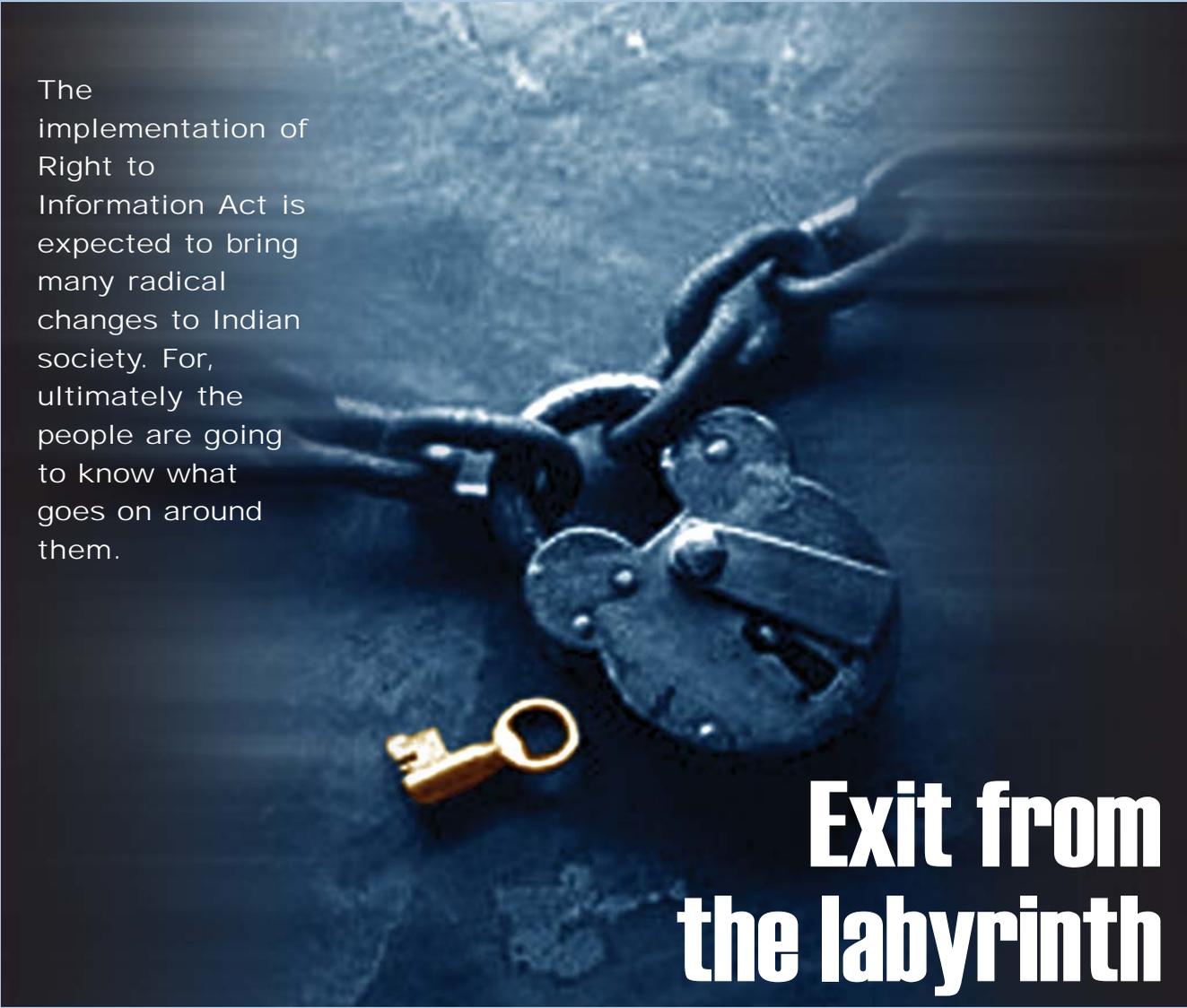


The implementation of Right to Information Act is expected to bring many radical changes to Indian society. For, ultimately the people are going to know what goes on around them.



## Exit from the labyrinth

*The key that opens the door to information*

**D.B. Binu & Ani Joseph**

**D**ays of darkness vanish and labyrinthine ways to information from public authorities vanish as democracy, opens its doors to information for the people. It took a long journey with many ups and downs to reach to right to information Act from the Official Secrets Act. The hard-fought struggle nearly for a decade for the right to information is finally rewarded. By the advent of this law, India places herself among 55 countries in the world to have such a legislation. Indeed it is a dawn in the realm of fundamental rights of the people and this law, if implemented properly, will be a sharp tool in the hands of the people to chop off the dragon-head of

corruption.

The aim of a representative, responsible and democratic system of government is to function for the people, for it exists for the citizens. Governments acquire and generate plenty of information. If they are to be effectively supervised and controlled, those who supervise and control them must have access to that information. Those exercising power cannot be held accountable and responsible if they have exclusive possession and control of the information upon which their decisions, policies, and actions are based. In democracy, the people are the masters. Therefore access to information becomes their right. The concepts of transparent government and right to information are inter-relatable.

