



RIGHT TO INFORMATION ACT, 2005 (INDIA): A TOOL FOR SOCIAL CHANGE IN INDIAN SOCIETY

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ABSTRACT

In today's era, the new source of power is not money in the hands of few but information in the hands of many. In a democratic society, information is like oxygen which helps in the survival and smooth functioning of democracy. Information is the key to knowing which gives shape to thoughts and without thoughts, there is no expression. The struggle to get information led to the formation of the Right to Information Act, 2005 in India (RTI Act). This act was the first of its kind which came into existence not because of the government but because of the demands of the people. This paper assesses the journey of the RTI Act in bringing social changes in Indian society and how the RTI Act is harnessed as a tool for promoting participatory development, strengthening democratic government, and facilitating effective delivery of social-economic services. The paper further analyses the advancement of the RTI Act in the past years and how it has proven itself to be beneficial for the people of our country.

KEYWORDS: *Social Change, Impact, Right to Information, Social Development.*

INTRODUCTION

Information is the key to knowing which gives shape to thoughts and expression. Article 19 of the Indian Constitution has provided us with the right to freedom of speech and expression¹. This fundamental right also inculcates in itself right to know. It started in 2004 when a small town in Rajasthan named Bewaar where the workers of MKSS started a mass movement on their right to know. Finally, the RTI act was passed in 2005.² RTI is also a part of a person's fundamental right to life (article 21). RTI is a right of a person to demand information from a government and getting it promptly and there is no requirement to give reasons for getting information as it is a person's fundamental right. Right to Information is the right of all citizens regardless of their age, sex, economic status and it is not important that the information directly affects a person's private affair. This right to get information is very important for an individual in India as our

country has a democratic government that belongs to the people and therefore the information which is shared by the government should also be known to the people regarding what government does and also to make them answerable to people for their actions, eventually reducing corruption.³

Democracy should not be only considered a form of government where the participation of people is nearly restricted to the periodical exercise of the right to franchise. It should also involve people's participation in its functioning and accountability. The RTI act has crossed a journey of a decade and it has helped significantly to promote transparency and accountability of public authority and has set up a practical regime for giving citizens access to information that is under the public authority which was the very objective of the RTI act.⁴

The statute of RTI has given people enormous rights to know about whatever is happening in the government. It has not only given a

¹ Narender Kumar, *Constitutional Law of India* 227 (Allahabad Law Agency, Faridabad, 8th edn., 2011)

² Dheera Khandelwal and Krishna K. Khandelwal, *A Commentary and Digest on the Right to Information Act, 2005* 67 (The Bright Law House, New Delhi, 1st edn., 2007).

³ P. K. Saini and R. K. Gupta, *Right to Information Act, 2005: Implementation and Challenges* (Deep and Deep Publication, 1st edn., 2018).

⁴ J. P. Mittal, *India's Fight Against Corruption* (Atlantic Publishers and distributors Pvt. Ltd., New Delhi, 1st edn., 2017).



duty to furnish but also a duty to disclose or publish information. RTI should not be only considered as a piece of legislation but it is also an aspect of the society which has helped sufficiently to bring social changes. It provides people with a mechanism to access information that can be used by them to hold the government to account or to seek an explanation as to why decisions have been taken by whom, with what consequences and outcome. It has been mandated that every public authority is required to provide reasons for its administrative and quasi-judicial decisions to persons seeking information under section 4(1) (d) of the act therefore there is no scope for any arbitrary decision.⁵

Its impact on the public has been so deep that it has successfully proved to be a threat to the government and has forced them to have behaved and had changed their attitude a lot. There are strict and stringent rules of giving information to people and not doing the same amounts to fines or punishment. RTI is harnessed as a tool for promoting participatory development, strengthening democratic government, and facilitating effective delivery of social-economic services. Promotion of citizen-government partnership is another important aspect of RTI which has helped in designing and implementation of development programs for improving quality of life, which calls for increasing people's option for higher earnings, better education and health care and a cleaner environment with a richer cultural life.⁶

