

Ushering in Transparency for Good Governance

by

V. K. Parigi, Workstream Leader (Accountable Workstream)
Dr. P. Geeta, Knowledge Manager (Governance & Capacity Building)
Rameesh Kailasam, Senior Manager (Finance, Administration & Contracts)
Centre for Good Governance, Hyderabad

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.

This paper discusses the need for promoting transparency in decision making in government through enhanced public participation, fixing accountability of various actors and stakeholders for ushering in an era of good governance.

November 2004

Ushering in Transparency for Good Governance

V. K. Parigi, Dr. P. Geeta, & Rameesh Kailasam
Centre for Good Governance, Hyderabad

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

Two aspects of this definition merit closer attention.

Aspect 1: The concept of governance is broader than government

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. And each actor has a specific role to play based on its source of legitimacy and comparative advantage.

Aspect 2: The concept of governance focuses on institutions and processes

In the context of allocating resources priorities need to be established through processes that involve all stakeholders in decision-making. Transparency in decision-making processes and in institutions has the potential to become a central strategy for engaging stakeholders and improving the quality of overall governance.

In the present context, therefore, good governance describes a situation in which the mechanisms, processes and instruments for decision-making and action facilitate greater civic engagement through a participatory approach.

Transparency: Core principle of Good 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.

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 and Civic Engagement

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.

Trust in public bodies is affected by two things:

- the quality of services that individuals and their families receive; and
- how open and honest organizations are about their performance, including their willingness to admit to and learn from their mistakes.

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 of Information & Disclosure

"A popular Government without popular information or the means of acquiring it is but a Prologue to a Farce or a Tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge gives."

-James Madison

Information is crucial to good governance as it reflects and captures government activities and processes. Every citizen of the state has right to access information under the control of public authorities consistent with public interest. The main objective of governments providing information to its citizens is not only to promote

openness, transparency and accountability in administration, but also to ensure participation of people in all matters related to governance.

All developed countries have recognised the need for freedom of information and most of them have passed the FOI Act. In developing nations or nations in transition, less than 40% of them have passed these laws. Most of these FOI laws have been passed in the last decade. In India, the Union Government and state governments of Goa, Tamil Nadu, Karnataka, Rajasthan, Delhi and Maharashtra have passed Right to Information laws in the last few years.

Appendix 1 provides a comparison of FOI legislation in India. It compares the salient features of the FOI laws of the Indian Union and States in terms of certain features: scope of Act, fee for getting information, exceptions, time limit, urgent requests, suo motu disclosures, appeals, private bodies, means of communications, publicity for the act, training of civil servants, penalties and overseeing body.

Study of FOI legislations and their implementation suggests that a number of bottlenecks exist in the way of free flow of information to the citizens which should be removed for ushering in greater transparency. This requires the following:

- Strengthening of FOI legislation on the patterns of the Maharashtra and Delhi Acts.
- Government Departments to provide their Annual Activity and Performance Reports to civil society groups and the public with broadly agreed contents;
- Information about the services rendered by Departments, rules and regulations, etc. to be placed in the public domain;
 - Interactive sessions may be held by the Heads of the Departments with the public to elicit citizens' views on policies and programmes;
 - Public access to budgetary processes and budget reports.
 - Placing all Government Orders on the websites of the Departments;
 - Public access to various reports of Committees and Commissions appointed by the Government;
- Publication of white papers on all importance governance matters concerning the public by public bodies;
- Measurement Books or 'M Books' of public works departments may be put in the public domain on departmental websites.
- The public may have access to quality inspection documents relating to all major public works.

Production and Dissemination of White Papers

Information is a key factor to ensure efficient and effective public services. It not only empowers the people to exert demand for better services, it also empowers the service providers to benchmark and make effort to provide better services. The following suggestions are for consideration:

- Production and dissemination of white papers by all Government Departments/Agencies/Undertakings on implementation of programmes and projects to be made mandatory;

- Steps may be taken to create a public opinion and to educate the people about the decisions of the Governments at various levels; this can be achieved by placing on the table of the State Legislature, white papers on various issues in standard formats.
- These white papers will have to be given wide publicity through print and electronic media.
- Discussions, seminars, meetings and similar other public discourses will have to be organised to explain the *pros and cons* of the problems at all levels. Senior officers of the government as also Ministers will have to actively participate in these endeavours.
- The administration will have to be proactive rather than merely reacting to public criticism as at present.
- This will require a change in the mindset of the higher bureaucracy; periodical training, change management and refresher courses will help in this task.
- Every public undertaking/agency receiving money from the Government should produce and place in the public domain annual report containing the structure of the entity, vision, mission, functions, who worked in what capacities, what works were undertaken, how expenditures were made and on what, achievements and failure, details of independent scrutiny made on use of fund, and outstanding results, if any.
- Each State Government may bring out each year a white paper on its public revenues and public expenditure and pose for public discussion and debate options which are available, in the short and medium term, for dealing with the situation.

