



IMPLEMENTATION OF RIGHT TO INFORMATION ACT -2005: A REVIEW

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Abstract

Right to Information is the bulwark of democratic government. This right is essential for the proper functioning of the democratic process. Right to Information is an integral part of the freedom of speech and expression enshrined in Article 19(1)(A) of the constitution, which is regarded as the first condition of liberty. It occupies preferred position in the hierarchy of liberties giving succour and protection to other liberties. The expression "freedom of speech and expression" in Article 19(1)(a) has been held to include the right to acquire information and disseminate the same. It includes the right to communicate it through any available media whether print or electronic or audio-visual, such as, advertisement, movie, article or speech, etc. This freedom includes the freedom to communicate or circulate one's opinion without interference to as large a population in the country, as well as abroad, as is possible to reach. Communication and receipt of information are the two sides of the same coin. An important aspect of freedom of speech and expression is considered the freedom to receive and disseminate information without any hindrance. Without adequate information, a person cannot form an informed opinion. The aim of the researcher is to outline firstly the significance of the right to information, particularly in empowering ordinary citizens to combat state corruption as well as to highlight some lacuna in the Right to Information Act. The aim is to focus over the efforts at the national level to legislate this right. Here the researcher tries to explain the 17 years of Right to information act and its implementation in this article.

Key words: *Right to information, Democratic governance, Constitution, Article 19(1) (a).*

Introduction

Right to Information is the bulwark of democratic government. This right is essential for the proper functioning of the democratic process. Right to Information is an integral part of the freedom of speech and expression enshrined in Article 19(1)(A) of the constitution, which is regarded as the first condition of liberty. It occupies preferred position in the hierarchy of liberties giving succour and protection to other liberties. The expression "freedom of speech and expression" in Article 19(1)(a) has been held to include the right to acquire information and disseminate the same. It includes the right to communicate it through any available media whether print or electronic or audio-visual, such as, advertisement, movie, article or speech, etc. This freedom includes the freedom to communicate or circulate one's opinion without interference to as large a population in the country, as well as abroad, as is possible to reach. Communication and receipt of information are the two sides of the same coin. An important aspect of freedom of speech and expression is considered the freedom to receive and disseminate information without any hindrance. Without adequate information, a person cannot form an informed opinion. The aim of the researcher is to outline firstly the significance of the right to information, particularly in empowering ordinary citizens to combat state corruption as well as to highlight some lacuna in the Right to Information Act.

The only way to secure substantial right to information available to the citizens of India is to implement the Right to Information Act, 2005 strictly according to the provisions of law. It is essential that the Higher Judiciary should realize its responsibility and should be covered within the scope of the RTI Act. Higher the authority, higher should be the accountability to the people of India.

The study seeks to give the perspective of Right To Information (RTI Act 2005) from the lens of Central Public Information Officer (CPIO). Right to Information act is a fundamental human right of each individual. The famous French philosopher Michel Foucault once pronounced, power is derived from knowledge and information is the basic component of knowledge. Information makes men wise and it is competent enough to cope up with the modern world. In this way, it is the obligation of government to illuminate subjects about everyday happening whatever inside the government. The change from administration to great administration is conceivable, if there is probability of expanding participation of individuals in administration and free access of Information. By figuring it out this reality, Indian Parliament has passed Right to Information act, 2005 to make government, responsible, capable, effective and straightforward. This paper tries to feature the essential rules of RTI act, the connection between Right to Information Act 2005 and good governance and the issues relating to RTI act. In closing part, the paper gives some suggestions for fruitful working of RTI act.

The passing & enactment of Right to Information Act, 2005 in India has been rightly considered as a milestone in the evolution of Indian Parliamentary Democracy which attempted to ensure transparency & good governance at the grass root levels by making the public authorities accountable & responsible. This Act liberated the harassed commoners who now had a very potent weapon to seek information which had hitherto remained suppressed in the dusty files of Babus (Bureaucrats) under the garb of official secrecy & confidentiality. However, in spite of many initial success stories over a period of time this Right to Information act has been losing its effectiveness & potency as it has failed to adopt the dynamism of complex Socio-Political realities. This paper attempts to give an overview & explain the history of RTI in India, its present status, limitations/drawbacks /challenges & suggests some remedial measures to ensure its relevance in the rapidly transforming geo political context.

Historical Background of RTI

The right to information is a fundamental right under Article 19 (1) of the Indian Constitution. In 1976, in the *Raj Narain vs the State of Uttar Pradesh* case, the Supreme Court ruled that Right to information will be treated as a fundamental right under article 19. The Supreme Court held that in Indian democracy, people are the masters and they have the right to know about the working of the government.

Thus the government enacted the Right to Information act in 2005 which provides machinery for exercising this fundamental right. The act is one of the most important acts which empowers ordinary citizens to question the government and its working. This has been widely used by citizens and media to uncover corruption, progress in government work, expenses related information, etc.

All constitutional authorities, agencies, owned and controlled, also those organisations which are substantially financed by the government comes under the purview of the act. The act also mandates public authorities of union government or state government, to provide timely response to the citizens' request for information. The act also imposes penalties if the authorities delay in responding to the citizen in the stipulated time.

Information through RTI

The citizens can seek any information from the government authorities that the government can disclose to the parliament.

Some information that can affect the sovereignty and the integrity of India is exempted from the purview of RTI.

Information relating to internal security, relations with foreign countries, intellectual property rights (IPR), cabinet discussions are exempted from RTI.

