“If liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost” Aristotle.

Good Governance is prerequisite for democracy. Such governance includes some factors such as transparency, accountability, rule of law and people’s participation. India is a democratic country and in every democratic country, there is a need of good governance and transparency. Good Governance does not occur by chance. It must be demanded by citizens and nourished explicitly and consciously by the national state. It is therefore necessary that the citizens are allowed to participate freely, openly and fully in the political process. The presence of civil society including a free press and independent judiciary are pre-conditions for good governance. According to the World Bank, Good governance entails sound public sectors 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.

For this purpose, the present chapter of this thesis has been analysed under following relevant standpoints:

1. Indian Idea of Good Governance
2. Basic Principles of Good Governance
3. Indian Constitutional Requirement of Good Governance
4. Right to Information and its Relationship to Good Governance
5. Role of Right to Information in Democratic Governance and Development
6. Strategy for Good Governance in Punjab
7. General Observations

1. **Indian Idea of Good Governance**

Good governance, for ages, has been the ideal idea of political thinkers, policy planners, decision-makers and the academicians. In any society, the basic concern of the citizens is the goodness of the government. And for this the systems and sub-systems of governance must be essentially efficient, effective, economical, ethical and equitable. In the same way, the governance process must also be just, reasonable, fair and citizen caring. To achieve these qualities of good governance, the machinery of governance must also be accountable and responsible.\(^4\) This quest for good governance has, since long, been the mainstay of the evaluation of the functioning of the powers that be. Academic discourse has been largely dependent upon the Western models of the concept of good governance. But we find that this is not entirely a new phenomenon and the issue had found prominence in scholarly works on polity and society in early centuries also. We may begin with an attempt to trace the roots of our concern for good governance in ancient Indian scriptures. In an attempt to facilitate our understanding of the concept of good governance in the ancient context of governance, **Kautilya’s Arthashastra** may prove to be in important basis.

Kautilya had himself proclaimed in the beginning of his Arthashastra that his treatise on the rules of governance for the king had been prepared after systematic comprehension of all the available academic literature on the subject and procurement of empirical evidence on the prevailing theoretical frameworks of political functioning of the governments.\(^5\) It is in this backdrop that some attempts have been made to understand the concept of welfare state in Kautilya’s political theory and these have been welcomed properly. It has been rightly observed that despite the lot of work by scholars on the historical significance of the Arthshastra as well as Kautilya’s contribution to statecraft and administration, the profuse classical scripture has not been scanned from legal angle.\(^6\)

The Arthashastra is essentially a handbook for the guidance of the governing group, a manual for the practicing politician. In the significantly major portion of it,

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5. Indian Idea of Good Governance: Revisiting Kautilya’s Arthashastra by Dr. Sanjeev Kumar sharma Editor, Indian Journal of Political Science, Department of Political Science, C.C.S. University, Meerut sanjeevaji@yahoo.com lpseditor@yahoo.co.in {Published in Dynamics of Administration, Lucknow, Vol. XVII, No. 1-2, Jan.-Dec. 2005, pp.8-19}.
Kautilya prescribes for specific need and uses tested administrative procedures. The procedures, thus prescribed, the indications of good governance, have not lost their relevance till date with reference to the socio-political and cultural contexts in India. It has been rightly observed that the Samhitas of the Yajurveda and the Brahmans had developed the old Vedic principle of king’s obligation towards his subjects. Similarly, in an age of monarchy and legitimized ascriptive inequality, Arthashastra alone describes the king a servant of the state who would harbour no personal likes and dislikes; it would be rather the likes and dislikes of the servants that would be followed by him. In Arthashastra, it is said that after the disappearance of the gods, who failed to bring the people under their control through benevolence, they assigned the duty of protecting people to a king in human form after taking from the Moon, the Sun, Indra, Vishnu, Kubera and Yama the qualities of beauty, lustre, prowess, victory, renunciation and restraint respectively. When the king insisted upon obtaining the help of the law (dharma) for fulfilling his task of protection, the gods created the same as his second: what is called the coercive authority (danda) (of the ruler) is the cause of dharma, and the king who knows this should inflict danda even upon his (guilty) father. Thus, the theory of divine creation of the temporal ruler does not make him immune to the use danda or coercive Danda ensures promotion of proper and equitable distribution of social gains, for material prosperity and spiritual enhancement. These novel suggestions of Kautilya are relevant even in the age of modern democracy, authority even upon himself in person.

Shankhdhar comments that Kautilya over-reached the modern concept (of welfare state) in that his Yogakshema aims at an all-round development, material as well as spiritual, of the society as well as of the individual. It involves the well-being of the poorest of the poor. The Kautilyan state, we are told, ensured freedom, happiness, prosperity and full-fledged development of human personality. Yogakshema demanded higher moral consciousness both at the elites’ and common peoples’ levels. While contemplating for good governance, Arthashastra emphasizes that a king should surrender his individuality in the interest of his duties. The king is

expected to behave in a most righteous manner; Arthashastra states: “In the happiness of his subject lies his happiness; in their welfare lies his welfare; whatever pleases himself he shall not consider as good, but whatever makes his subjects happy, he shall consider good.”

Here the king becomes synonymous to ‘constitutional slave’. The king is like the servant of the people subsisting by their contribution. It is the inculcated complete merger of the interests of the king in those of his subjects. This indicates that ruler will not be all absolute, arbitrary or authoritarian. Good governance demands for limits and restraints on government. Arthashastra, thus, calls for king’s acts to be regulated by seven different organs (saptang). According to Kautilya, sovereignty can be practiced only with the cooperation of others, and all administrative measures are to be taken after proper deliberation. The ability of the king lies in persuading and motivating his council members and coordinating as a true leader so that the decision taken collectively are executed well. Good governance as foreseen in Arthashastra, only controls government and politics but also society to some extent. For this purpose danda is to be applied, but in a justiceable manner. It was conceived that the coercive authority (danda) of the temporal ruler must be subject to the law; the grand instrument of public security and as such the foremost political principle in any society. Danda and use of dandaniti in Arthashastra is justified on the ground that it is the safeguard of man’s worldly existence. Kautilya applies his deeper political insight to lay down a new technique relating to danda. The king, who is severe to his subjects, afflicts all creatures, and they over power the one who is mild to his subjects, while his subjects respect one who justly implements his decisions. When danda is applied with sound knowledge of the canon, it confers the three-fold end of life (virtue, wealth, pleasure) upon people. The demand of good governance thus, according to Kautilya, calls for lawful application of danda, that ensures the complete happiness of the individual; its unlawful or vicious application causes universal dissatisfaction; and, its non-application produces anarchy symbolized by the law of the jungle. This implies the application of the idea of rule of law in the sphere of the king’s internal administration. Similarly, what was sought as a concept of justice in

Arthashastra has developed into concepts of equality before law and equal protection of law by now in constitutional justice procedure\textsuperscript{13}.

Mehta argues that Kautilya was the first one to emphasize the need for a strong political centre in India. Though Kautilya does not give his people the right to resist the authority of the state, or get rid of the bad rulers like Mahabharata; he emphasizes the need for the rulers to be rightful and just. He warns the king against the acts, which may cause popular fury, thereby, giving substantial importance to the happiness of the people. According to Kautilya, when people are impoverished, they become greedy, when they are greedy, they become dissatisfied, when dissatisfied, they voluntarily go to the side of the enemy and destroy their own master; hence, no king should give room to such causes as would bring about impoverishment, greed or dissatisfaction among his people. Keeping this in mind, Mehta finds that Kautilya might have been in favour of a strong king but it is doubtful whether he was in favour of an absolute monarchy. He calls the king a wage earner equal to other wage earners in the state. The kingdom is to be enjoyed by all\textsuperscript{14}.

Administration, as perceived in Arthashastra, begins with theory of the recruitment and selection of officials. The king is advised to appoint trusted people, those who share king’s virtues and vices and those who are gifted with the qualities of high birth, wisdom, purity, heroism and loyalty. From a reference in Arthashastra we learn that amatyas (officials) who had been purified by the four tests should be appointed to posts according to the tests severally passed by them. The tests (virtue, wealth, pleasure and fear tests) consist in tempting the candidate by different means through secret agents. Those who have passed the virtue test should be appointed to offices in the department of judicial administration and of summary of trials of offenders against the interests of the public and of the state. Those who have passed the wealth test should be appointed to offices belonging to the collection and deposit of the king’s revenue. Those who have passed the pleasure test should be appointed for guarding the royal ladies. Those who have passed the fear test should be posted near the king’s personnel. Those who have passed all the tests should be appointed as ministers. Thus the procedure of appointment of the ministers and officials who shall carry out administration of the state is an indicator that ensures people’s welfare,

\textsuperscript{14} V.R. Mehta- Foundations of Indian Political Thought, Manohar, New Delhi, 1992 (reprint 1999), pp. 91-93
avoids corruption in long run, provides for efficiency, integrity, faithfulness and sincerity in the administrative set-up, and visualizes the overall happiness of the society.

Kautilya states that administrative business carried out by king should be the result of consultation on the widest scale. The king is advised to consult the learned. The seven constituents of the state (prakritis)\(^{15}\) should also be well administered because all of them are co-related with each other and loss or damage to one means loss or damage of another. The state thus administered will become symbol of good governance. The Kautilyan state may be perceived as a state intervening, regulating and participating in socio-economic activities as well as controlling private enterprises in ways of checking in-healthy profit motive, standardized weights and measure, fixed prices and prevention of fraud. The sphere of the activity of the state extended not only up to the maintenance of the constitution but also to the maintenance, protection, preservation and promotion of a social order.

It is the duty of the state to provide the ‘common good’. The term is the symbol for the total governmental actions. In ancient India, king became an embodiment of the common good for his people. King is an instrument to achieve ends related to promoting general human well-being, such as peace, order, prosperity, justice and human dignity. A king is bound to ensure that the common good (dharma) is preserved\(^{16}\). Arthashastra gives to the welfare of the citizens, the first place in all considerations of policy; the common good of the people and their sustained happiness are considered as main ends for the service of which Kautilya called out an elaborate administrative system.\(^{17}\) In Arthashastra, people who govern have been advised that good governance is sustained by adhering to a dignity of moral duties ultimately resulting in ‘Sarva Kalyankari Karma’, maintaining ‘Sarva Loka Sangраha’ and aiming for the ‘Sarва Hitey Ratah’. These three principles support the contention that governance is a moral endeavour that should aim at common good of the people in general.

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15. Seven Prakritis of the state are- Swamin, Amataya, Durga, Kosha, Danda, Janapada and Mitra.
17. P. Sharan, Ancient Indian Political Though and Institutions, Meenakshi Prakashan, Meerut, 1978, p 186.
Arthashastra prescribes the duty of the king to chasten the conduct of the people, to be the promulgator of right law and duty, and to coordinate the laws of various orders and sections of society. If a king is energetic, his subjects will be equally energetic. A reckless king easily falls into the hands of his enemies, so a king should always be wakeful. Thus, the king has been subjected to a rigorous disciplined life and elaborate code of conduct. This also applies to the ministers and other officials of the state because root of the wealth lies in disciplined life and of evil in its reverse.\textsuperscript{18}

Arthashastra illustrates the salaries and allowances of all government officials and king to be fixed and reasonable. The king, as perceived by Kautilya, is the servant of the people who should attain fixed wage from the state. The allowances of the members of the family of the king too are fixed which could not be raised without the approval of council. In the interest of good governance it is advised that, the king should look to the bodily comforts of his servants by providing such emoluments as can infuse in them the spirit of enthusiasm to work. He should not violate the course of righteousness and wealth. Thus, the king shall not only maintain his servants, but also increase their subsistence and wages in consideration of their learning and work.\textsuperscript{19} Kautilya even prescribed the amount of salary that the family and the officials of the king were to receive. Arthashastra further states that salary of the king could not be proposed to be raised, though the mantriparishad could raise the salaries of the members of his family. Good governance demands for divorce of political power and economic consumerism and this is what is advised in Arthashastra.