The concept of a Public Disclosure Commission as in some advanced countries may be experimented to guide and monitor statutory disclosures and aid citizens in the availability of information they need.

Citizen's Charters & Service Charters

In a democracy all power belongs to the people. They elect the government and the government, in turn, must be accountable to the people. In this regard the preparation, implementation, monitoring and evaluation of Citizen's Charters is absolutely essential. A Citizens' Charter must adhere to the following principles:

- **Consultation:** People should be consulted regarding service levels & quality of service
- **Service Standards:** People must be made aware of what to expect in terms of level and quality of services
- **Access:** People should have equal access to the services to which they are entitled
- **Courtesy:** People should be treated with courtesy and consideration
- **Information:** People must receive full and accurate information about their services
- **Openness and Transparency:** People should be informed about government departments' operations, budget and management structures
- **Redress:** People are entitled to an apology, explanation and remedial action if the promised standard of service is not delivered
- **Value for Money:** Public services should be provided economically and efficiently

The implementation of citizen's charters must be monitored publicly and public service report cards be published to ensure efficiency and effectiveness.

Redressal of Public Grievances

Machinery for redress of public grievances has to be strengthened in every Ministry/Department, fixing of time limits for disposal of public grievances. An online computerized Public Grievances Redressal and Monitoring System (PGRAMS) may be operated to facilitate citizens to lodge and monitor the progress of their grievances on internet. An independent authority - a grievances redressal authority - may oversee the action on redressal of public grievances. The following suggestions may be considered:

- Establishment of an Institution of Ombudsman to oversee redressal of grievances (as in Insurance and Banking Sectors) or a Public Grievance Commission (as in Delhi)
- Strengthening of Consumer Courts
- Establishment of a grievance redressal machinery under citizens' charter
- Establishment of Call Centre and development of a web-enabled grievances disposal monitoring system;
- Involvement of civil society in the processing and tracking disposal of grievances;
- Fixing time frames for grievance redressal;
- Monitoring of grievance redressal at the Head of the Department, Secretary and Minister levels periodically using computerized monitoring system and placing the results before the public.

Publishing Annual Performance Report

An Annual White Paper reporting Performance during the year could be contemplated keeping in view the following components:

- Targets and performance during the financial year in terms of measurable indicators;
- Comparison with targets and performance in previous year;
- Measures taken for performance improvement;
- Peoples' feedback and 'Value for Money' reports
- Development priorities and performance targets for the following year
- Financial statements for the year reported
- Financial Audit Report
- Performance Audit Report

The principles and guidelines for performance audit need to be spelt out and made available to public agencies.

Financial Transparency in Government

Accountability and transparency are indispensable pillars of good governance that compel the state and civil society to focus on results, seek clear objectives, develop

effective strategies, and monitor and report on performance. Through public financial accountability and transparency, governments can achieve congruence between public policy, its implementation and the efficient allocation of resources. Lack of financial accountability could lead to inefficiency, waste, and pilferages, and even impede development.

The three components of the financial transparency cycle are:

- Records Management : Creation, Maintenance and Use Disposition;
- Accounting: Planning, Budgeting and Expenditure, Internal Control and Internal Auditing, and Financial Reporting;
- External Auditing: Compliance, Value-for-Money and Certification Auditing.

Public Access to Information on Public Finances

Increased transparency of and the public's access to, information on public finances is essential to supplement legislative scrutiny. Opportunities need to be provided for public consultation or participation throughout the budget process. Development and maintenance of avenues for filing, follow up and redressal of public complaints to support identification of instances of waste and mismanagement of resources is essential. Public expenditure impact and efficacy studies may be conducted from time to time by credible agencies and placed in the public domain.

Fiscal Responsibility Legislation

There is need for a Fiscal Responsibility Legislation to improve and enhance accountability in the conduct of fiscal policy by specifying principles of responsible fiscal management by strengthening the reporting requirements of the Government and for other purposes. The Act should enunciate fiscal management principles and measures for fiscal transparency. Accordingly, the Government would need to ensure that borrowings are used for productive purposes and for accumulation of capital assets and not for financing current expenditure. The Government would also need to ensure a reasonable degree of stability and predictability in the level of tax burden and maintain the integrity of the tax system by minimizing special incentives, concessions and exemptions. The non-tax revenue policies would be in due regard to cost recovery and equity.