Objectives of the RTI Act

1. Empower citizens to question the government.
2. The act promotes transparency and accountability in the working of the government.
3. The act also helps in containing corruption in the government and work for the people in a better way.
4. The act envisage building better-informed citizens who would keep necessary vigil about the functioning of the government machinery.

Important provisions under the Right to Information Act, 2005

- Section 2(h): Public authorities mean all authorities and bodies under the union government, state government or local bodies. The civil societies that are substantially funded, directly or indirectly, by the public funds also fall within the ambit of RTI.
- Section 4 1(b): Government has to maintain and proactively disclose information.
- Section 6: Prescribes a simple procedure for securing information.
- Section 7: Prescribes a time frame for providing information(s) by PIOs.
- Section 8: Only minimum information exempted from disclosure.
- Section 8 (1) mentions exemptions against furnishing information under the RTI Act.
- Section 8 (2) provides for disclosure of information exempted under the Official Secrets Act, 1923 if the larger public interest is served.
- Section 19: Two-tier mechanism for appeal.
- Section 20: Provides penalties in case of failure to provide information on time, incorrect, incomplete or misleading or distorted information.
- Section 23: Lower courts are barred from entertaining suits or applications. However, the writ jurisdiction of the Supreme court of India and high courts under Articles 32 and 226 of the Constitution remains unaffected.

Significance of RTI

- The RTI Act, 2005 empowers the citizen to question the secrecy and abuse of power practised in governance.
- It is through the information commissions at the central and state levels that access to such information is provided.
- RTI information can be regarded as a public good, for it is relevant to the interests of citizens and is a crucial pillar for the functioning of a transparent and vibrant democracy.
- The information obtained not only helps in making government accountable but also useful for other purposes which would serve the overall interests of the society.
- Every year, around six million applications are filed under the RTI Act, making it the most extensively used sunshine legislation globally.
- These applications seek information on a range of issues, from holding the government accountable for the delivery of basic rights and entitlements to questioning the highest offices of the country.
- Using the RTI Act, people have sought information that governments would not like to reveal as it may expose corruption, human rights violations, and wrongdoings by the state.
- The access to information about policies, decisions and actions of the government that affect the lives of citizens is an instrument to ensure accountability.

Challenges of RTI

- Different types of information are sought which has no public interest and sometimes can be used to misuse the law and harass the public authorities. For example-
 - Asking for desperate and voluminous information.
 - To attain publicity by filing RTI
 - RTI filed as a vindictive tool to harass or pressurize the public authority
- Because of illiteracy and unawareness among the majority of the population in the country, the RTI cannot be exercised.
- Though RTI's aim is not to create a grievance redressal mechanism, the notices from Information Commissions often spur the public authorities to redress grievances.

Difference between Right to Information and Right to Privacy

The right to privacy and the right to information are both essential human rights in modern society where technological information breach is very common. These two rights complement each other in holding governments accountable to individuals in a majority of the cases.

Right to Information provides a fundamental right for any person to access information held by government bodies. At the same time, the right to privacy laws grants individuals a fundamental right to control the collection of, access to, and use of personal information about them that is held by governments and private bodies.

Right To Information Act vs Legislations for Non Disclosure of Information

- Some provisions of the Indian Evidence Act (Sections 123, 124, and 162) provide to hold the disclosure of documents.
 - Under these provisions, head of department may refuse to provide information on affairs of state and only swearing that it is a state secret will entitle not to disclose the information.
 - In a similar manner no public officer shall be compelled to disclose communications made to him in official confidence.
- The Atomic Energy Act, 1912 provides that it shall be an offence to disclose information restricted by the Central Government.
- The Central Civil Services Act provides a government servant not to communicate or part with any official documents except in accordance with a general or special order of government.
- The Official Secrets Act, 1923 provides that any government official can mark a document as confidential so as to prevent its publication.

17 years of RTI

The Right to information enacted in 2005 since then the implementation has started through out the country but majority people have no awareness and knowledge on RTI and even government officials and staff also much aware of RTI its implementation that's why even after seventeen years of Right to information act not successful because not being implemented properly and not much awareness among public as well as government servants.

Conclusion

The Right to Information Act has not achieved its full objectives due to some impediments created due to systematic failures. It was made to achieve social justice, transparency and to make an accountable government. This law provides us with a priceless opportunity to redesign the processes of governance,



particularly at the grassroots level where the citizens' interface is maximum. It is well recognized that the right to information is necessary, but not sufficient, to improve governance. A lot more needs to be done to usher in accountability in governance, including protection of whistleblowers, decentralization of power and fusion of authority with accountability at all levels. As observed by Delhi High Court that misuse of the RTI Act has to be appropriately dealt with; otherwise the public would lose faith and confidence in this "sunshine Act".

References

- 1 Ballesteros, J. M. A. & I. E. S., Winter 2006. The Global Explosion of Freedom of Information Laws, Published by American Bar Association. *Administrative Law Review*, 58(1), pp. 85-130. <https://doi.org/10.2307/3308089>
- 2 Barowalia, J. N., 2012. *Commentary on the Right to Information Act*. 3 ed. India: Universal Law Publishing.
- 3 Bureau, Press Information., 2019. The Right to Information Amendment Bill. [Online] Available at: <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1579510> [Accessed 17 June 2021].
- 4 CES, S. N. S. & C. f. E. S., 2020. Report Card of Information Commissions in India 2018-19, India: Satark Nagrik Sangathan & Centre for Equity Studies CES.