The greatest duty of king, as indicated in Arthashastra is maintaining law and order that is to prevent life and liberty of his subjects. According to Arthashastra people’s agreement with Manu was preceded by divine creation. The agreement of the people in Kautilya’s extract charges the people with payment of their customary dues to the ruler evidently for inducing him to end the condition of anarchy. His subjects do not only pay the king the dues, but he is also guaranteed a disproportionate share of their merits, and absolved from any share of their sins. This is done to induce the king to undertake his duty of protection an indication of good governance, which had already been imposed upon him by divine ordination. From his theory of the origin of kingship, Kautilya draws the sub-theory that the king’s taxes and punishment are

\textsuperscript{18} R. Shamasastry, Kautilya’s Arthashastra, op.cit., pp.37-39.
\textsuperscript{19} Arthashastra, Book V. Chapter III, pp.247-249.
necessary in the people’s own interests as they provide him with the means of ensuring the security and prosperity of his subjects.\textsuperscript{20}

The king has been asked by the old laws to restore stolen property to its owner, or else compensate him out of his own treasury. To the above indication of good governance, Kautilya adds a new penal clause- should the king punish an innocent man, he must multiply the fine thirty-fold and offer, it to god Varuna and then make it over to the Brahmanas. The logic of this comes from the convenient argument drawn from Vedic mythology to the effect that Varuna is the punisher of wrong doers. The above clauses, by making the king liable for protection of property, by restricting his property-rights, and by enhancing his fine, repeat the early Smriti principle of the rule of law in the branch of the king’s internal administration.\textsuperscript{21} The details of judicial administration, as mentioned in Arthashastra, prove to be yet another indicator of good governance. The spirit of rigid organization that marked the executive pervaded the judicial administration. Impartial justice is recognized to be bedrock of sound government, although the measure of punishment varied with distinctions of social classes (Varnas.)

While the appointment of the officials includes a test of character through four allurements (as mentioned before) their duties are set out, with attention not only to office organization but also to professional technique. They are full-time royal servants, with salaries to be paid by king. At the same time, what indicates towards good governance is the carrying out of preventive and punitive measures to punish corrupt government servants, judges or jailors.\textsuperscript{22} In Arthashastra we find that financial integrity of the officials needs close control and supervision. Kautilya finds that corruption can prove to be a menace in good administration. Corruption and misappropriation of public money by government officials is an area of great concern for him. Kautilya was quite apprehensive about the honesty of officers of civil administration and therefore, he suggested several punishments and penalties to be imposed on the wrong doers. Any government official, if proved, has raped an Aryan women was to be awarded death sentence. This obviously sends a clear message to

\textsuperscript{20} B.A. Saletore, Ancient Indian Political Thought and Institution, Asia Publishing House, Bombay, 1983, pp 136-37.
\textsuperscript{21} U.N. Ghoshal, A History of Indian Political Ideas, op.cit., p.118.
\textsuperscript{22} L.N. Sharma and Susmita Sharma, Kautilya’s Indicators of Good Governance, IJPA, op. cit, p. 268.
the wrong doers and we must appreciate that inculcating fear to this sort in ministers and officials is essential for setting up good governance.

Arthashastra clarifies that ministers should be purified by four tests and appointed to posts according to the test severally passed by them. It also makes another aspect of good governance clear by mentioning retrenchment of bad and poor performers as ministers and replacing them with good ones. Appointed by the king, ministers are responsible for deliberation on the policy of the state (mantra), realization of the results Arthashastra, thus, states that competent and qualified ministers along with highly virtuous and administratively qualified king can only provide good governance to the state. Mehta finds Arthashastra to be more a treatise on administration than on politics and statecraft. of the policy, execution of business, the business concerning income and expenditure, army, providing information of enemy and wild tribes, providing against (national) degeneration and protection of the princes.  

The vitality of the role played by ministers necessitates the needs for best person to be posted as minister. Arthashastra not only conceives the king’s calamity to the most serious of the calamities of the state constituents, but it emphatically states that the king makes or mars the other constituents accordingly, as he is properly qualified or not. Explaining the supreme importance of the king’s functions, Kautilaya argues that king should possess the qualities of leadership, intellect, energy, good moral conduct, physical prowess and above all good decision maker. When the king possesses good qualities then minister and others dependent upon him for their success and failure follow his behaviour, for the king stands at their apex.  

The discussion on administration principle are so insightful that one may wonder whether there has really been any progress in the science of administration since then. Kautilyan idea of a positive state is characterized by authorization of the king to create conditions of good life by extensive and exhaustive list of works such as digging wells, canals, and constructing dams, roads, rivers plantation, preservation of forests, providing the infrastructure for trade, commerce and industry, providing subsistence to the orphans, helpless, the aged, women and the afflicted, supervision and superintendence to places of pilgrimage, reservoirs, cooperative enterprises, protecting people from any kind of molestation, oppression, forced labour and

oppressive taxes. The principles of the administration of the state enunciated in Kautilya’s Arthashastra about 2300 years ago, bear resemblance with the modern day concept of welfare state in respect of ideology, ideals, functions, tasks, duties, socio-administrative organizations, etc. The principles and policies of government and administration find a large place in the canvas of Kautilya’s political thought. The very first lesson on royal duties prescribes for the king to acquire conquest of his own self, to avoid caprice, deceit and greed, to display intelligence, skill and self-restraint, to act with deliberation and so forth. King’s complete merger of his interests in those of his subjects as well as the concept of a welfare-state with its two fold objective of freedom of its members from fear and from want, mark the setting up of the basic tenets good governance. The king is advised to constantly adopt the behaviour of a pregnant women: as the mother disregarding her own likes seeks the good of the child in her womb, so should the king behave towards his subjects; the righteous king should constantly behave so as to give up what is dear to him for the sake of what is beneficial to his people. In this respect, Arthashastra defines the ‘Hindu’ concept of ‘common good’ that should be carried out by a king in which good of all and everyone should be made available.

Arthashastra discusses in detail the principle of righteousness of the temporal ruler or political righteousness. Principles and policies of government involving the conception of a welfare state and that of the ruler’s complete identification with his subjects have been incorporated in the scheme of things by Kautilya, thereby, providing for subordination of the wealth to virtue. Justifying the application of righteousness in the affairs of government, declaring righteousness to be the essence of kingship, Arthashastra elaborates how king’s attitude towards this principle is attended with profound repercussion on the individual and the community through its influence upon physical environment. Arthashastra explains the principle of political righteousness in such a way so as to involve not only the king’s high moral qualification and his fullest protection of his subjects, but also his selection of qualified ministers and his application of foreign policy on the principle of expediency. Just application of danda, (a coercive authority of the temporal ruler) may also lead him towards good governance. Arthashastra conceives danda to be the surest and the most universal means of ensuring public security as well as the stability of the

social order, while it contemplates the universal application of danda irrespective of
the offender’s rank and status. 26

In Arthashastra of Kautilya, we find the fullest and the most systematic
treatment of the ancient Indian theory of government. It deals with topics such as the
relation of the king to the other factors of the state structure, the scheme of the
prince’s training on the basis of simultaneous development of his intellect and
character, the recruitment and selection of the officials, the technique of a king’s
consultation with his ministers founded on a clear analysis of the value and requisites
of counsel, and finally, the organization of the civil and the military administration
based upon such considerations as the tendency of power to breed corruption and the
danger of a unified military command from the standpoint of external security.

Aspects of disciplined life and code of conduct are essential features of good
governance. This sets a model for others to follow, as prescribed in Arthashastra.
King’s guidance and watch over administration is yet another constituent of good
governance. This ensures people’s welfare. The civil servants, like greedy children,
need to be watched and guided so that they do not become ‘mai-baap’ to the people
but be responsive and responsible to the people. Administrative competence of king
and his ministers as suggested by Kautilya also leads to good governance.

All this indicates how Kautilya’s system of governance was quite modern in
concept and contemporary in operational guidelines. To this day, therefore, quite
naturally, his percepts and writings have attracted the attention of not only the
academic researchers but also many present day thinkers, administrative observers
and political leaders, just as the philosophy, tenets, advice and suggestions contained
in the two ancient epics, Ramayana and Mahabharata, have substantial relevance even
today in terms of basic principles of statecraft and governance. We find that the most
of the basic features of modern day concept of good governance, responsiveness of
the government, efficiency of administration, wellbeing and prosperity of the people,
overall development of the political community, good quality of life, ethical
inwardness and economic affluence – have got prominent place in the thought process
and administrative structures postulated by Kautilya in his Arthashastra. The primary
objective of the authority has been described as the happiness of the people. All other
goals are complimentary and secondary. This not only shows the great concern of the

26. V.R. Mehta, Foundations of Indian Political Thought, op. cit., pp. 94-95.
philosopher for the wellbeing of people but also brings forward the ‘Indian’ model of
good governance before the academic society of large.27

2. Basic Principles of Good Governance

Governance is normally described as involving government, civil society and
the private sector in managing the affairs of a nation, which means that the
responsibility for managing the affairs of a nation is not limited to government alone,
but includes a wide variety of stakeholders including: state government, local
governments; the private sector; non-governmental and community-based
organizations (NGOs/CBOs), the media, professional associations and other members
of civil society.28 And each actor has a specific role to play based on its source of
legitimacy and comparative advantage.

In any discussion on good governance, attention must be focused on the
primary responsibilities of the government. These must include the maintenance of
law and order, administration of justice, and welfare of economically and socially
weaker sections of society in terms of provision of safety net for them. Here again it is
seen that, in its anxiety to do thousand and one other things, these primary
responsibilities have been neglected over the years.29 It can truly be said that he who
governs the least governs the best! If this principle had been followed in governance
all these years, India would not have presented a picture of such squalor, filth,
iliteracy and poverty even fifty years after Independence. The main question is
whether we are prepared to learn lessons for the future from our experience of the past
30. At the outset, it needs to be appreciated that the concept of good governance is
much larger than mere administrative reforms in the conventional sense of the term.
In fact, it covers much more ground and substance than administrative reforms. Good
governance has much to do with the ethical grounding of governance and must be
evaluated with reference to specific norms and objectives as may be laid down. It
looks at the functioning of the given segment of the society from the point of view of
its acknowledged stakeholders and beneficiaries and customers. It must have firm
moorings to certain moral values and principles. Good governance, as a concept, is

Parliamentary Studies, Vol 45 No 3-4 July -December 2011 P 99
29. Ibid.
30. Anshu Jain, “Good Governance And Right To Information: A Perspective”, Journal Of
Indian Law Institute, Vol 54 No 4 October -December 2012 P 39.
applicable to all sections of society such as the government, legislature, judiciary, the media, the private sector, the corporate sector, the co-operatives, societies registered under the Societies Registration Act, duly registered trusts, organizations such as the trade unions and lastly the non-government organisations (NGOs). Public accountability and transparency are as relevant for the one as for the other.

2.1 Characteristics of Good Governance

2.1.1 Participation, Legitimacy and Voice:

All men and women, inclusive of the physically challenged should have a voice in decision making, either directly or through legitimate intermediate institutions that represent their interest. Such broad participations are built freedom of association and speech, as well as capabilities to participate constructively. Participation is a process whereby policy-making privatizing uses accessibility to public good and also allocating resources is influenced by key stake holders. General, Public involvement includes three elements of pillars.

- Public access to Information.
- Public participation in decision-making process.
- Public access to judicial and administrative redress often termed ‘access to justice’.

Civic engagement is understood as the active participation of citizens in public life and their contribution to the common good. The level of trust in the government and public agencies is a key factor that determines the extent and quality of civic engagement. Loss of trust can lead to disengagement of citizens and discourage participation of communities as well as the private sector in functions such as public services delivery, or even in democratic processes such as elections.

2.1.2. Rule of Law, Fairness & Equity:

All men and women have opportunities to improve or maintain their wellbeing. Legal frameworks should be fair and enforced impartially, particularly the laws on human rights. Good Governance require fair legal framework that are enforced impartially. A fair predictable and stable legal framework is essential so that

31. Secretary General, Supreme Court Of India V. Subhash Chandra Agrawal Civil Appeal NO. 2683 OF 2010. J.D November 26, 2010
businesses and individuals may assess economic opportunities and act on them without fear of arbitrary interference or expropriation. This requires that the rules be known in advance, that they be actually in force and applied consistently and fairly, that conflict be resolvable by an independent judicial system and that procedures for amending and repealing the rules exist and are publicly known.34

2.1.3. 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. Transparency ensures that enough information is provided and that it is provided in easily understandable forms and media.35

Transparency is widely recognised as a core principle of good governance. Transparency means sharing information and acting in an open manner. Free access to information is a key element in promoting transparency. Information, however, must be timely, relevant, accurate and complete for it to be used effectively. Transparency is also considered essential for controlling corruption in public life.

Transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them. It promotes openness of government action, decision making process, and consultative process among public sector and all stakeholders. Lack of transparency, weak accountability, lack of responsiveness and inefficiency also compromise good governance. Transparency and good governance are interrelated and mutually enforceable concepts. Without transparency, that is unfettered access to timely and reliable information on decisions and performance.36 It would be difficult to call public sector entitles to accounts unless there is accountability, that is mechanism to report on the usage of public resources and consequences for failing to meet stated performance objectives, transparency would be little value. The existence of both conditions is a prerequisite of effective, efficient and equitable management in public institutions.37

35. Caesar Roy, “Right To Information And It's Significance To Ensure Good Governance In India”, Nyaya Deep Vol 13 Issue 2 April 2012 P 79
Transparency helps not only to inform the public about development ideas and proposals, but also to convince citizens that the public agencies are interested in listening to their views and responding to their priorities and concerns. This in turn enhances the legitimacy of the decision-making process and strengthens democratic principles.

Transparency also influences civic engagement in a more direct manner. Responsiveness often holds the key to successful involvement of citizens and the private sector. Governments that share their assessments and plans with citizens and seek their views on a regular basis can be far more effective in implementing development programmes with the participation of stakeholders.

Thus transparency can help to stimulate active engagement of the private sector and civil society in public affairs, thereby confirming the changed role of the government as an enabler and facilitator of access to, rather than provider and controller of, goods and services.  

Transparency means taking informed, transparent decisions and managing risk:

- Being rigorous and transparent about how decisions are taken
- Having and using good quality information, advice and support
- Making sure that an effective risk management system is in operation.

2.1.4. Performance

Responsiveness – institutions and processes try to serve all stakeholders.

Effectiveness and efficiency – Process and institutions produce results that meet needs while making the best use of resources. This characteristic promotes efficient public delivery systems and quality public output. It deals with the amount of public respect the civil service has one aspect of poor service delivery is corruption. One of the ways of fighting corruption is through competitive salaries and motivating staff through incentives. There is also a need to introduce legislation governing civil service and a code of conduct. This legislation will define the appointments and promotions of civil servants through merit based processes as well as the organizational structure. Three new dimensions which become part and parcel of Good governance are:

2.1.4.1 performing effectively in clearly defined functions and roles:

- Being clear about the functions of the governing body

38. Caesar Roy, “Right To Information And It's Significance To Ensure Good Governance In India”, Nyaya Deep Vol 13 Issue 2 April 2012 P 79.
• Being clear about the responsibilities of non-executives and the executive, and making sure that those responsibilities are carried out;

• Being clear about relationships between governors and the public;

2.1.4.2 promoting values for the whole organisation and demonstrating the values of good governance through behavior:

• Putting organisational values into practice;

• Individual governors behaving in ways that uphold and exemplify effective governance;

2.1.4.3 focusing on the organisation’s purpose and on outcomes for citizens and service users

• Being clear about the organisation’s purpose and its intended outcomes for citizens and service users;

• Making sure that user receive a high quality service;

• Making sure that taxpayer receive value for money.

2.1.5 Accountability:

Decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external.

Accountability is a key requirement of good governance. Without accountability, the root of any development failure cannot be traced. Hence not only governmental institutions but all private and civil society organizations must be accountable to the public. Accountability may be categorized into broad types.39

a) Accountability is associated with the idea of answerability; based on the premise that individual is determined by one’s position in structure relationship.

b) Liability a second form of accountability sees individual identity rooted in more-formalized expectations developed through rules, contracts legislation and similar relationships based on legalistic standing.

c) Accountability is associated with role-based expectations. Such roles faster blameworthiness as a basis for shaping and directing behaviour.

d) Accountability expectations are derived from an individual’s perceived status of community where attributions come into play.

**Making accountability real by:**

- Understanding formal and informal accountability relationships
- Taking an active and planned approach to dialogue with and accountability to the public.
- Taking an active and planned approach to responsibility to staff.
- Engaging effectively with institutional stakeholders

### 2.1.6 Strategic vision or Consensus Oriented Directions

Leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.

Good governance requires mediation of 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 sustainable human development and how to achieve the goals of such development.⁴⁰

The test of good governance lie in the goals and objectives of a government, in its policies and programmes, in the manner of their execution, in the results achieved and above all, in the general perception of the people about the quality of functioning of its various agencies, their attitudes and behaviour towards the public, their sincerity, honesty, and commitments towards public duties. It is also important to see that there is no undue concentration of power.⁴¹

The government has also to respect the dignity of the individual and promote national unity. Thus in assessing the quality of governance the means employed and the results achieved in fulfilling the above objectives have to be the real criteria.

**Developing the capacity and capability** of the governing body to be effective by:

- Making sure that **appointed and elected governors** have the **skills, knowledge and experience** they need to perform well.

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Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.

- Striking a balance, in the membership of the governing body, between continuity and renewal

3. Indian Constitutional requirement of Good Governance

The test of good governance lie in the goals and objectives of a government, in its policies and programs, in the manner of their execution, in the results achieved and above all, in the general perception of the people about the quality of functioning of its various agencies, their attitudes and behaviour towards the public, their sincerity, honesty, and commitments towards public duties. It is also important to see that there is no undue concentration of power.

The "Preamble" to the Indian Constitution reflects broadly the goals and ideals the Indian state should pursue for the well-being of its people. The most important goal is "to secure to all its citizens justice-social, economic and political". This, in fact, summarizes the very purpose of any good state. The several aspects of this goal and the way to achieve them have been more explicitly spelt out in part IV of the Constitution containing the "Directive Principles of State Policy". Article.37 says that these Directive Principles though not enforceable by any court "are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

Article 12 defines "State" to include "the government and Parliament of India and the government and the Legislature of each of the states and all local or other authorities within the territory of India or under the control of the Government of India".

Directive Principles of State Policy (Articles 36 to 51)

All the above agencies of the State have to play their respective roles in implementing the various Directive Principles of State Policy. Some of these Directives require the State by way of good governance to secure:

A social order for the promotion of welfare of all the people;  

42. Articles 36 to 51, of Indian Constitution.
43. Article 38(1) of the Indian constitution.
• Minimisation of inequalities in income and elimination of inequalities in status\(^\text{44}\);
• The right to adequate means of livelihood to all men and women\(^\text{45}\);
• The operation of economic system to prevent concentration of wealth in few hands\(^\text{46}\);
• Equal pay for equal work for men and women\(^\text{47}\);
• Protection against abuse of health and strength of Workers and the tender age of children\(^\text{48}\);
• The right to Work, to education and to public assistance in cases of unemployment, old age;
• Sickness and disabilities\(^\text{49}\);
• That village panchayats be organised as units of self-government\(^\text{50}\);
• Just and humane conditions of work and maternity relief\(^\text{51}\);
• Living wages for Workers to ensure decent standard of life and adequate leisure\(^\text{52}\);
• Free and compulsory education for all children below 14 years of age;
• Higher level of nutrition and public health\(^\text{53}\);
• Fundamental Rights to provide good governance\(^\text{54}\);
• Right to Equality\(^\text{55}\) (rule of law)\(^\text{56}\);
• Prohibition of discrimination against citizens (Article 15)\(^\text{57}\);
• Right to speech and expression (freedom of press)\(^\text{58}\);

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44. Article 38(2) of the Indian constitution.
45. Article 39(1) of the Indian constitution.
46. Article 39(c) of the Indian constitution.
47. Article 39(d) of the Indian constitution.
48. Article 39(f) of the Indian constitution.
49. Article 41 of the Indian constitution.
50. Article 40 of the Indian constitution.
51. Article 42 of the Indian constitution.
52. Article 43 of the Indian constitution.
53. Article 45 of the Indian constitution.
54. Article 47 of the Indian constitution.
55. Article 14 to 18 of the Indian constitution.
56. Article 19(1) (a) of the Indian constitution.
• Right to life and personal liberty” (due process of law)\(^\text{59}\);
• Right against exploitation\(^\text{60}\);
• Right to live with human dignity\(^\text{61}\);
• Right to know\(^\text{62}\);
• Right to Constitutional remedies etc\(^\text{63}\).

The government has also to respect the dignity of the individual and promote national unity. Thus in assessing the quality of governance the means employed and the results achieved in fulfilling the above objectives have to be the real criteria.

4. **Right to Information and its relationship to Good Governance**

"The exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises of the mechanisms, processes and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences." - UNDP

The value of any freedom is determined by the extent to which the citizens are able to enjoy such freedom. Ours is a constitutional democracy and it is axiomatic that citizens have the right to know about the affairs of the Government which, having been elected by them, seeks to formulate some policies of governance aimed at their welfare. However, like any other freedom, this freedom also has limitations. It is a settled proposition that the Right to Freedom of Speech and Expression enshrined under Article 19(1) (a) of the Constitution of India encompasses the right to impart and receive information.\(^\text{64}\) The Right to Information has been stated to be one of the important facets of proper governance. With the passage of time, this concept has not only developed in the field of law, but also has attained new dimensions in its application.

The Second Administrative reforms commission has been constituted to prepare a blueprint for revamping the public administration system. The commission

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58. Article 21 of the Indian constitution.
60. Article 23 &24 of the Indian constitution.
63. Article 32 to 35 of the Indian Constitution.
64. **S.P. Gupta v. Union of India AIR 1982 SC 149.**
in its first report decided to analyze and recommendations on the freedom of information as the right to information Act has been enacted and is a paradigm shift administration. The Right to Information Act is a path breaking legislation which signals the march from darkness of secrecy to down of transparency. It lights up the mindset of public authorities, which is clouded by suspicion and secrecy openness in the exercise of public power-executive, legislative or Judiciary is a culture, which need to be nurtured, with privacy & confidentiality being an exception. The right to information will also be a powerful means for fighting corruption. The effective implementation of Right to information act will create an environment of vigilance when will help promote functioning of a more participatory democracy.

Dr. A.P.J. Abdul Kalam, observes that Good Governance is being recognized as an important goal by many country acres the world. They have taken up specific initiatives for open government; there is a conscious effort to put the citizen as the centre of the governance.

Good governance has major characteristics like participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness, efficiency, accountability and strategic vision and consensus orientation. It 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 and implementation. It is also responsive to the present and future needs of society, balancing between growth and distribution, present and future resource use.

Good Governance and Right to Information are complimentary and the success of one depends upon the other. We are wedded to the concept of welfare state which has led to tremendous increase in the number and varieties of governmental activities. Secrecy in government and government run institutions is a source of harassment and corruption under the official secret Act, 1923, the entire development process has thus been shrouded in secrecy. The people who voted for the formation of democratically elected governments had no right to access public information.

66. Ibid
68. Anshu Jain, “Good Governance And Right To Information: A Perspective”, Journal Of Indian Law Institute Vol 54 No 4 October -December 2012 P 506
Objective of the Act

Objective of the Act is to establish “the practice regime of right of information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a central information commission and for the matter connected therewith and incidental there to.”

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.

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69. The Preamble to the RTI Act, 2005
70. Section- 3 of RTI Act, 2005
• Right to information covers inspection of work, document, record and its
certified copy and information in forms of diskettes, hopes, tapes, videos
Cassettes in any electronic mode or stored information in computer etc. 72

• Every Public Authority shall maintain all its records duly catalogued and
indexed in a manner and the form which facilitates the Right to Information
under this Act and ensure that all records that are appropriate to be
computerized are, within a reasonable time and subject to the availability of
resources, computerized and connected through a network all over the country
on different systems so that access to such records is facilitated. 73

• Applicant can obtain information within 30 days from the date of request in a
normal case. 74

• Information can be obtained within 48 hours from the time of request. It is a
matter of life and liberty of a person. 75

• Every public authority is under obligation to provide information on written
request by electronic request.

• Certain information’s are prohibited. 76

• Restrictions made for third party information against the decision of the
central information commission or state information commission can be made
to an affair, which is senior in rank. 77

71. Section- 2 (f): "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.

72. Section- 2(j): "Right to Information" means the right to information accessible under this
Act which is held by or under the control of any public authority and includes the right to: (i)
Inspection of work, Documents, Records;(ii) Taking notes, Extracts or Certified copies of
documents or records;(iii) Taking certified samples of material;(iv) Obtaining information in
the form of Diskettes, Floppies, Tapes, Video cassettes or in any other electronic mode or
through printouts where such information is stored in a computer or in any other device.

