of their right to information.

    b) ***Inconvenient payment channels for offline RTI application submission:***

    - It was found in the survey that in the absence of clear guidelines and instructions, public authorities have chosen a subset of the allowed payment channels. It was noted in the survey, that majority of PIOs used cash and demand drafts, which causes inconvenience to citizens. Further, *collection of fee through cash necessitates the presence of the applicant in the State, whereas the Act does not provide for any such restriction.*

    - Also survey revealed that submission of applications through the PIO's office is the most prevalent submission channel, therefore "*proper signage*" with the location details and availability time of the PIOs is crucial. However 85% of the information seekers said that no signage was present to locate the concerned PIO. It leads to multiple visits to be made to the PIO office for submission of an RTI application.

3. **Lack of assistance in filing the application by the PIOs-** In a country where literacy rate is as low as 77%, it is imperative for the authorities to assist people in exercising their right but that is not the case as found by the survey.

    - This reveals that process of RTI application submission has not been designed keeping in view the needs and convenience of the citizens.

4. ***Standard forms for RTI application* & PIO's Replies-** While the Act does not necessitate having a standard application form, there are significant advantages of using a standard form for an RTI application:

- The standard form helps in getting basic information which helps the PIOs (Public Information Officer) in providing the requisite information and contacting the applicant for communication required.
- If basic information is available, it is helpful for the Public Authority to identify the nature of frequent information requests so that it can be provided as a suo-moto disclosure
- Only 2 states i.e. Maharashtra & Orissa have prescribed a standard form.

5. **Issues related to information provided**

a) Poor quality of information provided: Majority of the respondents said they were dissatisfied with the quality of information, being provided in response to their application which is most of the times incomplete & inaccurate.

b) Some applications require the PIOs to do a collation and analysis of data for past 10 years or more. However 89% of the PIOs said that they did not use the provision for inspection of records.

If trained properly, the PIOs can provide an option to the citizens to inspect the records. This may help in providing timely and accurate information to the applicant. There is a provision in RTI for the same, however most people & even the PIOs are not aware of.

c) *Failure to provide information within 30 days* due to inadequate record management procedures with the Public Authorities. This situation is further aggravated due to non-availability of trained PIOs and the enabling infrastructure (computers, scanners, internet connectivity, photocopiers etc.). There is lack of any electronic document management system in any of the Departments (based on Survey). Majority of the PIOs surveyed do not even maintain the list of RTI applications electronically

d) *Low Motivation* Levels among PIOs.

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.

The training of PIOs is a big challenge primarily due to huge number of PIOs & frequent transfers of PIOs to other posts. Training institutions also pose a huge constraint with respect to the availability of training resources. There are a large number of non-profit organizations, which are carrying out the trainings in official/ un-official capacities – these are untapped resources which could be utilized for training.

Section I: Role played by key Stakeholders

RTI Act has the potential to bring in a revolution in the Indian bureaucracy, provided the stakeholders & the agencies take up their responsibility towards the spirit of the Act. Time & again it has been found that various agencies, media etc. have functioned as a pressure group for the active implementation of the Act. But most of the execution is to be carried out by the appropriate Governments and Information Commissions.

The key role played by various entities is as follows:

1) **Civil Society Organizations/NGOs**

- Enhancing the reach and awareness of RTI among the masses, especially in rural areas. However given the geographical size & population of the country their reach is limited
- They have also made contribution towards training of PIOs

2) **Media**

- Media has played an important role in generating awareness at a mass scale through news articles

- In the context of RTI implementation, journalists at times have played a dual role as the users of RTI Act and as watchdogs, monitoring and scrutinizing the implementation of the Act.

3) **State Governments**

- *Jankari Call Centre:* Bihar Government has initiated a six seater call centre. This call centre facilitates a caller in drafting the RTI application and the fee is collected through the phone bill. Similarly RTI Helpline in Bangalore is providing RTI information to citizens

- *"Train the Trainer" concept in Assam*: Assam has adapted a "Train the Trainers" concept, where the Government trains the NGOs to impart training to citizens on RTI in order to maximize the reach of RTI and ensure that there is local ownership and sustainability

Section J: Achieving Transparency & curbing the menace of corruption through RTI!

RTI has become a weapon in the hands of common citizens to fight for their rights. It is not surprising that the usage of RTI has been in the areas where citizens had to struggle to get what was rightfully theirs.

