1. Strengthening Open Government

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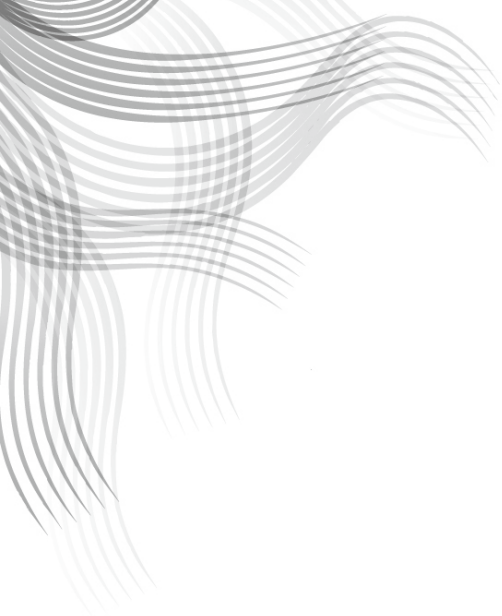
India

Strengthening Open Government: India Country Paper

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1. Introduction

'Open Government in the most basic sense is the notion that the people have the right to access the documents and proceedings of government' (Lathrop and Ruma, 2010). It is a term used as an alternative formulation to 'freedom of information' or 'access to information' (Chapman, Hunt 2008). In a wider sense it is synonymous with transparency. But it is an even more comprehensive concept than both. Transparency is the core component of open government, freedom of information being a means to secure transparency and greater openness in the affairs of government. Open government means the transparency of government actions, the accessibility of government services and information and the responsiveness of government to new ideas, demands and needs.

Open government is one where the business of government and administration is thrown open to all, at all levels, so as to ensure effective public participation, scrutiny and oversight. Transparency implies openness of both orgaisations and individuals constituting it and requires openness of information, processes, policy, decisions, actions and outcome. Process transparency covers both internal business and supporting human resource, financial, and administrative processes; and external service delivery and regulation.

2. Transparency, Participation and Accountability through Open Government

Openness through transparency becomes a means to greater civic

participation in an enabled environment, where there is effective free flow of information both ways, to see through the working of the government; and to verify whether or not public servants are meeting their obligations to expectations of citizens. All the four components of accountability i.e. answerability, sanction, redress, and system improvement need information to account for unacceptable conduct, decisions, and actions. The gaps in conventional supply side accountability have led to the emergence of demand side accountability. "Social Accountability is the institutionalization of durable societal control over policies and their implementation. Civil society is progressively showing tremendous potential to participate directly in institutions of horizontal accountability. This can extend to all faces of development process, viz., planning (people's planning), programming, budgeting (budget analysis, participatory budgeting), release of funds (publication of funds released, public expenditure review), award of contracts (procurement watch, integrity pact), and monitoring of contracts (independent quality inspection). Post planning, this may extend to implementation (hospital advisory, management committees, community forest management), progress of implementation (corruption watch) and evaluation (citizen report card, community scorecards) and audit (public hearing, participatory audit, citizen audit request, monitoring of audit compliance, general law on social audit)" (Joshi, 2008). Open government can thus be said to have three components viz.

- Right to information

- Civic engagement in the processes of governance, and

- Accountability for what the government or the public servant says and does

3. Indian Initiatives

The Open Government Initiatives of the U.S. along with Canadian Government Initiatives that seek to bring in an unprecedented level of openness in government brings out a framework, which sets an example to emulate. However, the early tidings of open government in India can be said to have begun with the landmark judgment of Justice P. N. Bhagawati of the Supreme Court of India in 1981, (Gupta S.P. vs Union of India (1982),

Supreme Court of India, AIR 1982SC149) where, besides giving a general description of open government he stressed the need for increased disclosure in matters relating to public affairs. Noting that open government means 'information available to the public with greater exposure of the functioning of government which would help assure the people a better and more efficient administration' he went on to describe Open Government in India to be, "the new democratic culture of an open society towards which every liberal democracy is moving and our country (India) should be no exception".