73. Section- 4(1) (a) of RTI Act, 2005.

74. Section- 7 (1): Subject to the proviso to sub-section (2) of section 5 or the proviso to
subsection (3) of section 6, the Central Public Information Officer or State Public
Information Officer, as the case may be, on receipt of a request under section 6 shall, as
expeditiously as possible, and in any case within 30 (Thirty) days of the receipt of the request,
either provide the information on payment of such fee as may be prescribed or reject the
request for any of the reasons specified in sections 8 and 9.

75. Ibid.

76. Sections 8 and 9 of RTI Act, 2005.

77. Section- 11 of RTI Act, 2005.
• Penalty for refusal to receive an application for information or for net providing information is Rs. 250/- per day but the total amount of penalty should not exceed Rs. 25000/-.  

• No Court can entertain any suit, application or other proceedings in respect of any order made under the act.

The following are exempted from the preview of the Act

• Matters pertaining to the national sovereignty and integrity.

• Information expressly prohibited to be published by court of law.

• Information regarding commercial confidence, trade secrets or intellectual property etc.

Important Judicial pronouncements on RTI & Good Governance

In State of Utter Pradesh v. Raj Narayan, Blue Books relating to the security of the Prime Minister were held to be not privileged document. Again in S.P. Gupta v. Union of India the Supreme Court directed the Indian government to disclose correspondence between the Chief Justice of India, Chief Justice of Delhi High Court and the Law Minister relating to the non-confirmation of Justice S.N. Kumar and transfer of Chief Justice of Patna High Court Justice K.B.N. Singh.

In the case of Bennett Coleman V. Union of India, the right to information was need to be included with in the right of speech and expression guaranteed by Art 19(1) (a). In another case of State of U.P V. Raj Narain the court explicitly stated that it is net in the interest of the public to cover with a veil of secrecy. The common routine business….. the responsibility of official to explain and to justify their acts is the chief safeguard against operation and corruptions.

78. Section- 20 (1) of RTI Act, 2005.
80. Section- 8 (1)(i) of RTI Act, 2005
81. Section- 8 (1)(ii) of RTI Act, 2005
82. Section- 8 (1)(iv) of RTI Act, 2005
86. AIR 1973 SC,60
87. (1975) 45.C.C 428
In the case of **Ashwani Kumar Goel V. RN Sharma & others**[^88] Shailesh Gandhi, (former CIC) held that under the RTI Act, disclosing information on matters which are sub-judice does not constitute contempt of court, unless there is a specific order forbidding its disclosure.[^89]

In the case of **Khanapuram Gandaiah Vs. Administrative Officer and Ors.**[^90] Supreme Court held that an applicant can get any information which is already in existence and accessible to public authority under law. But he cannot ask any information as to why such opinion, advice etc. have been passed especially in matters pertaining to judicial decisions. Answers to those could not have been with the public authority nor could he have access to the said information. Remedy for a party aggrieved there by lies in a challenge by way of appeal, revision or any other legally permissible mode.

In the case of **Central Board of Secondary Education and Anr. Vs. Aditya Bandopadhyay and Ors.**[^91] Supreme Court provide Right to inspect evaluated answer books under Right to Information Act, 2005.

On September 13, 2012, a division bench of the Supreme Court, chaired by Justice AK Patnaik and Justice Swatanter Kumar, passed an order which would fundamentally change the constitution and working of Information Commissions. The Supreme Court has concluded that the duties of the Information Commissioner is judiciary in nature and requires a qualified legal mind. It wants the government to amend the Act.

In the case of **Ram Jethmalani and Ors. Vs. Union of India (UOI) and Ors.**[^92](A petition for disclosure of Swiss Bank account holder’s name case) court held that:

> “Right to privacy is an integral part of right to life, a cherished constitutional value and it is important that human beings be allowed domains of freedom that are free of public scrutiny unless they act in an unlawful manner.”
> “Revelation of bank account details of individuals, without establishment of prima facie grounds to accuse

[^89]: Ibid
[^90]: AIR 2010 SC 615
[^91]: (2011)8SCC497
them of wrong doing, would be a violation of their rights to privacy.”

“State cannot compel citizens to reveal, or itself reveal details of their bank accounts to the public at large, either to receive benefits from the State or to facilitate investigations, and prosecutions of such individuals, unless the State itself has, through properly conducted investigations, within the four corners of constitutional permissibility.”

On June 4 last, while acting on an RTI application seeking details on the finances of political parties, a full bench of Central Information Commission (CIC) comprising its Chief Information Commissioner Satyananda Mishra and Information Commissioners ML Sharma and Annapurna Dixit had ruled that political parties should be brought under the ambit of RTI Act as they are answerable to the people.93

A Bench of justice R.V Reveendran and A.K Patnaik gave this feeling (briefly reported in August 10) while allowing disclosure of answer sheets of student in public examinations. The Bench said RTI Act provisions should be enforced strictly and all efforts made to bring to light the necessary information under see 4(4) (b) which “relates to securing transparency and accountability in the working of public authorities and in discouraging corruptions.94

5. Role of Right to Information in Democratic Governance and Development

The Right to information is a necessary ingredient to achieve the following objectives:

5.1. Transparency and openness

Eminent Indian jurist, Soli Sorabjee stressing on the need of Right to Information says that if we aim at bringing transparency in administration and public life, "Lack of transparency was one of the main causes for all pervading corruption ana' Right to Information would lea' to openness, accountability ana’ integrity".95

Transparency and accountability are the current buzzwords of governance, being used unsparingly not only in India, but by Governments and international institutions all over the world. They have been a part of the debate on political reform

in India for a long time. Transparency and accountability in administration is the sine-qua non of participatory democracy. The citizen’s right to information is the soul of transparency and improves the quality and ethics of decision making by the concerned authorities. This is considered to be the best way to ensure fruitful exercise of the powers by these authorities.  

Traditionally, participation in political and economic processes and the ability to make informed choices had been restricted to small elite in India. Consultation on important policy matters, even when they directly concern the people was rarely the practice. On the contrary in today’s changed scenario information is required in each and every walk of life, without information, people cannot adequately exercise their rights and responsibilities as citizens or make informed choices. Transparency, as used in science, engineering, business, the humanities and in a social context generally, implies openness, communication, and accountability.

It is a metaphorical extension of a transparent object being one that can be seen through. Transparent procedures include open meetings, financial disclosure statements, freedom of information legislation on budgetary review, and audits. In politics, transparency is used as a means of holding public officials accountable and is hailed as a means of fighting corruption. When a Government’s meetings are open to the press and the public, its budgets may be reviewed by anyone, and its laws and decisions are open to discussion, it is seen as transparent, and there is less opportunity for the authorities to abuse the system for their own interests. When military authorities classify their plans as secret, transparency is absent.

This can be seen as positive or negative; positive because it can increase national security, negative because it can lead to corruption and, in extreme cases, a military dictatorship. While liberal democracy can be a plutocracy, where decisions are made behind locked doors and the people have fewer possibilities to influence politics between the elections, a participative democracy is more actively connected to the will of the people.

There are numerous ways in which information can be made accessible to members of the public in a parliamentary system. Members of the public can seek information from their elected representatives. Annual reporting requirements,

97. www.thefreedictionary.com/transparency
committee reports, publication of information and administrative law requirements also increase the flow of information from government to the citizen. Recent technological advances also help to reduce the gap between the 'information rich' and the 'information poor. However, the Government releases only that information which suits it ,unless someone forces it to give a complete picture of the truth , because of the ground that the disclosure would prejudice the Government activities. 99

5.2. People’s Participation and Empowerment

Active public participation is the soul of democratic form of governance. Development of opinion is a must, before enactment of law in developed countries. Participation in political and economic processes and the ability to make informed choices is important in democracy. It is considered imperative to enlist the support and participation of citizens. We may never have anything like “full participation” in absolute terms. But participation in various parts of the process of taking decisions and creating platforms for genuine debate and dialogue to further deeper understanding of issues should be a part of the decision making process of Government. Participation arises from the process of people getting space to articulate what they feel is the necessary bottom-line of development, of rights, or of any other matter, in a systematic and logical manner. This information will ultimately be used with understanding, with knowledge, to form instruments of governance.

Democratic societies have a wide range of participatory mechanisms, ranging from regular elections to citizen oversight bodies. They are formed for various purposes for example to avail benefits, public, education, health services, to comment on draft policies or laws etc. An effective participation depends on information that is very certain.

The Development of a vast and varied country like India is not possible unless participative management in the governance is made practical. This requires making the right type of information available to the people which is lying in the files of the Government. People must be involved and informed at every level. They must know exactly how things are being done. Meaningful participation of people in major issues affecting their lives is now a vital component of the democratic governance and such


participation can hardly be effective unless people have information about the way government carries out its business. It can be done by enhancement of public accessibility to official information.\(^{100}\)

The Participation of people is no longer perceived as periodical exercise of right to franchise. Democracy means making informed choices, having freedom to know the conduct and working of the government, to address the grievances of public, to find solutions to the arrogance of officials, it requires efficient and accountable working which is very vital for the very effective functioning of democratic society.\(^{101}\)

The Freedom of information must lift the veil of secrecy if social justice is to be achieved. Efforts of Non-Governmental Organizations and activists through informational system alone can empower the person in the street. When Non-Governmental Organizations and other social action groups, coupled with investigative journalists of the fourth estate, supported by the socio-economic information groups bring class-actions, representative suits, public interest litigations or social-action litigations, then only effective justice is possible for the poor. Sometimes the need for a vital document is discovered in the course of proceedings and parties may not be able to secure such materials. Such information, if allowed to remain beyond the reach of the court or suitors, will impair their right to justice. Withholding of facts by public authorities or corporate managers, can make social justice a casualty.\(^{102}\)

A recent example of People participation can be seen in the demand for the Lokpal Bill.\(^{103}\) It seems that the anger-volcano has, finally, erupted in the hearts of Indians. The People of the nation have been exhausted with the overdose of corruption and callousness on the part of Government bodies. Corruption allegations against most of the political leaders and the inaction from the government’s side compelled the “aam admi” to join the protest of the anti-graft crusader Anna Hazare. With innumerable scandals\(^{104}\) the country is facing now, social activist Anna Hazare has decided to take things in his hand and take on the corrupt "babus" by fasting unto

\(^{100}\)Start Hearn Gordon, ‘Our parliament’, Casell and company, London. at p,129-132
\(^{101}\)Sebaslian Paul, ‘Let the veil be removed’6, Niyamasmeeksha, Legal Literacy magazine, Niyamasmmeksha trust ,2000, at p. 85.
\(^{102}\)ibid.
\(^{103}\)India Against Corruption,www.indiaagainstcorruption.org/ Nov2011 New Delhi, Apr 6.
\(^{104}\)2G spectrum scam, CWG, Adarsh housing scam and so on
death against corruption. Hazare's decision for holding the indefinite fast came over
his demand to introduce a new Lokpal bill in the Parliament to tackle corruption that
has hollowed the roots of Indian political scenario. Starting his protest 105 Hazare
claimed:

'like Supreme Court (SC) and Election Commission, an independent body
called Jan Lokpal should be set up at the Centre and an Lokayukta should
be set up in each state to receive complaints of corruption, investigate them
within six months and prosecute the guilty.'

The Lokpal Bill is a Bill to establish an independent authority to investigate
offences under the Prevention of Corruption Act, 1988 to detect corruption by
expeditious investigation and to prosecute offenders and to ensure timely redressal of
certain types of public grievances and to provide protection to whistleblowers.106 The
Bill will provide speedy, justice to people. The Lokpal bill will not wait for any
permission from the High commission to begin the inquiry into the alleged
irregularities and corruption charges against political leaders, judge's or even the
Chief Justice of India (Cji). In the proposed system, politicians will not have any say
in selections of chairperson and members of Lokpal. The Loss caused to government
will be recovered from the accused. Today the punishment, if found guilty will be 5
years to maximum life term in the proposed system. Right now the punishment is 6
months to maximum 7 years. However, Lokpal Bills were introduced in the
in 2008) but failed to be passed for obvious reasons.107

Despite requests from many leaders including the Prime Minister Manmohan
Singh not to proceed with his decision of indefinite fast, Anna Hazare Started his
protest. Within 24 hours, more than 300 people took part in a total hunger strike to
express their solidarity with Hazare, which is an excellent example of people
participation. The movement has irked various political parties that had to bear the
brunt of Hazare's fiery rhetoric that doesn't seem to spare anyone. Many star
campaigners have joined the protest besides 40 or more organizations showing active
support to the 36 cause 108

105. Times of India, April 5, 2011.
106. Draft of Jan Lokpal Bill (Civil Society), Jantantrajantantra.com/2011/08/23/draft-of-jan-
lokpal-bill1-civil-society/23 Aug 2011
107. Corrupt India: Why is Anna Hazare fasting? What’s Lokpal Bill?’ Wednesday, April 6,
108. Ibid.
5.3. **Eradication of Corruption**

Corruption poses a serious developmental challenge. In the political realm, it undermines democracy and good governance by flouting and even subverting formal processes. Corruption in elections and in legislative bodies reduces accountability and distorts representation in policymaking, corruption in the judiciary compromises the rule of law, and corruption in public administration results in the unfair provision of services. More generally, corruption erodes the institutional capacity of Government as procedures are disregarded, resources are siphoned off, and public offices are bought and sold. At the same time, corruption undermines the legitimacy of Government and such democratic values as trust and tolerance.

Right to information is a potent weapon to fight against corruption, arbitrariness and misuse of power. RTI was significant bearing of good governance and development. The right to information is a vital tool for good governance. The history of struggle for right to information indicate that, it is the result of efforts made for transparency and disclosure of corruption in the wage system in Devdungri Village in Rajasthan. This effort was started by MKSS{ Mazdoor Kissan Shakti Sansthan} to tackle corruption at grass root level. There are many instances when right to information is used for the disclosure of corruption in one or other form. Social activist Aruna Roy has described India’s RTI Act as “the most fundamental law this country has seen as it can be used from a nondescript village to posh Delhi and from ration shop to the 2G scam.”

In India a large number of top politicians are involved in one or the other criminal case. Former Prime Minister P.V. Narshimha Rao, former Cabinet Ministers Capt. Satish Sharma, Bhajan Lal, Buta Singh and Shiela Kaul are facing criminal trials in corruption cases. Bofors case and St. Kitts forgery cases are still being investigated. Sons of a former Prime Minister and a Cabinet Minister are involved in fertilizer scandal. A former Chief Minister of Bihar Laloo Prasad Yadav is facing prosecution in Rs. 850 crore Fodder scam. Sushil Sharma, a farmer President of Delhi

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110. Caesar Roy, “Right To Information And It's Significance To Ensure Good Governance In India”,Nyaya Deep Vol 13 Issue 2 April 2012 P 79
Pradesh Youth Congress (I) is behind the bars and facing trial in the infamous Tandoor case.

Vodafone tax Scandal involves Rs 11,000 crore tax disputes, in Railway promotion scam CBI booked Union railway minister Pawan Kumar Bansal's nephew for allegedly accepting a bribe of Rs 90 lakh from a Railway Board member and he is arrested now. In most of the big corruption cases in India RTI become a weapon in the hands of RTI activist to expose the corrupt people.

In January, 2013 in times of India, it is stated that, the right of information (RTI) Act is a very good tool to improve the functioning of the government. This observation was made by Leena Menendale, a retired IAS Officer at an interactive titled ‘Role of PIO and RTI activities in good governance.

Soon, filing a Right to Information (RTI) application could be just a phone call away. The Department of Personnel and Training invited bids for setting up an 'RTI call centre and portal project'. Once this project sees the light of day, people will be able to file an RTI from anywhere in the country by just dialling a number, where an operator will do the needful. The operator will help in framing the right question and then log in an RTI on the caller's behalf. The caller will get SMS alerts on the progress of their application and a reply by post. A person can also file an RTI on a dedicated website and get the reply online. The need for such a project arose as the government realised that many citizens do not know whether or not they are writing to the correct authority.

The legislation makes significant contribution in controlling corruption, enhancing the quality of public goods and services, empowering citizens by breaking the informational monopoly of public officials. We as individuals have the power and responsibility bringing good governance by using and spreading the use of Right to Information.

Corruption also undermines economic development by generating considerable distortions and inefficiency. In the private sector, corruption increases

113. Revealed: Vodafone’s new tax scandal, The Sunday times, 10 June 2012 ; Shruti Srivastava, Law ministry does U-turn, agrees to conciliation in Vodafone tax case, New Delhi, times of india , Wed May 15 2013.
114. “Railway Minister Bansal's nephew arrested by CBI for accepting Rs 90-lakh bribe” Indian Express Saturday may, 04, 2013
115. RTI is a good tool to improve govt. functioning, ‘The Times of India’ Jan 20, 2013.
116. RTI to be Just a Phone Call Away, mail today bureau, mail today, New Delhi, May 15, 2012. Read more at: http://indiatoday.intoday.in/story/rti-application-phone-call-rti-call-centre-dopt/1/188845.html
the cost of business through the price of illicit payments, the management cost of negotiating with officials, and the risk of breached agreements or detection. Where corruption inflates the cost of business, it also distorts the playing field, shielding firms with connections from competition and thereby sustaining inefficient firms.

Corruption also generates economic distortions in the public sector by diverting public investment into capital projects where bribes and kickbacks are more plentiful. Officials may increase the technical complexity of public sector projects to conceal or pave way for such dealings, thus further distorting investment. Corruption also lowers compliance with construction, environmental, or other regulations, reduces the quality of Government services and infrastructure, and increases budgetary pressures on Government.117

In our daily life, most of us must have been a witness to or a victim of the corruption thriving in ‘one or the other department of the Government. It could be in the form of a taxi-driver manipulating the meter to jack-up the reading or a Government officer taking bribe to promptly transfer your file to the next department or even yourself offering bribe to a traffic police on breaking a signal. An average Indian citizen is hard working and diligent, but it is the people in charge of the system (The Babu’s) or with whom the power lies, that act as a cancer spreading its tentacles, slowing down progress and efficiency.

There is deep pervasive corruption in our system because there is a vicious cycle starting with political corruption leading to bureaucratic corruption, business corruption and criminalization of politics. In our system, not more than 15 to 20 paisa out of every rupee, spent by the public exchequer reach the beneficiaries of the social welfare programmes, Red-tape ridden system prevalent in our country leads to enormous delays in many public offices. The Common man believes that paying a bribe is a part of the system. Can we blame our laws for this? Yes, and the remedy lies in constant vigilance. When vigilance and awareness come, can the end of corruption be far behind?

In India today, Scams have become the order of the day. Bofors, Stock Exchange scam, A.K. 47 Gun Deals or Coffin scam, or Fodder Scams the list is endless and growing at breakneck speed. Most of us are aware about the recent scam in IPL and embezzlement with respect to bidding for various franchisees. There is no way that the investor 18’ community could forget the unfortunate Rs. 4000 crore

117. Ibid.
Harshad Mehta scam and over Rs. 1000 crore Ketan Parekh scam which eroded the shareholders wealth to a great extent. The scam at Satyam Computer Services is something that has shattered the peace and tranquility of Indian investors and shareholder community beyond repair. Satyam is the biggest fraud in the corporate history to the tune of Rs. 14000 crore. The Supreme Court of India in an innovative exercise examined executive powers of former Union Ministers, who had allotted petrol pumps in favour of fifteen persons. The whole exercise was vitiated by lack of transparency, nepotism and arbitrariness. The allotments were in favour of relations of the Ministers or members of his staff. The Supreme Court fixed upon them, personal liability and held that exemplary damages could be awarded for oppressive, arbitrary and unconstitutional action by the servants of the Government. This Common cause has succeeded in quashing of 15 illegal allotments. However, the Supreme Court in a review petition overruled its decision on the ground that the petitioner “Common Cause” was not one of the applicants for the allotment of petrol outlets and ‘therefore’ has not suffered any legal injury by unlawful allotments. But the court held that it was not entitled to go further and held that the Minister has committed “misfeasance in public office, which is a specific tort. Though the Court could not do much in the matter, the situation could have been totally different, if the citizen’s suit provisions were guaranteed to the citizens. If the Minister had known that such information can be gathered by citizens then he would not have dared to indulge in such an action.

The Commonwealth games scam as it is known involved large scale misappropriation of money during the preparatory phase and conduct of the 2010 Commonwealth games held in New Delhi. Like any other scams it involved politicians, bureaucrats and corporate acting in collusion with each other. The various contracts were manipulated by Kalmadi and his team and team and allegedly misappropriated huge amounts of money indiscriminately.

Kalmadi has been accused of awarding illegal contracts to a Swiss firm for Timing-Scoring-Result system for the Games causing a loss of Rs 95 crore to the exchequer. The total value of the scam is estimated at 70,000 crore.

118. www.legalindia.com visited on 11August, 2011
Another name in the list of the scams is the Ghaziabad PF Scam. There are 70 people accused in the PF scam, which involved siphoning of money fraudulently from the Provident Fund accounts of class III and IV employees of the Ghaziabad District Court. CBI had filed a charge sheet against 78 people, including the six retired judges, in the case involving alleged fraudulent withdrawal of crores of rupees, between 2001 and 2008, from PF of employees posted at Ghaziabad district court.122

We have had a number of scams in India; but none bigger than the scam involving the process of allocating unified access service licenses. The 2G spectrum scandal involved officials in the Government of India 'illegally undercharging mobile telephony companies for frequency allocation licenses, which they would use to create 2G subscriptions for cell phones. The shortfall between the money collected and the money which the law mandated to be collected is estimated to be 1,76,379 crore (1.763 trillion) rupees (roughly equivalent to 39 billion US dollars) based on 3G auction prices. The issuing of licenses was done in 2008, but the scam came to public notice when the Indian Income Tax Department was investigating political lobbyist Nira Radia. The Government's investigation and the Governments reactions to the findings of the investigation were the subject of debate, as were the nature of the Indian media's reactions.123

The Right to Information is making the required difference. A Relentless public campaign in Rajasthan to implement the Right to Information in its true spirit had resulted into the publication of Banna Lal Committee Report in 2001. Consequently for the first time, the state had to admit the stink in its administration and take corrective action. Seven officials indicted in the report, for misappropriation of Rs.68 lakhs out of Rs. 1.23 crores for developments works, were suspended and criminal proceeding were initiated by anti-Corruption Bureau of the State to recover the misappropriated amount from them. The Citizens used their right to information to expose corruption. Mazdoor Kisan Sangharsh Samiti(MKSS) and Megasaysay Award Winner Aruna Roy led this campaign. The Fight against corruption needs three vital legal measures amongst others:

(i) Legislation on Freedom of Infomation should be strengthened.

122. Six accused retired judges R P Mishra, R P Yadav, R N Mishra, A K Singh, R S Chaubey and Arun Kumar were asked to appear to the court on earlier occasions too, but all six did not turn up during the last hearing citing medical reasons.
(ii) Accountability and responsibility of the individual officials and administration should be assessed and fixed, so that people may raise their voices against corruption.

(iii) Simplification of laws and rules should be taken up.

(iv) Speedy prosecution and severe punishments be awarded to the guilty.

In Response to the CWG scam Kalmadi\(^{124}\) and Bhanot were sacked from the Organizing Committee by the Sports ministry on 1 Jan 2011. The Shunglu panel was constituted by Prime Minister Manmohan Singh to investigate the irregularities in the conduct of the Games. After his arrest on 25 Apr 2011, Suresh kalmadi was suspended by the Indian National Congress. T.S Darbari and Sanjay Mahindroo were arrested by the CBI on 23 Nov 2010. Suresh kalmadi was arrested on 25 Apr 2011 and was sent to eight days police custody. The Monitoring of 2G Scam & Common Wealth Games scams by the court it is expected to bring out the truth and lead to the punishment of the accused. Till date two ministers and one M.P are in jail & the case is being pursued to place the third minister with them.