That was why the General Assembly of

United Nations in 1946 itself recognized through its resolution that freedom of information is a fundamental right and that it is the touchstone of all freedoms. Again, in 1948, when the UN General Assembly adopted the Universal Declaration of Human Rights (UDHR), and in 1966 at the International Covenant on Civil and Political Rights, it was undoubtedly stated that right to information is an indispensable right of a human being.

### What does the new law bring?

The new law, enacted by the Indian Parliament, provides every citizen the fundamental right to seek information from any public authority, with a view to inspect them, take notes, extracts or certified copies of documents or records, and taking certified samples of material, wherever essential.

Information can be obtained even in the form of disks, floppies, tapes, video cassettes or in any other electronic mode.

To get the information the applicant makes a request in writing or through electronic means in English, Hindi or in the official language of the area in which the application is being made. The request shall be accompanied by an application fee of rupees ten, by way of cash against proper receipt or by demand draft or banker's cheque payable to the Accounts Officer of the public authority. If the person requires the copy of the information, rupees two for each page in A-4 or A-3 size. If the size of paper is larger, he has to pay the actual charge or cost price of a copy has to be paid. If the information seeker wants to make inspection of records only, no fee is required for the first hour but a fee of rupees five will have to be paid for each fifteen minutes, with respect to the Central Governmental Offices, and rupees ten each for a period of half an hour in Kerala State Government Offices. If the information is required in disks or floppy, Rupees Fifty per disk or floppy is to be paid.

The Act also provides for penalties for the information officers if they, without any reasonable cause, refuse to receive an application for information or has not furnished information within the time specified in the Act. Penalty shall be imposed upon the officials if they malafidely deny the request for information or knowingly give incorrect, incomplete or misleading information. If anyone destroys the information in order to obstruct its distribution, he is also liable to be punished.

The Act imposes a penalty of two hundred and fifty rupees each day till information is furnished. However, the total amount of such penalty shall not exceed twenty-five thousand rupees. The officer shall be given a reasonable opportunity of being heard before any penalty is imposed on him.

Although the parameters of the new law are amazing by any stretch of imagination, it does not mean that there will be a free flow of information without any restriction. Information on matters affecting security or strategic, scientific and economic interests of the country will not be divulged. The Act also provides for the establishment of Central Information Commissions as well as State Information Commissions throughout the country. The Commissions will act as independent bodies to handle appeals and monitor implementation.

## Implementation

A law is successful only when it is properly executed. During discussions on the bill in the parliament, Prime Minister Manmohan Singh asked the country's civil servants to view the bill in a positive light. They should not see it as "draconian law" for paralyzing government but as an instrument for improving government-citizen interfacing, resulting in friendly, caring and effective functioning. After all we, the elected representatives bow to the wishes of the people and have come to no harm. So will it be with honest, hard working civil servants, he added. The Prime Minister's concern regarding the implementation will remain as a true impediment if our civil servants do not take up their work honestly.

It is to be remembered that the earlier Freedom of Information Act 2002 had got the assent of the President but it was not notified and finally repealed. This was however to be described as the negligence on the part of the bureaucracy. Enforceability of a new enactment in fact can be delayed or denied by pointing out many loopholes. The new law provides for

---

Prime Minister Manmohan Singh asked the country's civil servants to view the bill in a positive light. They should not see it as "draconian law" for paralyzing government but as an instrument for improving government-citizen interfacing, resulting in friendly, caring and effective functioning.

exemption from disclosure of information. According to this provision, the Act keeps a secret room of information, which shall be in no way opened to the citizen. Upto an extent this must be justified. But the disturbing aspect is that this secret room or exemption is not very precisely defined in the act. This will give an opportunity to the unwilling bureaucracy to deny the application replying that the matter sought in the application falls in the exemption category.

Another example for the negligence on the part of the executive was visible in the last days before the Act came into being. The Right to Information Act came into effect on June 15, 2005. When it was notified in the official gazette of India, many of the provisions of the Act were operative immediately. A number of functions including cataloguing of information, notifying the functions of officers etc. had

to be started immediately but unfortunately despite this definite and unambiguous time schedule prescribed by this most trumpeted Central act, no definite action was taken by state governments to implement it as fast as possible. Therefore its implementation still is in the womb keeping everyone waiting.

## Steps to effective implementation

As per the section 26, the act empowers the appropriate government to develop and organize educational programmes to advance the understanding of the public, encourage public authorities to participate in the development and organization of programmes in this regard. The government has to compile in its official language a guide containing such information, in an easily comprehensible form and manner. As a matter of priority, those implementing the law need to be trained in their responsibilities under the law, in how to deal with the applications, appeals and also how to interpret the law. Raising of public awareness is an important aspect in the implementation process. and the NGOs

have a vital role in this awareness programme.

Records management is also very essential for the speedy dissemination of information. Section 4 of the RI Act insists the public authority to maintain all its record duly catalogued and indexed in a manner and form. It also envisages computer network connected all over the country on different systems so that anybody can access to such records.

The new enactment however is expected to bring many radical changes to Indian society, for ultimately the people are going to know what goes on around them. This perhaps leads us to the old good days of participatory democracy of ancient Greece.

---

■ D.B. Binu is an advocate practising in the High Court of Kerala and Editor of the journal *Niyama Sameeksha*.