Transparency in Public Procurement Legislation

All procurement in government may be regulated by a Transparency in Public Procurement Legislation. This law may be enacted for ensuring transparency in public purchase of goods and services, in selecting tenderers, or inviting, processing and acceptance of tenders by procurement entities including e-procurement agencies. It is meant to provide a legal framework for all public procurement and should be applicable to Government Departments, Public Sector Undertakings, Universities, Panchayats, Local Bodies, Statutory Boards, and those who receive money from Government, etc.,

Developing a Framework for Transparency

Good Governance Approach

It will be useful to review the comparative advantage of the major stakeholders in promoting good governance before finalizing the strategies for promoting transparency through the governance approach.

The Government

The government that is accountable to people and is bound by the law of the land can rightly claim to act on behalf of the people. Leadership, therefore, is government's pre-eminent role in promoting good governance. This leadership applies in particular to ensuring an equitable distribution of benefits and to creating an enabling framework for development. The strategy of the government therefore would include passing laws, reforming the civil service, and promoting economic liberalisation, and also promote public awareness on specific issues. An open government should be a goal and disclosure rather than secrecy should be the norm of governance.

Private Sector

The role of private sector is very important as it is an important means of creating jobs and employment that in turn generate revenue through taxes. These taxes are used by the government to design the social programmes that benefit citizens. Therefore, the private sector and the government need to work towards in harmony and understanding for providing better opportunities for citizens. Transparent corporate governance is a must for a responsible private sector.

Non-Governmental and Community-based Organizations (NGOs/CBOs)

The NGOs and CBOs promote the interests of citizens, particularly under-represented groups such as women and the poor. Another aspect of their legitimacy is their explicit not-for-profit orientation. Transparency, however, is as vital to these organizations as it is for government and the private sector. Their advocacy role can be undermined by undemocratic internal structures that may raise suspicion regarding their motives or their not-for-profit status.

Media

The media have an important role to play in promoting good governance. Their role should not be seen as limited to identifying and exposing corruption, but should also recognise and capitalise on their role as a source of truth. They have an important role to play in reinforcing and building momentum for change by recognising good practice and highlighting successes in achieving development objectives. Like non-governmental organizations, however, their credibility may be undermined by unprofessional conduct that leads to questions regarding their bias.

Professional Associations

The legitimacy of these organizations is based on the professional standards they profess to uphold. Their responsibility regarding promoting good governance and combating corruption is to publish and disseminate their standards and sanction those members who violate them including codes of ethics or anti-corruption clauses in their membership requirements can serve as valuable tools that contribute to creating a culture intolerant of corruption.

The Individual Citizen

Good governance cannot succeed without committed individuals. While the rights of individuals are widely discussed when it comes to issues of corruption, they also have a responsibility to promote good governance: to be informed and to actively participate in the decisions that affect their lives. The responsibility of individuals taking on leadership roles is also equally important. The office holders must act with integrity on behalf of those they act in trust. Integrity improvements at the level of the individual, therefore, have an important role to play.

Good governance requires that all the actors engaged in the governance process follow well-defined codes of conduct and their public affairs are subject to scrutiny by the public under legally stipulated procedures.

We recommend the following strategy for transparency to promote good governance.

Strategy for Transparency and Good Governance		
SL No	Strategy	Specific Initiatives
1	Strategy 1: Access to information	<ul style="list-style-type: none">• Access to Information Laws<ul style="list-style-type: none">○ Right to information legislation○ Records Management laws and Computerisation○ Whistle Blower Protection○ Disclosure of Income and Assets subject to rules○ Complaints and Ombudsman Office• Putting information in the public domain<ul style="list-style-type: none">○ Putting up 'M' books on the website○ Web based approvals to be put on the website
2	Strategy 2: Ethics and Integrity	<ul style="list-style-type: none">• Developing and implementing model code of conduct for political representatives, civil service, judiciary, civil society groups etc• Removal of all discretionary powers provided to officials under the law which may lead to misappropriation in government• Public hearings & Public meetings<ul style="list-style-type: none">○ Transparency in procedures and systems by opening up procedures for public review○ Peoples' estimates; social audit• Prior consultation with public in the process of policy making