IMPORTANCE AND NEED OF RTI ACT IN CHANGING SOCIAL IDEOLOGY

Information is an empowering tool for knowledge that provokes thought and without thinking process, there is no expression. Freedom of expression is a running theme of democratic governance.⁷ Information is oxygen for the democratic society. The distinguished statesman emphasized that communication is at the heart of all social intercourse "it is essential that all men and women in all social and cultural environments should be given the opportunity of joining in the process of collective thinking thus initiated, for new ideas must be developed and more positive measures must be taken to shake off the prevailing inertia. With the coming of a new world communication order, each people must be able to learn from the others, while at the same time conveying to them their understanding

of its condition and its view of world affairs. Mankind will then have made a decisive step forward on the path to freedom democracy and fellowship". In the beginning, people were not civilized; they always tried to have controlling power with themselves.

In the primitive days, everyone was against everyone so, life was solitary, poor, nasty, and brutish. In the primitive days, people were not organized and there was no meaning of liberty and freedom. With the transformation from an uncivilized society to a civilized society people tried to understand the relevance of liberty and freedom in their social life. They tried to make themselves informed about the activities happened around the world. Most of the civilized society adopted the democratic culture so as India. In a democracy, people are sovereign and not the government. In a democratic country like our people have the right to know every act and activity that the government is doing in their name. People also have the right to take part in day to day working of the government.⁸

The necessity to legislate a law on right to information was acknowledged unanimously by the chief minister's conference "effective and responsive government" was held on 24th May 1997 at Delhi. Intending to make the government more transparent, open, and accountable towards the general public, the Indian government appointed a working group on Right to Information to promote the open and transparent government.⁹ Government has three organs legislature, executive, and the judiciary. Legislature and judiciary conduct their business in the open forums in the form of parliament and court. They discharge their responsibility without any fear and favour. They provide full opportunity to all concerned to join the debate and know the facts available with them but this concept is not with the executive branch of the government. Generally, the decision on any matter is taken by this organ of the government in the closed dark room without consulting the concerns of the sovereign "we the people of India" by the servant "the government".

The symbolic relationship of sin and secrecy is now universally recognized. It has been observed that any government which operates in greater secrecy is more prone to corruption as compared to a government that operates in greater openness. That's why the information is considered a significant step in empowering the people to combat corruption. Officials often abuse their discretionary powers to suit various political or other vested interests or to misappropriate the funds. The right to information, therefore, is an important tool to check the abuses of

⁵ S. P. Sathe, *Right to Information*, (Lexis Nexis Butterworths, New Delhi, 1st edn., 2006).

⁶ Dr. T. Sita Kumari, "Whistleblowers and the Laws In India- A Brief Study", Vol. XII, No. 3 *Nayaya Deep*, 63 (2011).

⁷ Madabhushi Sridhar, *Right to Information Law and Practice* 98 (Wadhwa & Company, Nagpur, 1st edn., 2006).

⁸ Kailash Thakur, "The Right to Information Act, 2005: A Movement from Darkness to Light" 48 *Civil, and Military Law Journal*, 170 (2012).

⁹ B.R. Saini, "Appraisal of Right to Information in India" 11 *M.D.V. law Journal*, 143 (2006).



administrative discretion and to ensure a fair process. This right is also necessary for protecting civil liberties for example, by making it easier for civil society groups to monitor wrongdoing such as encounter killing or abuse of preventive detention law. The Information helps strengthen the foundation of democracy.