Following are some *case studies* to have a glimpse of the impact of RTI in the life of the common man.

1. **Media used RTI to let Delhi-ites enjoy their right to water!**

   In 1998, secretly the privatization of the Delhi Jal Board was started with the help of the World Bank. Media taking help of an NGO Parivartan scrutinized the 4000 pages long document using RTI & got that published. It was revealed that the World Bank had forced the Delhi Jal Board and the Delhi government to agree on disgraceful terms to provide the tender to the an MNC Price Waterhouse Cooper (PWC). The cost of the water would have risen by six times if this plan had been implemented. The water would have been provided to only those areas where people would voluntarily agree to lay down the pipelines at their own expense.

   Media used RTI & as a result the **government was forced to withdraw its decision of privatizing the Delhi Jal Board.**

2. **RTI exposed corruption in employment generation scheme MGNREGA**

   In Santhpur Village in Bidar District of Karnataka, Rajani an RTI activist was concerned about the poor implementation of the National Rural Employment Guarantee Act (NREGA). She filed an RTI & found the people employed in four projects of MGNREGA there, were the same. Moreover they were all member of a local politician's family who had never stepped out for any hard labor.

   In a hearing on a complaint filed by the Rajani at the Karnataka Information Commission, the Commissioner asked the CEO to investigate the matter immediately and report back to the Commission. The CEO's report is awaited. However people of the district are delighted that the CEO is being pulled for not doing his work in front of them whereas earlier he would never show up & are confident that the verdict would eliminate any further cause of concern for them.

   In **a similar case a rikshaw puller** was asked to pay Rs 5000 to pass his application to get his home built under **Indira Awas Yojana** after 5 yrs of applying under the scheme. This clearly shows the level of corruption in the socio economic shemes. Thus he filed an RTI with the help of an NGO & as a result he got his first installment payment of Rs 15000 under the scheme. His house is now under construction!

There are many such examples where people have benefitted from the RTI Act & corruption as well as corrupt have been exposed & been punished. RTI is empowering people by letting them hold the executive responsible for its actions & the way the resources of the country are being used.

Section K: National data sharing & accessibility policy (NDSAP), 2012

There are various ministries, organizations & institutions of Government of India, who collect huge amount of data related to their respective fields using public funds. Most of the times, this data is not accessible to the civil society. However, the data collected or developed through public investments, when made publicly available, their potential value could be more fully realized, & would enable rational debate, better decision making and use, in meeting civil society needs.

It is for this reason that NDSAP policy was designed & got approval from the cabinet in 2012. Department of Science & Technology would be serving the nodal functions of coordination and monitoring of policy through close collaboration with all Central Ministries and the Department of Information Technology.

Objective:

It aims to empower citizens to access information owned by the Government in human- as well as machine-readable forms, permitting wider accessibility and use of public data and information, keeping in view the broad guidelines delineated in the RTI Act, 2005. The policy is applicable to all sharable, non-sensitive data, generated using public funds by ministries, departments, subordinate offices, organizations and agencies of the Government of India.

Benefits

- Ready access to government owned data would enable more extensive use of a valuable public resource for the benefit of the community.
- By sharing data the need for separate bodies to collect the same data will be avoided resulting in significant cost savings in data collection.
- By adopting common standards for the collection and transfer of data, integration of individual data sets may be feasible.
- The identification of owners for the principal data sets provides information to users to identify those responsible for implementation of prioritized data collection programs and development of data standards.
- Data and information facilitates making important decisions without incurring repetitive costs. Ready access to existing valuable data is essential for many decision making tasks such as protecting the environment, development planning, managing assets, improving living conditions, national security and controlling disasters.

Section L: Leveraging e-Governance for a better reach & transparency

Government is committed to democratize information & in this regard building a unique public information infrastructure will be the prime necessity in the country. This infrastructure will leverage ICT to revolutionize our current governance and service delivery paradigm. Following are some of the initiatives by the government for the same:

1. **Social Media**

   By June 2013, there were 66 million Indians on social media. This number is fast growing, with 1.5 lac new users joining the social media every month. Social media is fast emerging as the untainted voice of the citizens and will be the people's platform to transform their interface with the government & change the power equations. This is the reason why most political parties have already started campaigning through their social media accounts.

   The civic and metropolitan authorities have started using social media in order to interact with the public. In some cases, feedback from the public is sought for minor changes in localities. Delhi and

Bangalore have taken the lead in such efforts. The Delhi and Bangalore Police are active on Twitter and Facebook. The Municipal Corporation of Delhi's Facebook page accumulated more than 1500 complaints, most of which were resolved on priority.

Recently in March 2013, *Planning Commission* went social. The idea was to involve civil society in formulation of the plan.

2. **National e governance plan-** The program encourages all Government departments and ministries to manage their internal process electronically creating almost paperless departments. The *objective is to make all Government services available to citizens through online access.*

It is still work-in-progress but a lack of a firm deadline means, every department is proceeding at its own pace. Since effective co-ordination is lacking, even the departments that adopt electronic processes cannot be fully efficient until other related departments reach the same level, as it will hinder inter departmental coordination & communication.

- However, there are a few success stories including e-filing of income tax returns and land record management systems. The success of e-filing of income tax returns can be gauged by the significant year-on-year increase in the number of citizens and users who have adopted the system.

3. **Electronic delivery of services bill-** The EDS Bill aims to create a law that will enable departments to offer facilities to citizens in an electronic format, barring a few exceptions where physical delivery is essential. The draft EDS Bill draws certain similarities to the RTI in terms of the penalty mechanism to be imposed on erring officials. It is expected to significantly contribute to transparency and improved governance.

The Bill effectively proposes better delivery of services with minimal human interface, and by cutting human interface would cause reduced opportunity for corruption.

Section M : Accountability mechanisms for a transparent governance

1. **Public procurement bill-** The Bill has codified the basic tenets of public procurement and places statutory obligations on procuring entities and bidders to comply with these norms. Currently, the public procurement process ails from inadequate and severely fragmented administrative rules, which lack legal force. The codification of the process laying down broad principles to be adhered to is in itself the most significant plus point of the Bill. The intent of the bill is as follows:

- Ensure efficient and transparent process
- Increase competition
- Reduce corruption
- Ensure fair and equitable treatment to participants
- Ensure consistency between quality and the bid price

The Bill also proposes different degrees of penalties per the severity of an offence such as taking gratification in respect of procurement, interference with the process, making frivolous or malicious complaints and abetment of offences.

- It excludes from its ambit procurements which are less than INR 5 million, procurements for the purpose of national security and emergency procurements made for disaster management

2. **Performance management division-** The Central Government started this division to track and incentivize improved outcomes of ministerial decisions. It lays down clear guidelines for officials in all ministries for tracking performance, based on results. The tendency to delay decision-making needs to

be curbed leading to faster resolution. This will help every decision to reach its logical conclusion much faster

Such themes are increasingly being adopted across states in programs like Guaranteed Services Delivery Act wherein any delay in service delivery by a Government official beyond the specified time limit is penalized. This is similar to the provision in the RTI Act and has been adopted in states like Delhi, Rajasthan, Bihar and Madhya Pradesh.

Section N: Conclusion

To sum up it would not be wrong to say that *Public information belongs to the public & the public's business should be done in public.*

Relevant, timely, and accurate information is a critical element for this to achieve and is essential for a well-functioning democracy. All of the strategies discussed above seek to improve the viability of our governance through greater democratic participation and civic engagement. As stewards of our democracy, government leaders must facilitate better access and use of community information and the means for interpretation to enhance the common good. Open government initiatives offer an exciting step forward to make it easier for the public to know what governments are doing, participate in the decision-making process and fully engage in the civic life of their communities. ICT and Internet will continue to enhance these critical elements of our information democracy as more citizens become informed and equipped to participate more fully in the formation of public policy along with several other legislatively enacted accountability measures

There exists much scope of improvement as the benefit and adoption of the framework is yet to achieve its intended potential. The reluctance of government officials, an inadequate framework of financial independence and a general lack of awareness among citizens are the oft-quoted reasons for hampering effective participation of civil society in planning and decision-making.

However there is always a silver lining & the people have started asserting their right & taking responsibility for their community & nation more assertively forcing governments to listen to their voices & act in accordance to that.

One is aware that a million mutinies are taking place on an almost daily basis in the country. *The need is to go for a million negotiations on different front that would ensure that governance become more open, transparent, accountable & civil society work proactively along with the government to realize the vision of our constitution of a secular, socialist, democratic republic!*

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