Strategy for Transparency and Good Governance		
		<ul style="list-style-type: none"> ○ Participatory budgeting ○ Transparency in budget as done by some state governments ○ Independent audit ● Administrative procedure legislation providing for transparent and accountable administrative action.
3	Strategy 3: Institutional reforms	<ul style="list-style-type: none"> ● Public service agreements for delivery of services by executive agencies – holding them accountable objectively and transparently ● Participation of stakeholders in various decision making processes <ul style="list-style-type: none"> ○ Citizen committees to be a part of the decision making process ○ Encourage and facilitate public participation through <ul style="list-style-type: none"> ▪ Public Hearings ▪ Study Circles ▪ Citizen Advisory Boards ▪ Government Contract Committees ▪ Public Watchdog Groups ▪ Independent Anti-Corruption Agencies ● Enhance participatory decision making through constitution of Citizen Boards and focus groups ● Capacity building of citizen and civil society groups
4	Strategy 4: Targeting specific issues	<ul style="list-style-type: none"> ● Easy access of government officials to the public <ul style="list-style-type: none"> ○ Contact numbers of senior officials to be made available to the public for the purpose of registration of grievances ○ Departmental websites to provide the contact numbers, emails and other details of senior officials ● Citizen service facilitation counters
5	Strategy 5: Assessment and Monitoring	<ul style="list-style-type: none"> ● Performance Measurement and Management <ul style="list-style-type: none"> ○ Monitoring departmental performances through performance indicators ○ Annual Performance White Papers ● Developing and Implementation of citizens' charter in all government departments Citizens' Charters <ul style="list-style-type: none"> ○ Citizen charters to give timelines of service delivery ● Publishing Annual Reports <ul style="list-style-type: none"> ○ Dissemination of white papers ○ Annual reports published by departments with pre-specified framework for contents

References

1. Centre for Good Governance. 2003. A Guide to Developing and Implementing a Citizens' Charter. CGG, Hyderabad
2. Centre for Good Governance. A Model Action Plan for Implementing Freedom of Information. CGG, Hyderabad, 2003.
3. Centre for Good Governance. A Draft on the Model Code of Good Governance, prepared for the Government of India. 2004. CGG.
4. Centre for Good Governance. State Financial Accountability Assessment Methodology. CGG, Hyderabad, 2003.
5. Centre for Good Governance, Andhra Pradesh Performance Accountability Bill 2003, CGG, Hyderabad.
6. Report of the National Commission for the Review of the Working of the Constitution. 2002.
7. Devesh Kapur, The State in a Changing World: A Critique of the 1997 World Development Report, Harvard University Weatherhead Center for International Affairs, Working Paper Series 98-02 February 1998.
8. United Nations Development Programme. Governance for Sustainable Human Development: A UNDP Policy Document on Good Governance. 1997. New York.
9. Johanna Mendelson Forman, Promoting Civil Society in Good Governance: Lessons for the Security Sector, Paper Prepared for the Workshop "Promoting Civil Society in Good Governance: Lessons for the Security Sector" held on 15-16 April, 2002 in Prague, Czech Republic.

Appendix 1
Comparison of FOI Laws of the Indian Union and Indian States

Provision	Goa 1997	Tamil Nadu 1997	Rajasthan 2000	Karnataka 2000	Delhi 2001	Maharashtra 2002	FOI Bill 2000	Recommended
Scope of Act	Can obtain certified copies of documents or records, inspection of records, taking notes and extracts, inspection of public works, taking sample of material from public work.	Can obtain certified copies of documents or records.	Can obtain certified copies of documents or records, inspection of records, taking notes and extracts, inspection of public works, taking sample of material from public work.	Can obtain certified copies of documents or records.	Can obtain certified copies of documents or records, inspection of records, taking notes and extracts, inspection of public works, taking sample of material from public work.	Obtaining certified copies of documents or records.	Obtaining certified copies of documents or records, inspection of records, taking notes and extracts.	The scope of the Act should be wide enough to cover the various ways in which information can be obtained by the citizens.
Fee	Not exceeding cost of processing and providing information.	No provision	To be prescribed. Decided and paid at the time of request and information may be refused if not paid.	To be prescribed; not to exceed actual cost of supplying.	Not exceeding cost of processing and making available information.	Charges for processing and making available information.	To be prescribed. Provisions for additional fees.	Should not exceed cost of processing and making available information and waiver where payment of fee is likely to cause financial hardship.
Exceptions	6 exemptions but information	22 exemptions + 2 additional	10	8 exemptions + 4	8 exemptions	11 exemptions with some public interest override	7 exemptions + 4 grounds for refusal.	Limited to specific requirements for non- disclosure;