Unlike an autocratic government, a democratic government needs to be based on the trust of the governed. It should therefore perform the function as much as possible keeping in view the public so that the citizen knows its aims, policies programs and help the government to accomplish them. On the contrary maximum secrecy in the government functioning would tend to promote more corruption, nepotism, and misuse or abuse by the authority, and thereby the government is alienated from the governed. Openness in government functioning is regarded as an essential ingredient of democracy and the right to information as a fundamental democratic right.¹⁰

To be an effective and meaningful democracy, it should have a responsive administration which is a bilateral process. On the one hand, the administration is required to be citizen caustic which implies that it should be responsive towards the legitimate needs, aspiration, and grievances of the citizens, and on the other hand, citizens also required to be co-operative and vigilant as it is the eternal vigilance of the enlightened citizens which facilitates accountability and prevents the arbitrariness in the public administration. Right to know is an effective tool or a mean for the citizen's enlightenment which provides them access to the government departments and documents and also enables them to acquire knowledge of what is happening in the government.¹¹

Information tends to remove unnecessary secrecy surrounding the decision making process in the government to improve the quality of decision-making in public policy and administration. This right enables the citizens of the country to know about the government's decision and also their basis so that they can exercise sound judgments on the merits of public policies and respond appropriately to influence the process of policy formulation and decision-making in public governance.

To strengthen the grassroots of the democracy and to ensure people's participation and to bring the local government under the public secreting to avoid the costly mistake, the information should be given to the citizens. Consideration the importance of the information James Madison observed: "A popular government without popular information or means of acquired it, but a prologue to

a farce or a tragedy or perhaps both".¹² Sometimes government withholds the information from its citizens based on feudal, colonial, and technical grounds. However, transparency, accountability, and fairness demand equality, and openness are some of the principles of good governance.

Information is required for mainly three purposes:

1. The evaluation of the government by the citizens.
2. Citizen's participation in the decision-making process of the public authority.
3. To keep eye on the deeds of the government.

Consumer information is also one of the other areas where it is important to have proactive disseminating of information. Information is considered as the currency that every citizen requires to participate in the life and governance of the society. The greater opportunity to the citizens of the access to the information, the greater would be the responsiveness of the government towards the community needs and the greater restriction are placed on the access, the greater feelings of powerlessness and alienation are to be felt. Without a piece of proper information, people cannot exercise their rights in a true sense as the government holds the information as national resources and hold that for the benefit of the citizens and not for their benefits. It follows that government and its officials hold the information as the trustees for the people.¹³

The net result of the secrecy is the disempowerment of the common people and their exclusion for the process which vitally affects their existence. Getting information on various matters as employment scheme, obtaining a certificate for various purposes, recommendations for different types of loans, access to different poverty alleviation programs, irrigation, drinking water, sanitation, education, and more is a must for the common people of the country whether provided proactively or on request. Though the free flow of information in India is required but remains severely restricted also.

The Prima Facie impact of the RTI is that it provides every individual citizen of the country a right to access information hence it puts power directly into the hands of the foundation of the democracy, the citizens of the country. The judiciary has already granted the acknowledgment to the Right to Information as a part & parcel of the fundamental right of freedom of speech and expression and this right is considered important for many of the reasons as follows:

1. Effective People's Participation

As the governance in any democratic country implies the effective participation of the people of the country in the process of the

¹⁰ Devender Singh, "Implementation of Right to Information Act, 2005, National and International experience" *AIR* 99 (2006).

¹¹ *Ibid.*

¹² B.R. Saini, "Appraisal of Right to Information in India" 11 *M.D.V. law Journal* 145 (2006).

¹³ Ram Naresh Prasad, "Right to Information: Fundamental right of consumers" *AIR* 92(1095) 138 (2005).



government but for that, the citizens must have the necessary information that exactly shows how things are being done and also participates in planning processes and judgment of whether certain plans and schemes are useful for them or not. The concept of the Right to Information not only helps in improving the quality of the decision-making process by removing unnecessary provisions of secrecy but also facilitates the process of the policy formulation on the issues of their concern.¹⁴

2. RTI Helps in Democratization of Governance

Access to the information is the requirement for the democratization of the governance. It helps in many ways to check the misuse of the administrative authority for their gains, the process to promote justice, equity, and fair play. That's why L.D. White observed. "Power in a democracy requires control, greater the power greater should be the control". Right to information is one of the devices necessary for disciplining the power and ensuring better accountability.¹⁵