3.1. The Right to Information (RTI) Act in 2005

The passage of Right to Information Act in 2005 by Government of India (GoI) ensured timely response to citizen requests for government information, marking a paradigm shift in the citizen-government relationship in India. The real impact of the landmark legislation is fully reflected in the famously quoted statement of a poor village woman when she told a public servant "without the Act our lives were at stake, and with it now, your job is". The Act sets out a practical regime of right to information for citizens. The main objectives of the law on RTI are: to operationalise the fundamental right to information; to set up systems and mechanisms that facilitate people's easy access to information; to promote transparency and accountability in governance; to minimise corruption and inefficiency in public offices and to ensure people's participation in governance and decision making. According to section 2 (j), 'Right to Information' includes the right to

- Inspection of work, documents, records;

- Taking notes, extracts or certified copies of documents or records;

- Taking certified samples of material;

- Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs where such information is stored in a computer or in any other device.

It is significant that the principle of open access to administrative documents has been defined as a right under section 3 and not merely an interpretative principle which can be invoked regardless of the purpose for which that right is exercised. The Act mandates both proactive and reactive

supply of information, cataloguing, indexing and computerisation of the appropriate records and their dissemination. In cases, where the right to information has been denied by a public official, sufficient information must be provided of the reasons of the refusal. That decision is always reviewable by the appellate authority and the State Information Commission. Right to information has to include the right to protected disclosure of sensitive information. As a prelude to a full-fledged legislation to protect whistle blowers, a national resolution has been issued empowering the Central Vigilance Commissioner.

3.2. Participation, *i.e.* Civic Engagement

The constitutional method of political participation of people at the grass roots is achieved through the process of devolution to the lower echelons of governance. Even though the Government of India had initiated the process of devolution of powers as early as in the 1950s through the Panchayati Raj system, and introducing the element of participatory rural works programme through financial participation of beneficiaries, the Union Government brought in the 73rd and 74th amendments to the Constitution to more firmly institutionalize local governments as the third tier of the State.

One of the key objectives of local level governments is to ensure that the process of planning for development in the country follows a bottom up participatory development approach. The best example of this is 'Peoples Planning' in Kerala, the southernmost state of the Union. It also firmly established the place of gram sabha (village assembly) and ward committees in the towns, in the constitutional scheme of things. They meet to get information from the officers of the Grama Panchayat/ Municipalities as to the services they will render and the works they propose to do, discuss the budget and details of allocation of funds and also the details of the estimate and cost of materials of the works executed or proposed to be executed. They also study the annual statement of accounts, the last audit notes and replies thereto, suggest remedial measures and report satisfactory completion of the works, secure self discipline among members securing payment of their taxes and repayment of loans and conduct social audit of works like the works under the Mahatma Gandhi National Rural Employment Guarantee programme.

Civic participation takes the form of informing; consulting; engaging; collaborating and empowering, as has been suggested by the International Association for Public Participation. In participatory governance, government has an obligation to provide information, receive feedback, receive complaints, give answers, enforce sanctions- disciplinary, civil, and criminal, empower citizens, confer rights on the citizen- civil, political, economic, and social; promote social capital, facilitate participation, promote collaboration; and be inclusive, equitable, responsive, open, transparent, and accountable to the people.

Civil society involvement and association with the government can relate to governance structures and functions, assets, resources, and fiscal and financial management systems, and such other internal operative business systems; and external service delivery processes and procedures. These may cover personnel management, fiscal and financial management and performance management. These in turn could relate to recruitment, placement, transfer, promotion and discipline in the area of personnel management; policy, regulation, planning, decision making, programming, budgeting, expenditure, accounting and audit in financial management, programme implementation, service delivery, oversight and evaluation in performance management.