The Adarsh Housing Society Scam is another name in the list. Adarsh Housing Society is a cooperative society in Mumbai in India. It was reserved for the war widows and veterans of the Kargil War.\(^{125}\) In 2010, the Indian media brought to public the alleged violations of rules at various phases of construction in the Adarsh Society. Questions were raised on the manner in which apartments in the building were allocated to bureaucrats, politicians and army personnel who had nothing to do with Kargil War and the Way in which clearances were obtained for the construction of the building of the Adarsh Society. The Adarsh society high-rise was constructed in the Colaba locality of Mumbai, which is considered a sensitive coastal area by the Indian Defence forces and houses various Indian Defence establishments. The society is also alleged to have violated the Indian Environment ministry rules. Activists like Medha Patkar had been trying to uncover the problems since at least 2004.\(^{126}\)

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124. Commonwealth Games Organising Committee’s (OC) tainted chairman Suresh Kalmadi and his aide Lalit Bhanot.
Adarsh Society scam led to resignation of the then Chief Minister, Ashok Chavan. Several inquiries have been ordered by the army and the Government to probe into the irregularities. Some of the current occupants of the flats in the Adarsh co-operative society building have offered to vacate their flats at the earliest, denying allegations that they were allotted flats because they had influenced or helped, in some manner, the construction of the society by violating the rules.127

5.4. Accountability

It means the obligation of an individual or organization to account for its activities, accept responsibility for them, and to disclose the results in a transparent manner. It also includes the responsibility for money or other entrusted property. Otherwise, accountability itself can mean any number of things, that officials must explain or account for their actions, that officials must ‘take responsibility’ for their actions that elected representative will be made accountable by voters through elections so on and so forth. “Power corrupts and absolute power corrupts absolutely? Power resides in those entities that control the communication system and consequently the gathering, processing, distribution and storage of information. The Right to Information attempts to loosen the power syndrome of these entities. They will lose power, if information is transferred from the power groups to the ordinary people. The Notion of democracy is well defined that Government is for the benefit of people at large, and not for the few chosen ones. Modern democracy embraces a wider and more direct concept of accountability, a concept that goes beyond the traditionally well-established principle of accountability of the executive towards the legislature. In a parliamentary democracy, the trend is towards accountability of public agencies, standards of performance and service delivery to the citizen, they are required to serve. Such accountability is possible only when public has access to information relating to the functioning of these agencies.128

Transparency coupled with information enables people to do social audit. Information will enable people to expose corruption and misdeeds of bureaucrats and politicians. It will encourage honest administration, leading to good governance.

128. Ibid.
5.5. **Securing Good Governance**

Governance describes the mechanisms an organization uses to ensure that its constituents follow in its established processes and policies. It is the primary means of maintaining oversight and accountability in a loosely coupled organizational structure. A proper governance strategy implements a system to monitor and record what is going on, takes steps to ensure compliance with agreed policies, and provides for corrective action in cases where the rules have been ignored or misconstrued.\(^{129}\)

There is no accepted definition of governance. There is divergence of opinion about the meaning of good governance between the conservatives and the liberals, between socialists and the communists. The United Nations Development Programme (UNDP), lists a characteristics of good governance which includes Participation, Rule of law, Transparency, Responsiveness, Consensus orientation, Equity, Effectiveness and Efficiency, Accountability and Strategic vision. The World Bank has sought to take a middle position in defining governance particularly as the traditions and the institutions by which authority in a country is exercised. This includes (i) the process by which Governments are selected, monitored and replaced (ii) the capacity of the Government to effectively formulate and implement sound policies; and (iii) the respect of citizens and the state for the institutions that govern economic and social communications among them\(^ {130}\).

Citizens all over the world look upon the nation-state and its organs for high quality performance. When good governance is guaranteed, citizens go about their personal business and pursuits with enhanced productivity. On the other side of the spectrum, bad or indifferent governance not only restricts opportunities of success but it can even lead to sectarian conflicts and civil wars. In such an atmosphere personal accomplishments as well as social achievements get severely restricted. Good governance helps create an environment in which sustained economic growth becomes achievable. Conditions of good governance allow citizens to maximize their returns on investment. Good governance does not occur by chance. It must be demanded by citizens and nourished explicitly and consciously by the nation state. It is, therefore, necessary that the citizens are allowed to participate freely, openly and fully in the political process. Good governance is accordingly associated with

\(^{129}\) Krishan Kumar, “Good Governance And Police Administration: Need For Reforms”, Indian Police Journal Vol 60 No1 January -March 2013 P 15.

accountable political leadership, enlightened policy-making and a civil service imbued with a professional ethos. The presence of a strong civil society including a free press and independent judiciary are pre-conditions for good governance.\textsuperscript{131}

The first and foremost task appears to be to attempt for a radical redefinition of good governance, to change the mindset of bureaucracy, to surmount the colonial hangover of the persistent notion of the ‘Rulers’ and the Ruled, governors and the governed, Government and the people, the ‘Us’ and ‘They’ divide. The interaction between the administrator and the citizens needs to be enhanced by the awareness of and respect for the constitutional rights of the people. Interaction is essential between free and self-governing people and the agents appointed by them. Massive and sustained participation of civil society initiatives, self-help groups, voluntary organizations etc, is necessary to achieve a faster pace of socio-economic development and for building a more just, caring and equitable society as envisioned by the Constitution. The movement must be from Governance to Self-governance. Respect for human dignity, human rights, and the right of the citizens, are critical to overall development and are not merely its rewards. Self-governance requires a radical re-shaping of policies so as to create an enabling and facilitating environment in which effective interaction between the Government and the institutions of civil society becomes possible.\textsuperscript{132}

Good governance requires public scrutiny of Government functioning. People have a right to know what their Government is doing. People can hold public bodies accountable without depending on their elected representatives. Public servants need to be sensitive to the needs of the people in order to ensure full enjoyment of constitutional rights.\textsuperscript{133} Meaningful democracy requires that the issue of access to information is not confined to right of the press or right of the elite or middle class. It relates with the same strength to the downtrodden or poor people of the society. It is essential for the survival of the most disadvantaged people be it from slums in cities to villagers or remote areas. Due to lack of information these people cannot pose any questions and participate even about the development programmes being run for removal of their poverty or for fulfilling of their basic needs like food, water, health


\textsuperscript{132} National Commission to Review the Working of the Constitution: Consultation paper on Enlargement of Fundamental Rights, para I 1.1.1.

or shelter. In our present day democratic set up, free flow of information for the citizens and Non-Governmental institutions suffers from several bottlenecks like the existing legal framework, lack of infrastructure at the grass root level and an attitude of secrecy within the Civil Service. The Government proposes to deal with all these aspects in a phased manner so that the Freedom of Information Act becomes a reality consistent with the objective of having a stable, honest, transparent and efficient Government. Azim Premji\textsuperscript{134} has become increasingly vocal about his feelings for India’s governance standards. His statement that there is complete absence of decision making in the country has ruffled feathers at the Centre. According to his statement, “There are governance issues there is a complete absence of decision-making among leaders in the Government,” He has very rightly said. “If prompt action is not taken, the country will face a setback”.

Recently, he and with other business leaders like Keshub Mahindra and Deepak Parekh had sent an open letter to the Prime Minister expressing concern over the alleged governance deficit. “We are alarmed at the widespread governance deficit almost in every sphere of national activity, covering Government, business and institutions,” the letter had stated. “Widespread discretionary decision-making has been routinely subjected to extraneous influences. Possibly, the biggest issue corroding the fabric of our nation is corruption. This malaise needs to be tackled with a sense of urgency, determination and on a war footing.” The group also wrote a letter acknowledging the existence of a “strong nexus between certain corporate, bureaucrats and power-brokers” and suggested a number of reforms in areas such as the judiciary, police, land acquisition and environmental clearances, but the Government has not taken it very well.\textsuperscript{135}

5.6. Cementing Trust in Government

Democracy and national stability are enhanced by policies of openness which engender greater public trust in their representatives. This is a crucial aspect of cementing trust in effective governance. Without the support and trust of the people, Governments will be more likely to face resistance to their policies and programmes and implementation will be more difficult. Citizens are suspicious of the motives and intentions of their Governments. They feel ignored or even betrayed by their elected representatives. Indeed, they feel suspicious of the very programmes and agencies

\textsuperscript{134} The Wipro Chairman.
\textsuperscript{135} www.financialexpress.com/news/Azim-Premji-courts.../871957
created to meet their needs. They feel neglected, ignored and uncared for. The integrity of Governments needs to improve and be seen improving by the general masses. Open Government and access to information provide a means of achieving both these ends. Enhancing people’s trust in their Government deserves topmost priority. Openness and information-sharing contribute to national stability by establishing a two-way dialogue between citizens and the state, reducing distance between Government and people and thereby combating feelings of alienation among people. Systems that enable people to be part of, and personally scrutinize, decision-making processes reduce citizens’ feelings of powerlessness and weaken perceptions of exclusion from opportunity or unfair advantage of one group over another.

5.7. Facilitating Equitable Economic Growth

Information disclosure lays the foundation for market friendly good governance principles of transparency and accountability, which in turn encourage growth. More Government openness also supports more efficient economic outcomes. A transparent Government committed to information disclosure will provide good-quality economic and social data, proactively which will better inform Government economic policies and decision-making. By empowering small stakeholders to more effectively participate in the economy, the right to information helps to ensure that economy grows more fairly. Liberating information from Government increases economic opportunities for the less powerful, as much as for the big player. For example, communities who want to develop their natural resources can access information which will help them better assess their options and more effectively negotiate fairer deals with private companies. A worker can access information about labour regulations and their entitlements, a businessperson can find out about licensing, taxation and trade regulations; and farmers can get hold of land records, market trend analysis and pricing information etc.

Openness encourages a political and economic environment more conducive to the free market tenets of ‘perfect information’ and ‘perfect competition’. Foreign and local investors need to be able to rely on the routine availability of timely and accurate information about various Government policies, the operation of regulatory authorities and financial institutions and the criteria used to award tenders, provide

licences and give credit. Easy access to information that is not entangled or mired in bureaucratic processes creates long-term investor confidence in the local economic environment.

5.8. Role of Media and Dissemination of information

In a functional democracy, the media is an essential watchdog for the public. It scrutinizes the Government actions and policies in order to expose mismanagement and corruption and demand accountability. The media is often the main source of public information, informing and shaping public opinion and contributing to public debates about important issues. This is a two-way process: the coverage of current events by the media serves to inform Government about public opinion, which in turn gives valuable inputs in policy-making. Unfortunately, some Governments can become uncomfortable with the power and influence that the media wields and may retaliate by taking control of newspapers, radio and television stations and placing tight restrictions on the media’s ability to gather and report news honestly. Governments can also abuse the power of the media by forcing them to put a spin on issues or events or by censoring information that presents them in an unfavourable light.

In situations where the media is prevented from accessing reliable information, reporters may have to rely on hearsay, planned leaks or snippets of unsubstantiated news and press releases from the very officials whose actions they are seeking to investigate. Many journalists’ codes of ethics refer to the principles of truthfulness, accuracy, objectivity, impartiality, fairness and public accountability and policies that restrict legitimate access to information prevent them from adhering to these standards and doing their jobs effectively. Some Governments continue to stifle media with archaic laws that allow journalists to be sued for criminal defamation or factual inaccuracies. This practice is against the foundational principles from which a healthy democracy draws its sustenance namely, the freedom of speech and expression and freedom of the press. A legally entrenched right to information enables journalists to seek and obtain accurate information from Governments in a legitimate manner and to use that information to undertake more

thorough investigations of the recorded facts, and report on their findings. Justice Katju, in an interview said that 140:

“He was very disappointed by the media. “The general rat is very low and I have a poor opinion of most media people. Frankly, I don’t think they have much knowledge of economic theory or political science or literature or philosophy. I don’t think they have studied all this,” he also reiterated his demand for giving PCI more teeth so that it can take the offenders to task. “I want powers to stop government advertisements; I want powers to suspend the license of that media for a certain period of it behaves in a very obnoxious manner. I want powers to impose fines, all this in extreme situations. Normally, U’ a media commits a mistake, I’ll call them, I’ll discuss with them that this is not proper and 80 per cent people can be reformed by persuasion,”

His observations were criticised by Editors Guild of India (Press Council of India’s (PCI) Chairman) who in a statement said 141 that Justice Katju’s observations “deplores ill-considered, sweeping and uninformed comments on the media and on media professionals”

Right to Information and Consumers Every human being is a consumer of some commodity or service whether through the buying of goods such as food and health care products, clothes, cars, furniture and shares, or through availing of utilities and services such as electricity and water supply, public transport, and communication facilities. Governments should develop or encourage the development and implementation of general consumer education and information programmes, bearing in mind the cultural traditions of the people concerned. The aim of such programmes should be to enable people to act as discriminating consumers, capable of making an informed choice of goods and services, and conscious of their rights and responsibilities. In developing such programmes, special attention should be given to the needs of disadvantaged consumers, in both rural and urban areas, including special categories like low-income consumers and those with low or non-existent literacy levels.

140. Khaleej Times, ‘Justice Kayu: Media needs to be accountable to people Anand Sagar’ ,13 November 2011. Also in , Statement of Justice Katju in an interview given to CNN – IBN Channel.

141. Issued on 8th November, 2011.
For consumers, advertisements play a very important role. The advertisements disseminate information as to who is producing and selling what product, for what reason, and at what price. So long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private economic decisions.

It is a matter of public interest that these decisions, in the aggregate, be intelligent and well informed. To this end, the free flow of commercial information is indispensable. And if it is indispensable to the proper allocation of resources in a free enterprise system, it is also indispensable to the formation of intelligent opinions as to how that system ought to be regulated or altered. In *Hamdard Dawakhana vs. Union of India*[^142], it was held that “commercial advertisements” were not covered within the concept of freedom of speech and expression. In the instant case, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 was passed with a view to the prevention of self-medication and self-treatment by prohibiting the publication of advertisements of drugs having magic qualities for curing diseases. The Act was challenged as violative of the freedom of speech and expression guaranteed under Article 19(1) (a). The Supreme Court held the Act as valid and ruled that the scope and object of the impugned Act, its true nature and character, was not in interference with the right of freedom of speech but it dealt with the trade and business.[^144] The provisions of the Act were in the interests of the general public and placed reasonable restrictions on the trade and business of the petitioner and were saved by Article 19 (6). The Delhi High Court’s decision in *Qzair Husain v. Union of India*[^145] can be termed as historic in the sense that it rationalized the law in the field of consumer protection and in India. The Delhi High Court in the present case has seriously considered the issues including (1) the legal status, particularly constitutional, of consumer’s right to information (2) the importance of International Conventions and the need to honour them by the courts in certain cases; and the legal necessity to respect the beliefs and opinions of the consumers particularly Where there is sale of certain food products The Court in this decision upheld one of the ‘basic rights’ of the consumers by declaring that “it is the fundamental right of the consumer to receive information. In fact, long ago, the right to information was

[^143]: AIR 1960 SC 554.
[^144]: Ibid
[^145]: AIR 2003 Del 103.
declared as one of the ‘Bills of Rights of the consumer. It is felt that ‘information is the lifeblood of the twentieth-century economy’\textsuperscript{146} and the modern economy is termed as ‘information economy’ or ‘knowledge economy’ or ‘new economy’\textsuperscript{147} where more emphasis is on channels of information or access to information at different phases of production processes. The concept of right to information implies the right to know and other’s duty to inform that it has to do nothing with your right to know but with my right to tell you what I think you ought to know. \textsuperscript{148} One’s basic right to receive information is even considered as a human right\textsuperscript{149}. All the legal systems realize the important of consumer right to information at the market place. Feeding the information to the consumer has many advantages. It influences the consumer in making wise purchase decisions. He comes to know the purpose for which he is purchasing, its durability and quality. It also places a balance between ‘consumers’ expectations and manufacturer’s responsibilities.

Human rights and democracy are reciprocal concepts. Human rights form the basis of any democratic system, and states are there to defend and guarantee them. On the other hand, human rights are independent from the states: they are inalienable, belonging to everyone on the sole basis of being human. However, only democratic structures are able to protect people’s human rights. Both human rights and democracy are constantly developing

6. Strategy for Good Governance in Punjab

After defining the concept of Good Governance, discussing its Basic Principles we may now spell out some viable strategies for the realization of our vision of Punjab.

Good Governance

A stark reality is that, Punjab, of recent, has not been in a position to sustain the tempo of its development process. Where does the fault lie? One could single out the ‘lack of good governance’ as the real malefactor. A populist political culture, not-so-efficient bureaucracy, sagging work culture, lack of necessary respect for law, and above all, systemic corruption are among the parameters describing such a situation.

\textsuperscript{149} Ibid.
The malady may be nationwide but that is no reason why a progressive state like Punjab should have fallen in line. There are, at the same time, examples of Maharashtra, Karnataka and Andhra Pradesh doing much better in governance, at present.

How to remedy the situation? How to reinvent the government? What does good governance involve? In the final analysis, it stands for conduct of the affairs of the state in such a manner that it enhances the creditability of those who are at the helm of affairs at each level; is cost and time-effective in responding to the needs and aspirations of the people; and has civil society as its cherished goal. In addition, it has to promote economy, ensure equity, enhance ecology and provide security.

Three important observations will be in order here. First, the concept of governance is not understood properly in developing countries, where it is equated with the idea of ‘control’. This is not the spirit of the term. Governance is a process by which ‘a society solves its problems and meets its needs by using government as an instrument’. With government at the core, it encompasses also the role of the private sector, non-government organizations and individual households, and thereby involves people in its functioning in a variety of ways. This contemporary liberal meaning of governance must be made a part of popular understanding. Secondly, the mindset of the personnel in the conduct of governance is also to be transformed. They must not project themselves as providers and benefactors, as they have been doing so far. They have to be in the service of the people and for that they have to take some new lessons. The most important learning would be that ‘good governance is driven by some grand mission rather than by rigid rules and regulations. It decentralizes any activity requiring management and pre-empts problems before these arise; and empowers citizens in terms of control over their affairs and treats them as patrons by offering choices between a variety of services’. Finally, the people at large must realize that ‘good governance’ is their right, rather than a gift from the state.

Access to information is a condition of good governance, as a factor of empowerment of the people. It enables them to be subjects and not mere objects of development. It is in this context that the IT revolution assumes tremendous significance. It must serve as an instrument of e-governance, among other things.

As such, the role of e-governance requires elaboration. This, of course, begins with networking of each of the administrative centres in the hierarchy. Equally essential is to net every panchayat and nagarpalika in the system of e-governance. No
less necessary is it to make available details of development schemes, forms for availing opportunities offered by the government, and all other information of public interest, on special websites designed for the purpose. Widespread training of a large number of personnel in computer-use is a prerequisite for promoting such a culture of governance.

6.1. **Empowering Local Bodies**

How to involve all the stakeholders in the grand task of good governance? The most effective strategy would be to strengthen the local-level elected bodies. This calls for genuine faith in the efficacy of the panchayats (rural) and nagarpalikas (urban), as mandated by the 73th and 74th Constitutional Amendments. Much remains to be done on this count in Punjab. The first necessary step would be to devolve to local bodies all the subjects earmarked for them in the sphere of service provision and development planning and to provide the necessary administrative and technical support for the purpose. Local bodies, in their own turn, should feel obliged to do the following: (i) monitor the quality of services, such as school, dispensary, water supply, electricity and link roads, made available to their locality by the state government; (ii) highlight village problems, such as flooding, water-logging, and plant diseases, so as to draw the attention of those concerned for necessary action; (iii) prepare a blueprint of a development plan of the settlement; and (iv) take care of the natural resource base.

All this is easier said than done. It will not translate into a possibility, let alone be a reality, until the members of the panchayats and nagarpalikas are made aware of their obligations and rights, through well-designed training programmes on a continuing basis. The knowledge, technical skill and governance capacity of the peoples’ elected representatives have to be upgraded for ushering in a new era. The task is stupendous, as it has to cover almost one lakh persons of 12,369 gram panchayats, 140 panchayat samitis, and 17 zila parishads in only the rural segment of the state. Thousands of elected members of nagarpalikas are to be taken care of, in addition. The experience of involving of the Centre for Research in Rural and Industrial Development, Chandigarh, in this grand talk demonstrates the effective contribution that non-government organizations can make in this sphere.

6.2. **Micro-Level Planning**

As a concomitant of political decentralization at the grassroots level, a genuine thrust to micro-level planning, with a village/town or a block or a district as the spatial
unit, has to be an essential ingredient of any development strategy for Punjab. What is visualized is an integration of plans prepared for individual settlements, blocks and districts, through involvement of all the stakeholders. This is not the practice at present. Planning and development still remain a government activity, by and large. As a result, the masses have acquired a state-dependency mindset, to the exclusion of local enterprise and leadership. A call for adopting a ‘genuine’ mode of decentralized planning is made here to reverse this tendency, so that a more meaningful socio-economic transformation gets under way through peaceful means.

A micro-level plan is in the nature of a blueprint for action. This bears resemblance to building a house whose design is based on a comprehensive understanding of the site-conditions, prevailing architectural style, financial capacity, and future requirements. This analogy should not be carried too far. A micro-region has an already evolved structure, which is to be remodelled. Micro-level planning, thus, comes closer to restructuring an existing house, with a vision. In actual practice, the job may involve the following tasks: recommending location specific projects for filling spatial gaps in the distribution of infrastructure; suggesting ways to harness the potential and solve the problems of the micro-region; reviewing the ongoing schemes and indicating as to which should be made to continue, or be modified, or even abandoned, or which should be adopted as new; promoting schemes in the nature of self-help groups; and identifying special areas of concern, such as backward villages, village common-lands, and hazard-prone sites. Such an exercise requires a detailed mapping of land use, settlement system, and infrastructure. It also demands an insight into the socio-economic life, political contours, institutional arrangements, aspirations and constraints of the people. It presumes a comprehensive and intimate knowledge and appreciation of local conditions.

Not much effort is visible on this front. The ground experience is that the Additional Deputy Commissioner, expected to take care of the development agenda, is sometimes not given charge of the relevant subject. Such defaults should be taken care of. Similarly, the office of the block development officer, vital at the local level, is subjected to frequent change of incumbent. A sense of continuity in development planning is simply lacking. It is essential to follow the tenets of development administration, to make micro-level planning effective. Matters are likely to improve if a block is administered by an officer hailing from the Indian Administrative
Services, under the proposed scheme of having the district and the block as the only two tiers of administrative areas.

6.3. **Administrative Area Reform**

A close scrutiny of the administrative map of Punjab, down from the division to the district, tehsil and block level, reveals certain serious distortions in the organization of the administrative space. Currently, the state is organised into four divisions, 17 districts, 72 subdivisions, and 140 development blocks. In 1966, Punjab had two divisions, 11 districts, 37 subdivisions/tehsils and 117 development blocks. Despite some efforts at rationalization, Firozepur district remains unwieldy and Kapurthala fragmented. Boundaries of three districts and seven subdivisions were tampered with to create Fatehgarh Sahib district. It covers an area which is not much bigger than an average subdivision in the state. A periodic administrative area reform, not on an ad hoc but on comprehensive basis, emerges as an essential task for the sake of both administrative efficiency and development administration.

There are some other issues to deliberate. Should the state continue with its existing system of divisions, districts, subdivisions or development blocks, or dispense with divisions and subdivisions and retain only districts and development blocks? What is the relevance of a division in a small state like Punjab? Do we need subdivisions when the average number of development blocks in a district is just eight? Multiplicity of tiers in administration generates confusion and creates delays.

There is still another moot point for deliberation. Should development blocks continue to remain exclusively rural, as they were originally designed, or should any town/s falling within their territorial jurisdiction be also included as part of the block? The rationale of keeping rural and urban areas separate in any scheme of things is difficult to justify in the present context. Such a difficulty arises especially when one is preparing a block plan, potential for rural-urban agro-industrial complexes and integrated development. How is this possible if towns are to be kept out of reckoning? This is not the way ground realities operate. A block must cover both villages and towns located within its spatial parameters. Such a reform is long overdue.

As a development strategy, there is still another way of reforming the administrative areas. Let the boundaries of the state assembly constituencies and those of blocks correspond with each other, and likewise the boundaries of parliamentary constituencies should find conformity with those of higher-level administrative units, such as divisions or a group of districts. An arrangement on these lines will render the
imperative congruence between political, administrative and developmental dimensions of the state, at all spatial scales.

6.4. Civil Society

Punjab must strive at evolving itself as a civil society to accomplish all this, and also as an ultimate goal in itself. The basic strands of such a society include: a genuine faith in pluralism as inherent in every system; a reinvented democracy, sensitive equally to aspirations of the minority as much as of the majority; and the presence of all varieties of civil groups, which function not merely in their own interest, but for a collective cause, by influencing the decision makers. Civil society does not allow the government to be authoritarian, but has no design on its part to be a ‘political equivalent of the private sector’. Its aim is to transform differences into complementarities, competition into co-operation, and distance into proximity. Thereby, it ensures identity, dignity and liberty to every individual. A ‘humane future is envisioned’, with the state as a more ‘responsive than repressive’ agent. Cultivation of appropriate ‘cultural values and civic virtues’ is basic to the attainment of such a goal.

Punjab, as a society, is marked by a significant degree of structural stratification and spatial segmentation. Structurally, it displays diversity in terms of religion (Sikh, Hindu, Christian, Muslim and others); caste (higher, peasant, artisan, service, and Scheduled ones); and status (landowning or landless and native or inmigrants). The urban and rural back-ground, and also the sub-regional identity of the Majha, Doaba and Malwa, on traditional lines, represent the spatial parameters of distinction. This is the context in which the question of civil society in Punjab is to be placed.

Punjab is the only Sikh-majority state of India. With 63 per cent of its population Sikh and 34 per cent Hindu in 1991, the state is essentially bi-religious. A happy feature is that the two communities have a common heritage, shared values, and similar life-practices. A tradition of honouring each other’s religion has always existed.

As a fact of history, the Hindus in Punjab were more urban-based, and the Sikhs concentrated predominantly in rural areas; the former more in trade and services and the latter in agriculture. Over time, a kind of complementarity and interdependence between the two took shape on economic lines. With the spread of
education and the recent acceleration in the process of urbanization, accompanied by migration from villages to towns, the proportion of Sikhs in urban areas has been enlarging. They have been entering into services, trade, transport, industry and other urban vocations in an increasing number, particularly after the formation of Punjab in 1966. This has brought the two communities on a more interactive common space and mutual interdependence, a situation which can facilitate the formation of a civil society.

Both the Sikh and the Hindu communities have their caste divisions. The primary one is that between the Scheduled Castes and the non-Scheduled ones. It is estimated that among the Scheduled Castes, who now account for around one-third of the state’s population, more than one-half are Hindu and nearly one-half Sikh. They have to contend with common issues of economic upliftment and social mobility. The factor of religion gets diluted in their case. The task of working towards a civil society in the state gets simplified, by bringing the two religious groups onto a common space.

A notable feature of the evolving scene of Punjab’s demography is the sizeable inflow of migrants, from the Hindi belt, mainly as agricultural and industrial labourers. They are integrated economically with the native society, but to what extent are they socially linked is a moot question. Some chauvinists view this trend as disturbing as it will affect the electoral calculations of those with vested interest. Mercifully, such a feeling is not pervasive; certainly not expected on the part of a community which itself has sought new pastures, not only within the country but also in foreign lands. The intention here is to indicate that we should try to cultivate desired perceptions on this front, in the interest of the civil society that we envision.

Finally, what should be the strategy for the realization of a civil society in Punjab? This objective will be best achieved if non-governmental organizations are encouraged to play a big role, especially in rural areas, by way of organizing people to solve their problems. Such groups tend to be plural in composition and are expected to imbibe values, which are civic in nature. Non-governmental organizations, on their part, have to learn a great deal from the style of missionary institutions. They have to work with all dedication. In other words, while working towards the goal of designing a civil society, they must combine education, health, and human values as part of their activities. Secondly, in recognition of the fact that the Punjab society is highly
materialistic and pragmatic, it will be necessary to demonstrate that a civil society is in the economic interest of each of its members. They must feel convinced that such a system is indispensable for protecting and sustaining their relative prosperity. A cost-benefit analysis of conflict resolution on these lines will change their perceptions for the better. Finally, it is not merely education but its quality built through the input of dedicated teachers as a role model, which can facilitate this process. They are the ones who produce the decision makers, administrators, doctors, engineers, and teachers themselves, among others, and influence the overall value system of a society. Civil society must have the ‘teacher’ at the centre of its all-strategic formulations.

6.5. Gender Sensitivity

An issue most critical to the creation of a civil society in Punjab is to render due status to women in the overall scheme of things. Despite its impressive gains in economic development, exposure to the developed world, and spread of education, the society here is not as just to the fair sex as expected. By and large, a girl child remains unwelcome at birth and women face neglect and discrimination in various forms at different stages of their life. In the first post-independence Census of 1951, Punjab’s sex ratio, which is an indicator of the very survival rate of the female, was only 854; even after fifty years it improved to only 874 in the 2001 Census. These figures are much below the sex-ratio at birth of around 950 and are a pointer to the higher mortality rate of females. Punjab’s total fertility rate, representing the number of children a woman is likely to bear in her life-time, was higher than the national average till 1971. In 1998-99, Punjab’s female infant mortality rate, at 65, was distinctly above the male infant mortality rate of 50.

Most worrisome is the recent rising incidence of female foeticide, estimated at around 90,000 a year, in response to the easy accessibility of the pre-birth sound scanning technique. This is manifest in a sharp decline in the sex ratio of 0-6 age group from 875 to 793 during the last intercensal decade of 1991-2001. Urban and rural areas do not differ much in this regard, signifying that the practice of female foeticide is fairly widespread. This uncivil propensity, which is an evil device to marry family planning with son-craze, is unpardonable and poses a challenge to be met with effectively.

On the other hand, the emerging situation is not without some positive pointers. The 73rd and 74th Constitutional Amendments have mandated reservation
of at least one-third of the seats in panchayats and nagarpalikas for women. This has certainly changed conditions in their favour, as far as political representation at the local level is concerned. The share of women among government employees in the state has gone up from 14 per cent in 1981 to 17 percent in 2001. Most notably, girls outnumber and outshine boys on the college and university campuses in the state.

Much remains to be done. A basic task is to instill the value of the daughter in the son-crazy psyche of Punjab. One necessary step would be to make liberal education universal, wherein gender sensitivity is convincingly ingrained as a part of learning. On pragmatic lines, the issue of the status of women can be addressed through two strategies: (i) small family, wherein they are not to bear large number of children restricting their mobility, and (ii) economic self-reliance, which gives them a greater leverage in taking life-decisions. As such, promotion of family planning and generation of women-friendly job opportunities emerge as the two basic steps towards the realization of this goal.

**Sustainable Society**

Finally, any development strategy for Punjab has to incorporate the elements of environmental, politico-economic and socio-cultural sustainabilities. Environmental sustainability is assured if the inherent productivity of the ecosystem is not made to suffer any loss; rather it is enriched in terms of its constituents, individually and collectively. This is possible if the life-support system is protected from contamination of water, degradation of land, depletion of soil fertility, removal of vegetation cover, pollution of air, and loss of biodiversity. From the viewpoint of politico-economic sustainability, all such modes of production and political institutions are to be promoted, which lead to a higher level of economic well-being and allow people to participate in decision making relevant to their day-to-day life, mutual interaction, and integration with the wider global context. Socio-cultural sustainability is a function of the freedom which people enjoy in pursuit of happiness, harmony and justice, as also of fulfillment of the life-values they cherish.

Punjab is not in a comfortable situation on the question of multifaceted sustainability. Economic development has extracted a heavy ecological price; functioning of the politico-economic system is riddled with infirmities; and socio-cultural institutions are under the stress of moral collapse. The question of sustainability is rarely raised beyond its economic parameters. Ethical questions are described as lacking pragmatism. Traditional culture is losing its sheen. What to do
and where to go? How to transform Punjab into a prosperous, good-governed and civil society state on a sustainable basis? That is the question.

6.6. Punjab Right to Service Act-2011

Punjab Government, with a view to provide delivery of services to the people of the state within time limits, notified Punjab Right to Service Ordinance on 14/7/2011. The Ordinance came into force w.e.f. 28th July, 2011 when 67 services were notified under its provisions. Soon after, Punjab Right to Service Act-2011 was passed by the State Assembly and thus, came into effect on 20th October, 2011.

As per Section 12 of the PRTS Act-2011, there is a provision to constitute Punjab Right to Service Commission (PRTSC) consisting of 1 Chief Commissioner and 4 Commissioners who would look after the task of effective implementation of the Act.

PRTC has been entrusted with the task of making suggestions to the state government for ensuring better delivery of services. The Commission will also hear revision applications against the orders of 2nd Appellate Authority. The Commission has been constituted since 23 Nov, 2011. Vision is to create an environment of “service beyond duty through the vehicle of good governance” and Mission is Empowering citizen of Punjab to claim service as a right and ensuring:

- Timely delivery of services
- Reposing trust in citizen

The discussion in this part of chapter allows us to put together the main strands of the development strategy for Punjab. These include: rejuvenation of the socio-economic dynamism of the state; improvement in the quality of life as well of habitat in both rural and urban areas; up gradation of the human resource base by improving the quality of educational and health services; diversification of the economy from agriculture to non-agriculture, of agriculture toward non-farm activities, and of wheat-rice rotation towards ecologically viable crop-combinations; and effective management of water and soil.

Additional issues pertinent to the development perspective can be listed as: How to make Punjab investment friendly for industry? How the state should be meeting the challenges posed by globalization of the economy, labour-replacing new technologies, and overproductive biotechnology? How to promote a culture of taking rational locational decisions, wherein economics leads politics rather than politics leading economics? An item not to be missed on any agenda of a development
perspective for Punjab relates to raising the ‘status of women’ in society. In the final analysis, ‘rejuvenation, quality, and management’ emerge as the three key ingredients of reinventing Punjab today.

For years after independence, Punjab effectively demonstrated that it could lead in the mode of a model state in India. Today, it is craving to be led for full the realization of its potential in the making of a prosperous, just and civil society. The tide will turn only when leaders with foresight awaken the state from the slumber of past glory and create a space for new dreams to manifest.

8. General Observations

Good Governance rest on positive, responsive and sensitive administration. It is a value laden concept, which emphasize on public interest, public welfare, public service and public good. To achieve Good Governance the Government shall be on a mission to follow clarity, conviction, compassion and consistency in governance which are prerequisites to achieve the principles and vision of good governance. Clarity promotes transparency, participatory and efficient governance. Conviction promotes accountable and effective governance. Compassion promotes consensus oriented, equitable and inclusive governance. Consistency promotes responsive governance, follows the rule of the law and modernizes itself according to the needs and changes of the society upholding the guiding principles of the Constitution. The Government shall act as a facilitator for the people, market and civil society and remain a prudent regulator to ensure social equity and fair competition in the society. The changes in the role of the Government will be carefully defined and communicated so that the people will understand that changes are in their interest. Decentralization is an essential part of the government to make more efficient and responsive. The Government shall strengthen local government and management by devolving administrative and economic powers and responsibilities. The Government will directly involve people in the management of the services they use. The Government is committed to minimize citizen interface with the Government Departments by introducing the Internet, Web and groupware technologies will be used to create national electronic highways and networks at all points of contact between the people and the Government. The primary task of the government shall be to ensure efficient and responsive services, making it easy for the people to gain essential information from the government and ensure that they have recourse to
mechanisms that punish wrongdoing. Charters shall be introduced to improve the quality and effectiveness of public services.

Right to Information as it is understood in the current context, is a necessary concomitant of Democratic governance. A popular Government without popular information or the means of obtaining it is but a prologue to a farce or a tragedy or perhaps both.” The citizens’ right to know the facts, the true facts, about the administration of the country is thus one of the pillars of a democratic State. Just as judicial review has been a deterrent against arbitrary decision making, the prospect of transparency and public gaze would necessarily compel the decision making authority to record relevant reasons and ensure that the decisions are not only just, fair and reasonable but they also appear to be so. In any case a society that suffers from arbitrariness and corruption, transparency and public gaze are the only methods to ensure a balanced recognition of Right to Information, for as Louise Brandies has put it ‘sunlight is the greatest disinfectant and electricity is the best policemen’.

The RTI Act, 2005 is a powerful tool which is used effectively can help in bringing transparency and accountability in the function of government to a great extent. The RTI Act has ensured the public access to the dark room of administration by putting in a torch in its hand, by the way of right of every citizen to seek of copies of document or work of course there is scope for improvement but we all must try to utilize the act as much as possible for the benefit of people.