3. RTI Creates Public Accountability

In any democratic system of governance the government runs for the benefit of the public at large and not for the benefit of one or a few persons, therefore, the Government from the village to the central level has to be accountable towards the people and the People should have a right to know what their Government is doing. A right to information will ensure that people can hold public bodies accountable regularly, without having to lay the entire burden on their elected representatives who are themselves often unable to get the information sought despite all the resources at their command. The right to information is primitive of a culture of accountability by providing access to information about finances, proceedings, and decisions of all the social actors whose activities impact the public. It can provide a check on mismanagement, abuse of discretion, bribery, other forms of corruption and malpractices. This shall bring a degree of regularity in the process.¹⁶

4. Rule of Law

Right to information reduces the chances of misuse of the resources available with the government, lessens the corruption, helps in better governance functions, making service providers accountable for their functions, creating a participatory and transparent environment for the

people to contribute in policy formulation and in establishing the rule of law. Taken in the true spirit, information has the potential to bring about the required change in the system of administration and getting the obligation to do certain things that are generally ignored.¹⁷

5. Check and Balance of the Discretionary Powers

Since officers are given discretionary powers for carrying out their duties in an effective manner, they can abuse this discretion to favour the various political and vested interests or to misappropriate the funds. In absence of any legislation on the Right to information they tend to hide the information from disclosure although it is possible by the court's intervention in practice this is not possible for poor people or villagers as the cost, distance, and delays matter. Another problem is the lack of transparency regarding the selection criteria for public posts. The selection of inappropriate employees into the government adds to the inefficiencies and ills in the government. Access to Information is considered a potent tool or instrument not only to check the misuse of administrative discretion but also to ensure fairness by promoting openness, transparency, and accountability in administration.¹⁸

6. Check Administrative Efficiency

Administrative Efficiency in any Government comprises of conducting the administration without any unnecessary delays and also any hidden or corrupt motives. If people do not know what is happening in their society, and if the actions of those who rule them are hidden, then they cannot make a meaningful part of their society.¹⁹

It is quite seen that grievances of any citizen are kept pending for long periods even for months or years without disposal in several cases. In some other cases applications are simply disposed of by saying that the government or the concerned authority finds no reasons to accede to the request etc. now the Right to Information Act requires information about the pendency of the applications and reasons as to why such applications have not been disposed of or reasons for their rejection, this is likely to improve the efficiency of various departments.

7. Ensures Transparency

There is a presumption that everything done by the government is done for the public welfare and done honestly with optimum benefits from the funds available. However, as we all know, in recent times, this presumption has been eroded to a great extent by making misuse, misappropriation, and also careless use of public funds. To counter this, it is

¹⁴ Rajvir S Dhaka, "Right to Information and Good Governance" 4 *Indian Journal of Public Administration*, 536 (2009).

¹⁵ *Ibid.*

¹⁶ P.S. Bawa, IPS (Retd.), "Right to Information Act: A Tool of Management and Good Governance" 63 *Indian Police Journal (Prev, Police R & D Journal)* 65 (2013).

¹⁷ *Ibid.*

¹⁸ Sapna Chadah, "Good Governance Practices Relating to RTI Implementation in India" 5 *Public Administration Law Journal*, 261 (2011).

¹⁹ *Ibid.*



indispensable that there should be complete transparency in all public dealings. The concept of Right to Information bounds the concerned officials for careful utilization and application of funds. Transparency will also help people to hold the officials accountable for their mishandling of public time and money.²⁰

8. Creating a More Democratic and Open Society

For better democratic governance, participation in the decision-making process is not possible without maintaining the transparency and sharing of the information so free flow of information is essential for identification and solution of the problems. Though openness is essential to the functioning of a democratic society, yet secrecy also bears the same quality on certain genuine grounds like privacy, defence matters, diplomatic affairs, crime investigation, trade secrets, and similar other reasons. So, it is to be admitted that complete openness is neither feasible nor desirable. Accordingly, a balanced approach has to be drawn between the needs of openness and the requirements of secrecy but this balance has to be tilted in favour of openness.²¹