	given to State legislature available to citizens	broad exemptions	exemptions	additional grounds for refusal		+ 3 additional grounds for refusal. Also any information that has to be disclosed to Parliament/ Legislative Assembly will be available to applicants. Info to be given if reasonably severable.	Information to be given if reasonably severable.	no class exceptions; public interest override.
Time Limit	30 working days for granting or refusing request	30 working days	30 working days for granting or refusing request	15 working days for granting information from date of receipt of payment of fee; or refusing request within 15 days from the date of application.	Normally within 15 days, but can be extended to 30 days.	15 working days from granting or refusing – provision for extension by another 15 days with reasons.	30 working days for granting or refusing.	Shorter time limit for refusal
Urgent Requests	If required for life and liberty, within 48 hrs.	No provision	No provision	No provision	No provision	Within 24 hours of the request involving life and liberty of a person.	Within 48 hours, concerning life and liberty of a person.	If required for life and liberty, then within 24 hrs.
Suo Motu Disclosures	No provision	No provision	Wide discretion to	Particulars of	Particulars of	Particulars of organisation, its	Particulars of organisation, its	There should be a mandatory time-

			exhibit or expose information.	organisation, its functions, power and duties of officers, norms, details of facilities to get information, its decisions, facts related to any project scheme before the initiation of the same, etc.	organisation, its functions, power and duties of officers, norms, laws, rules, regulations, list of records available to citizens, details of facilities to get information, facts related to any decision, reasons for its decisions, and project scheme before the initiation of the same, etc.	functions, power and duties of officers, norms, rules, regulations, list of records available to citizens, details of facilities to get information, facts related to any decision and project scheme before the initiation of the same, and other information as may be prescribed.	functions, power and duties of officers, norms, rules, regulations, list of records available to citizens, details of facilities to get info, facts related to any decision, reasons for its decisions, and project scheme before the initiation of the same, etc.	bound disclosure for all categories of information that would be of use to the public at large. Such information should be periodically updated and published.
Appeals	No internal appeal; appeal to administrative tribunal.	One internal appeal, but appeals to courts barred.	Internal appeal, Appeal to district vigilance Commission or civil service	1 st appeal to be prescribed, 2 nd appeal to appellate tribunal, but courts barred.	Appeal to an independent body, the Public Grievances Commission, but courts barred.	First appeal to internal appellate authority and second appeal to Lokayukta/Upa-Lokayukta whose decision is final. Jurisdiction of	Internal appeals as prescribed, 2nd appeal to govt. but courts barred.	Independent forum for appeal essential. Court appeal not recommended in India as it is time-consuming.

			tribunal, courts barred.			courts barred.		
Private Bodies	Private bodies executing work for or on behalf of the government.	No provision	No provision	No provision	No provision	Includes any body which gets aid (directly or indirectly) from government including aid like tax benefits, land concessions, etc.	No provision	Private bodies getting aid from government – from taxpayers' money must be covered.
Means of Communication	No provision	No provision	No provision	No provision	No provision	No provision	No provision	Specific directions for effective communication of information.
Publicity for the Act	No provision	No provision	No provision	No provision	No provision	No provision	No provision	Mandatory to publicise provisions of the Act.
Training of Civil Servants	No provision	No provision	No provision	No provision	No provision	No provision	No provision	Mandatory provisions for training.
Penalties	Penalties and discretionary imposition of Rs.100/day for delay.	No provision	Disciplinary action and penalties to be described	For delay without reasonable cause or supplying wrong information up to Rs.2000/- fine + disciplinary action.	Disciplinary action and penalties to be prescribed in the Rules.	Appellate authority can impose fine of Rs. 250 per day for delay and up to Rs. 2000 on Public Info. Officer for knowingly giving incorrect/ misleading info/ wrong/incomplete info. Apart from	No provision	Penalties for wrongful delay, wrong information or unjustified refusal are important checks on arbitrariness in handling information requests.

						this PIO subject to disciplinary proceedings.		
Overseeing Body	State Council	No provision	No provision	No provision	State Council	State Council-not regulatory body, but empowered to monitor and review the working of the Act every six months. Additionally, a Records Commission will advise the Govt. on release of old records to the public.	No provision	Need regulatory overseeing body

Source: Global Trends on the Right to Information: A Survey of South Asia, Article 19, Centre for Policy Alternatives, Commonwealth Human Rights Initiative, Human Rights Commission of Pakistan, July 2001.