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The Significance Of Right To Information In Fostering Good Governance In India

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Abstract

Transparency and accountability in administration are fundamental pillars of participatory democracy. Information serves as the lifeblood of societal cohesion and democratic equilibrium, enabling citizens to navigate their social structures. In India, the Right to Information (RTI) evolved from judicial rulings into a constitutionally recognized Fundamental Right under Article 19(1)(a). Recognizing its vital role, the RTI Act was enacted in 2005, empowering citizens with a statutory framework to access information. This legislation stands as a cornerstone empowering Indian citizens to promote, safeguard, and defend their right to know. Good governance, synonymous with governance that maximizes benefits for the populace, necessitates broad participation across all segments of society. Despite the tendency for laws serving public interest to predominantly benefit the elite, the RTI Act stands as an exception, reaching even the remotest corners of the nation.

This paper explores the implementation and impact of the RTI Act at the grassroots level in India, examining the contributions of ordinary citizens dedicated to advancing good governance. Additionally, it underscores the imperative to amend the Act to safeguard activists who often endanger their lives in the pursuit of public interest.

Keywords: Good governance, Right to Information, RTI Activists, Participatory Democracy, Fundamental Right Implementation.

Introduction

“Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing.” -Justice P N Bhagwati, the Right to Information (RTI) serves as a barometer for gauging a nation's progress and advancement. Prior to 2005, Indian citizens lacked access to information held by Public Authorities, making it challenging for the common person to engage with matters of public interest. This lack of accessibility hindered citizens from actively participating in social, political, and economic discourse vital to the nation's welfare.

However, the rise of participatory democracy and the innate human desire to be informed and engaged catalyzed a paradigm shift. This shift emphasized transparency and accountability within the administration as crucial objectives. Internationally, the imperative to disseminate information was keenly felt, leading to the enactment of the world's first RTI law in Sweden in 1766. Motivated by parliamentary interest in accessing information held by the monarchy, this landmark legislation set a precedent.

Subsequently, other nations, including the United States in 1966 and Norway in 1970, followed suit, recognizing the importance of citizen access to information. Various Western democracies, such as France, the Netherlands,

New Zealand, Australia, Canada, Greece, Denmark, Austria, and Italy, enacted their own RTI laws in subsequent years, further solidifying the global movement towards transparency and accountability.¹

By 1990, thirteen nations had adopted laws supporting Freedom of Information (FOI). By acknowledging the freedom of speech and the right to access materials in 2000, the European Union Charter of Fundamental Rights achieved a momentous milestone. As of 2010, over 85 nations had enacted their own national RTI laws or rules, suggesting a worldwide movement towards increased accountability and openness. Across Asia, nearly twenty nations, including Kazakhstan, Afghanistan, Bhutan, and Maldives, embraced FOI laws. India's Constitution, while indirectly safeguarding the right to know via Article 19(1)(a), encountered a challenge in the form of the Official Secrets Act of 1923, which obscured governmental operations in secrecy. Despite this hurdle, the Indian judiciary emerged as a stalwart defender of democratic values. In the *S.P. Gupta v. Union of India*,² the Supreme Court championed the notion that in a democratic framework, citizens possess the right to be informed about governmental functions. Similarly, in *A case*³ the Supreme Court reiterated that press freedom encompasses the entitlement to gather news and information pertaining to governmental activities. This principle found resonance in subsequent court rulings, highlighting the critical significance of information accessibility. Consequently, the 2002 "Freedom of Information Act" was replaced with the more robust Right to Information Act in 2005 as it had not succeeded in achieving accountability and openness. This law requires public agencies to disseminate information and preserve records in accordance with specified standards, and it grants every citizen the right to access information stored by these institutions. Additionally, these records must be adequately organized, indexed, and periodically published by the relevant governmental or authoritative entities.⁴

The significance of Right to Information (RTI) within a democratic framework cannot be emphasized enough; it stands as a cornerstone for effective governance and the realization of various other human rights. The core objectives of RTI laws are as follows:

- a. Uphold the fundamental right to information, ensuring its practical implementation.
- b. Institute accessible platforms and procedures for the populace to access information, thus promoting transparency.
- c. Cultivate accountability within governance structures, curbing corruption and inefficiency in public institutions, and encouraging citizen participation in decision-making processes.

Important Features of the Right to Information Act of 2005:

- The right to information is a fundamental entitlement of every citizen.
- Information, in its broadest sense, encompasses various forms such as records, documents, emails, circulars, press releases, contract samples, electronic data, and more.
- This right includes the ability to inspect work, documents, records, and obtain certified copies, as well as access information through electronic means.
- In regular circumstances, information must be provided within 30 days of the request, while matters concerning life or liberty require a response within 48 hours.
- Public authorities are obligated to furnish information upon written or electronic request.
- Certain information is exempted for security reasons.
- Failure to provide information incurs a penalty of two hundred fifty Rs. per day, capped at Rs. 25,000.
- Both the C I and S I Commissions are established by the respective governments.
- Legal proceedings cannot challenge orders made under this Act.

Corruption corrodes the integrity of India's administrative system, leading to societal, political, and economic deterioration. The RTI Act serves as a barrier against such corruption, fostering transparency and accountability in governance. While promoting public interests, the Act acknowledges the necessity of certain

¹ Analyzing the Right to Information Act in India: A Briefing Paper by CUTS International (Published on August 24, 2022, at 2:02 PM). You can access the paper at http://www.cuts-international.org/cart/pdf/Analysing_the_Right_to_Information_Act_in_India.pdf.

² *S.P. Gupta v. Union of India*, 2 (1993) 4 SCC 441

³ *Prabhu Dutt v. Union of India*, AIR 1982 SC 6

⁴ J. N. Pandey, "The Constitutional Law of India, 175 (46th ed. 2009)"

areas remaining confidential. Through careful exemptions, it seeks to strike a balance between transparency and secrecy, thereby promoting effective governance.⁵

The RTI (Right to Information) movement has emerged as a crucial driver for fostering inclusive strengthening democratic government, and maximizing the effective delivery of socioeconomic services. In today's knowledge-centric world, access to information and the application of new insights have a dramatic impact on decision-making, resulting in significant productivity gains across multiple sectors. In essence, the Act aims to foster openness, accountability and transparency in administration, summed up in a single word.

The Necessity of Right to Information for the Good Governance

The passage celebrates the implementation of the “Right to Information (RTI) Act, 2005,” marking a significant turning point in India's public administration realm. This law brought about a heightened sense of awareness, obligation, and transparency to the progress, especially in rural regions. It stands as a groundbreaking tool in combating corruption and streamlining the implementation of government initiatives while enhancing the efficacy of public authorities.

Prior to the RTI Act, access to information was severely limited, with scant accountability from public authorities. Citizens, despite their role in electing governments and funding public endeavors through taxes, lacked legal avenues to understand policy formulation, program execution, and the officials involved. This lack of transparency, dating back to colonial times and persisting through the early decades of independence, facilitated widespread corruption and hindered progress.

By ushering in a culture of openness and accountability, the RTI Act marked a shift towards greater efficiency and equity. It empowered citizens to demand transparency, thereby reducing inefficiency and addressing various forms of poverty.⁶

Effective governance rests upon four foundational principles: participation, accountability, predictability, and transparency, each essential for the seamless functioning of governmental bodies and ensuring public access to vital information. At its core, the right to information plays a pivotal role in upholding these principles, serving as a linchpin in the pursuit of good governance. Key attributes including political accountability, freedom of mobility, bureaucratic diligence, accessible data, efficacy, efficiency, legal compliance, and collaborative engagement between the state and its citizens all bolster the framework of good governance. Thus, it's evident that effective governance naturally springs from the foundation of the right to information.

Right to Information Impact in Rural India:

Access to information is essential for citizens to actively engage in democracy. The more readily available information is to the public, the more responsive the government can be to their needs. Despite numerous efforts to uplift rural India through various schemes, poverty, illiteracy, disease, unemployment, malnutrition, and inadequate infrastructure persist. Rural communities often lack awareness of their rights, leading to increased corruption in public projects. Here, tools like the Right to Information (RTI) can play a crucial role in fighting corruption and ensuring government accountability. Unlike other rights, RTI is deeply tied to the survival and justice concerns of disadvantaged rural populations. The implementation of RTI has empowered rural citizens to question the progress of welfare schemes, leading to positive changes in regions such as Jharkhand, Madhya Pradesh, Karnataka, Assam, and Maharashtra. