

Right to information in South Asia

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A system where the poor remain poor is not inevitable but man-made, particularly where the government and its instrumentalities remain essentially rooted in the secretive colonial model of governance that treats citizens as subjects. In such a style of governance, citizens are largely excluded from governance in absence of informed and meaningful participation in the decision making process. They are unaware of their rights, and are therefore oblivious of what is happening in governance, they do not know how to speak out to ask; and they will conveniently not be told. These two factors - secrecy by the bureaucracy and silence by the public - reinforce each other with the result that there is little accountability of bureaucrats.

It is in this environment of a lack of transparency, accountability, responsibility and responsiveness in the governance that unrelenting problems of poverty, mass corruption and embezzlement of public funds flourish. Rarely does the behaviour of bureaucrats come under scrutiny unless there is a huge siphoning of money or a major scandal, but once the clamour dies down no one knows how the matter ended. However, no matter how imperceptible the change may be, it is taking place both in India and Pakistan, the countries with shared legacy of colonial experience. Access to information is widely recognised as an effective anti-corruption tool.

In India, the introduction of the Right to Information Act (RTI Act) in 2005 has placed a duty on the government to provide the public with information. Citizens from all walks of life whether in rural or urban settings are all using the law to uncover corruption and misuse of public funds at all ranks of the bureaucracy, forcing change and promoting accountability in the working of every public authority. In Hasdeo, a small town in the Indian state of Madhya Pradesh, a constructive use of the RTI Act requesting information from the only primary health care centre run for its employees by one of the biggest public sector units of mining for coal revealed that aphrodisiacs (euphemistically called 'vitality restoring tonics') were stocked instead of the common life-saving drugs. In addition it was also found that such purchases were made at exorbitant rates. A vigilance inquiry proceeding is said to be going on against the officers. Moving to western India, Mohanbhai used RTI to pull up fair price shops in Kalol Taluka of Gujarat, and was successful to make the Public Distribution System (PDS) work. PDS is a programme of the government for provision of subsidised rations (food grains in a fair-price shop) for poor families. Mohanbhai was refused the information on the grounds that the application was not made in the prescribed form.

Little did the officer imagine that Mohanbhai would take the rules to point out the error to the officer that no form was required. The episode is indicative of how serious governments are in implementing this Act - but an informed citizen can make a difference to make public service delivery mechanisms perform better. In Maharashtra, a RTI request filed by a resident of Mumbai unearthed another scam on misuse of the amount of money disbursed by the revenue department for flood relief in Mumbai last year. Following which the Anti-Corruption Bureau arrested five government staffers. Again a pioneering example was set by vigilant citizens in Mumbai who similarly used the RTI Act to unearth a scam showing that successive governments have been doling out public land to various private bodies for shops and businesses.

The land grab has cost the city administration more than a billion dollars in lost revenue. Simple tasks like renewing a passport, obtaining a driver's license or a subsidised food card, have historically been very hard to achieve without paying a substantial amount as a bribe to public servants.

However, it appears that the RTI Act had an answer for 80-year-old Laxmi Devi. Her passport being unduly delayed and asked to pay bribe of an exorbitant amount she filed an RTI application with the Public information Officer (designated as such under the RTI Act, responsible to receive information requests) enquiring the status of her passport. Believe it or not in a matter of two days her passport was delivered promptly to her address.

In Pakistan, the Freedom of Information Ordinance was promulgated in 2002. It divided the civil society groups into two; those who rejected it out of hand saying it was too restrictive and those who thought that, its shortcomings notwithstanding, it did provide a foothold through which freedom of information movement in the country could be taken forward. The latter started demanding framing of the rules under the FOI Ordinance so that it could be implemented.

Interestingly, even in the absence of rules, one civil society group started submitting information requests to different ministries and when some ministries denied access to public records, it took them to the ombudsman office.

When they took the plea that they could not provide the information, as the rules were not framed under the ordinance, the ombudsman gave the ruling that failure to frame the rules was in itself a proof of maladministration and instructed it to provide the information. One such information request submitted to the Capital Development Authority (CDA) in 2004 pertained to the cost involved in planting date palm trees in Islamabad. At that time, the rumour windmills were churning out different stories. Some would say these trees had been imported from Dubai, others would say they had been taken from interior Sindh and yet others would say they had come from the farm of that particular feudal lord. Speculation on the cost of a single tree ranged from 5,000 to 100,000 rupees.

The information provided on the intervention of the ombudsman established that CDA actually spent Rs2.4 million on the whole initiative and the cost of one tree was 990 rupees. Civil society and people confronted the chairman CDA, demanding why this much money was spent on trees which were not likely to grow given the climate of Islamabad. The land mafia often operates in collaboration with corrupt elements in the government agencies. In Karachi, there was a case regarding the commercialisation of government-owned land which was essentially a residential area.

A building was demolished and somebody wanted to build a commercial building on it. People wrote to the authority concerned, seeking information as to whether the plot on which the commercial building was planned was residential or commercial. They were first asked under what authority they were seeking this information. Then they got the answer that most of the agencies have agreed to commercialise it. Finally, they said that others have commercialised it.

Under the FOI Ordinance of 2002, a Karachi based civil society group filed an information request of the same nature with the ministry concerned. Again, on the intervention of the ombudsman, they shared the information that it was a residential plot. A case was filed based on this information and the construction on that plot had to be stopped.

A new beginning has ushered with the enactment of the RTI Act and the FOI in India and Pakistan respectively. People's involvement and participation with correct information has immense potential to bring about the much needed change to bureaucratic functioning. These success stories may be limited in scope, but they do highlight the potential of freedom of information laws in making bureaucracy accountable and ensuring the judicious use of public money.

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