9. Protection of Civil Liberties

The right to information is essential for protecting the liberties of the citizens by making it easier for civil society groups to keep an eye on wrongdoings like custodial deaths and the exploitation of preventive detention legislation. No democracy can be meaningful where civil society cannot audit the performance of the elected representatives, the bureaucrats, and the other functionaries who act on behalf of the state. To be able to audit the performance of the government, the people have to be well informed of its policies, actions, and failures. Hence an informed citizenry is a condition precedent to democracy.²²

10. Reducing Poverty

Legislation on the right to information is fundamental to furthering the effective development of the society and eradicating poverty. Information can empower poor communities to battle the circumstances in which they find themselves needy and helpless and also help in keeping the balance of unequal dynamic power that exists between the people marginalized through poverty and the government. No development is worthwhile that thrives on improvisation of a large number of people

and exploitation of the poor and no democracy is worth its name in which authorities can function in secrecy and people are ignorant and therefore can be managed. Right to know, right to health, right to work, and right to shelter are the emerging human rights of the twenty-first century.²³

11. Effective and Proper Implementation of Schemes of Government

In rural areas, numerous schemes such as for providing food, housing, employment, and education are run by the central and state government. These schemes are intended for the poorest of the poor in the rural areas and a wide criticism is spread that these funds have been consistently misappropriated or misused on a large scale. In most cases, people do not know about the existence of such schemes, even if they know they do not get their entitlements available under the scheme or accept less than their allocation.²⁴

Furthermore, records are often hampered because no one outside the administration has access to them. Thus, information ensures greater transparency than ever before in the working of the public bodies. The disclosure of vital information thus results in checking corrupt practices in the delivery of services and ensuring the reach of entitlements to the poor and also makes the administration more accountable.²⁵

12. Ensure the Strengthening of Public Opinion

Access to information is essential to the health of the democracy because peace and harmony cannot flourish under a weak democracy.²⁶ Even if the government provides the right to information, the citizens resort to media like newspapers, radio, television, etc for day-to-day information about the government activities. The media provides a link between the citizens and its government. The media help to create what can be termed as “free market place ideas” which promote free thought. So, it is necessary that the media can access information. The media’s right to an informal marketplace a special privilege but rather an aspect of the public’s right to know. The lack of a right to access official information causes many problems for the media. Balanced reporting becomes difficult when the primary sources of information are denied. In

²⁰ P.S. Bawa, IPS (Retd.), “Right to Information Act: A Tool of Management and Good Governance” 60 *Indian Police Journal (Prev, Police R & D Journal)* 65 (2013).

²¹ M. Sarojamma, “Right to Information for a Transparent and Democratic Government” 11 *Andhra Law Times* 19 (2013).

²² *Ibid.*

²³ S.P.Sathe, “The Right to Know: Proposed Constitutional and Legislative Strategies” 24 *Indian Bar Review* 96 (1997).

²⁴ Mulage, Bheemabai S., “Impact of Right to Information Act on common people” 14 *Karnataka Law Journal* 23 (2011).

²⁵ J.P. Rai, “The Right to Information Act, 2005: Retrospect and Prospects” 42 (2) *The Banaras Law Journal* 74 (2013).

²⁶ Shashi Bala Kashyap, “The Right to Information and the Role of Media” 39 (162) *Indian Socio-Legal Journal* 29-30 (2013).



absence of exact information, they provide biased news, suppressing or distorting information. By providing the right to information, media and citizens would together make the government more accountable.²⁷

13. Protecting Other Rights

Freedom of Information laws can improve the enforcement of many other economic and political rights. In India, the FOI laws are even used to enforce the ration distribution by revealing that food vendors are not providing the government subsidized food to impoverished citizens. This has resulted in substantial changes in the food distribution system to ensure that citizens, as well as vendors, are getting their food and compensation accordingly.²⁸

14. Redressing Past Harms

Almost all newly developed or modified constitutions include a provision regarding a right to access any information from the government bodies as a fundamental human or civil right. Following the dissolution of the Soviet Union, most of the Central and Eastern European countries adopted laws to regulate access to the files even of the former secret police forces. In some of the countries, these files are made available to individuals to see what is being held on them. In Mexico, President Fox in 2002 ordered the declassification of all the files of previous human rights abuses so that the families could find out what happened to their loved ones who disappeared.

CONDITION FOR ADOPTION OF FREEDOM OF INFORMATION LAWS IN INDIA

There have been a variety of internal and external pressures on governments to adopt FOI laws. In most countries, civil society groups as anti-corruption, media, and environmental groups are playing a key role in the promotion and adoption of laws.²⁹ International organizations have also demanded transparency into the different matters so finally the government had to accept and recognized themselves as the user of the FOI laws.

1. Corruption and scandals

The crisis was brought into the force due to a lack of transparency in the working of the government. A series of transactions were done by the government which came under the preview of the corruption as opened in the case of MKSS Rajasthan. Continues opening of such type of corruption and scandals had led to the adoption of FOI laws. Anti-

corruption campaigns have been highly successful in transitional countries through which an attempt was made to change their cultures. In long-established democracies such as Ireland, Japan, and the UK, laws were finally adopted as a result of persistent campaigns by civil society for political scandals relating to health and the environment.³⁰

2. International pressure

The international community has been influential in promoting access to the information as the International bodies such as the Commonwealth, Council of Europe and the Organization of American States have drafted guidelines or model legislation and the Council of Europe decided in September 2003 to develop the first international treaty on access. The World Bank, the International Monetary Fund, and others have pressed countries to adopt laws to reduce corruption and to make financial systems more accountable.³¹

3. Modernization and the Information Society

The expansion of the Internet into everyday life has increased the demand for more information by the public, businesses, and civil society groups. Inside the government, the need to modernize record systems and the move towards the government has created an internal constituency that is promoting the dissemination of information as a goal in itself. In Slovenia, the Ministry for the Information Society was the leading voice for the successful adoption of the law.³²

CONCLUSION

The success of landmark legislation is often given to the people who are harnessing information relentlessly for the public good- may it be to expose public scandals, or to compel authorities to be more accountable, or to redress public grievances. Corruption is one of the biggest challenges in India to date and is the biggest hindrance to the development of the country. Corruption in India is deep-rooted and people are concerned about corruption at the "cutting edge level of administration". RTI has proved to be a weapon to fight against corruption, arbitration, and misuse of power.

No doubt RTI has been one success in the country still it lacks at some points in the enactment. The hierarchical system followed by the act of filling an application first to the public authority who is to give the information within 30 days, if that doesn't happen then filling the first appeal and then the

²⁷ Mullick Souvanik, "Right to Information and the role of media" 96 *AIR* 31 (2009).

²⁸ *Ibid.*

²⁹ Mool Singh Kaachhwaha, "Right to Information Act, 2005- Importance and Impediments" 12 *SCJ* 8 (2014).

³⁰ Soli J. Sorabji, "Freedom of Press: Paradoxes and Problems" 46 *IJPA* 27 (2000).

³¹ M. Sarojamma, "Right to Information and the role of the judiciary about freedom of speech and expression" 4 (13) *Andhra Law Times* 10 (2010).

³² M.D. Krishna, "Right to Information in India: Critical Analysis" 3 (2) *Bangalore Law Journal* 221 (2010).



second appeal has also provided an edge to the smooth functioning. Also, writing an application is a very easy deal that does not require some specific qualification. Finally, citizens are highly empowered with the revolutionary act of RTI by giving them the power to seek transparency, accountability. RTI Act has lead people in the last fifteen years to get the power in their hands and also allowed them to participate in the functioning of the government.

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