India is at different stages of this spectrum of participation in public affairs. A winning start has been made in the matter of right to information. Active citizen and civil society engagement in governance processes including decision making, is essential if one were to realize the objectives of good governance. Among the key goals of community participation are:

- Improving technical efficiency by overcoming information asymmetry, providing communities with information on quality through various forms of monitoring and evaluation, and ensuring that service providers spend resources for necessary technical resources,

- Enhancing allocation efficiency through greater attention to the priorities of communities, increased transparency on budgets and public resources with public budgeting and public expenditures tracking systems, and reduction in 'rent seeking", and

• Tightening mechanisms of accountability involving increased transparency from community involvement with public sector agencies like community participation in school management, and community participation in public hearings etc. (Cummins, 2007)

Following are a few of the administrative accountability measures employed by government agencies in India for securing participation:

• Public disclosures

• A law on community participation to institutionalize citizen participation in local decision making

• Citizen charters stipulating standards of service delivery and for penalty for non compliance

• Conventional and online help line for grievance redress

• Arrangements for feedback on services

• Whistle blower protection mechanism

• Public service delivery legislation conferring right to public services with Grievance officer to quickly investigate and grant relief

• Ombudsman to independently enquire into complaints

• Chief /vigilance officer who reports directly to the government

• Integrity pacts for procurement

• Third party inspection of quality of works and supplies

• Independent evaluation studies

4. Web 2 Technologies/ Social Media as Open Government Instrument

Technology is revolutionising the way governments are being run. In this knowledge society the relationship between the citizen and government is mediated by information systems and their automation. Automation of government internal business and external regulation and service delivery is a

must for any e-Government plan, a beginning towards which has been initiated through the National e-Government Plan. National Information Technology infrastructure and nationwide distributed database with public information infrastructure are under way.

Data bases in India suffer from non-standardisation, incomplete data collection at all levels, poor quality and unreliability of data, inconsistency in the methodology and technology employed, absence of universal digitisation capability, slow digitisation of past data, issues of inter-operability of systems etc. In order to effectively solve these problems, the Government has initiatives like national policy on open standards which has been published for soliciting public comments.

Meanwhile progress has been made, by the central and state governments, for progressive use of ICT including Geographic Information Systems (GIS) and satellite imagery to re-engineer transparency, participation and accountability as shown below:

a. Use of Internet to facilitate open government

b. Government portals for information

c. Web based disclosure of information and pro-active publication

d. Electronic online MIS and FMIS ensure that right information gets to the right people

e. Use of mobile phones and Wi-Fi to facilitate engagement

f. Computerised grievance redress mechanisms

g. E-Petitions

h. 'Open for questions' programme

i . Access to process of service delivery and internal business processes as in OPEN

Social media is being progressively used for seeking feedback from citizens; pronouncement of public policy; issue based as well as generic interaction and brand building or public relations. In order to encourage and

enable government agencies to make use of Web 2 technologies which is a dynamic medium of interaction, the Department of Information Technology has released a draft social media strategy. The Framework & Guidelines for Use of Social Media for Government Organisation hopes to help the government enhance its outreach, engage and interact with the Indian Internet users. The Planning Commission of India has taken the initiative and put itself on Facebook with a page on the "Twelfth Plan," 2012 through 2017.

5. Way Forward

Though the Right to Information Act (RTI) 2005 has become the governing law regarding public disclosure of governmental information and accessibility to public data, data-sharing policies in India are still complex in nature, as various provisions under law define and determine the scope of data provided. Taking note of this, the Department of Science & Technology (DST) was assigned the task of developing a comprehensive National Policy for Data Sharing and Accessibility, by the cabinet, in June 2010.

According to the Report of Open Government Data in India, while government has initiated many e-Governance initiatives, very few of them have resulted in publicly accessible databases. Fewer still of those publicly accessible databases are 'open' in terms of data reusability (technologically, in terms of machine readability and openness of formats), data reusability (legally), easy accessibility (via search engines, for persons with disabilities, etc.), and understandability (marked up with annotations and metadata). Putting out raw data will not suffice. To ensure the relevance of open government data, mechanisms have to be put in place to take its benefits to the common person and to marginalised communities, both by the government as well as by civil society organisations. Concrete steps on these lines will help realise the dream of open data in the near future in India.

The Second Administrative Commission has after detailed studies into the working of government, made comprehensive recommendations in its detailed reports, among others, on the right to information, citizen centric service delivery, local government, e-Governance etc. Some of the recommendations relevant to this Paper, which are being followed up and will further the cause of transparency, improved citizen centric service delivery,

and participatory governance, are listed below:

- Suo motu disclosures under the RTI Act, 2005 should not be confined to the seventeen items provided in Section 4(1) of that Act but other subjects where public interest exists should also be covered.

- Citizens' Charters should be made effective by stipulating the service levels and the remedy if these service levels are not met.

- Regular citizens' feedback, survey, and citizens' report cards should be evolved by all government organisations for gauging citizens' responses to their services. These should be used as inputs for improving organisational efficiency.

- Citizens should be actively involved in all stages of the welfare and development programs implemented by the government..

- Social audit should be made mandatory for all developmental programmes and be institutionalised for improving local service delivery.

- Evaluation tools for assessing the performance of local bodies should be devised wherein citizens should have a say in the evaluation.

- Reward schemes should be introduced to incentivise citizen's initiatives

- School awareness programmes should be introduced, highlighting the importance of ethics and means of combating corruption.

- Citizens may be involved in the assessment and maintenance of ethics in important government institutions and offices.

Alongside action on the well considered recommendations of the Commission, attention of the Central and State governments have to turn towards further meaningful and systematic efforts to strengthen freedom of information and participatory governance. The following initiatives will have to be thought of in order further the cause of more open administration:

- More progressive proactive publication and updating of information useful to the public, including online.

- Strict adherence to the mandate of the RTI Act covering supply of information sought under the Act swiftly, following the salutary principle of secrecy as an exemption, treating information as a 'public good':

- Quick reduction of backlog of information sought;

- More effective records management and retrieval;

- Publicizing information on financial disclosures,

- Furthering measures to improve the country's budget transparency from the present 67%, which is a comparison not so bad, and taking action for putting information on budget allocations, releases, expenditure, procurement, etc,;

- Enactment and enforcement of whistle blower protection law, to further the cause of openness and improve discipline and accountability;

- Putting in practice the principle of 'Open Meetings', including passing of the open meetings law;

- 24/7 channels for feedback, complaints, secure protected whistle blowing; and

- Furthering measures for a more enabling environment for civil society participation in public affairs affecting the citizen.

Pending finalisation and earnest implementation of the national policy on open data, data sharing and accessibility, social media in governance, and National Information Technology Infrastructure and nationwide Distributed Database with Public Information Infrastructure under way, earnest ICT application on the following lines will further the cause of Open Government:

- Facility to secure feedback from the public on the Internet;

- Use of mobile phones to inform, chat rooms, and bulletin boards;

- More progressive use of the Internet, web 2 technologies, government wikis, data feeds, department blogs, channels on social media to communicate with citizens, online town hall meetings, use of 'mash up'

technology to assist service delivery, as in the case of 'fixmystreet.uk', discussion groups, memberships' forums, etc.;

• Virtual town square for crowd sourcing of opinions, ideas etc.;

• Resort to 'idea jam' to engage people in public discussion;

• Computerised neighborhood environment tracking; and

• e-Rule making.

Improving government agencies' and particularly local government capacity to inform, consult, interact, and collaborate is possible through tools for each activity as shown below:

• to inform citizens through interviews, surveys, public hearings,

• to consult through nominal groups, focus groups etc, and get feedback and to stimulate public debate;

• to engage through public issue forums, citizen panels, workshops and incorporating citizen views in discussion process;

• to collaborate with the citizen and create long term partnerships of citizens;

• to address issues through study circles and community task force; and

• to educate the civil society to improve their capacity to effectively and collaboratively use open data, as and when it becomes a reality, for public good, including the government.

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India

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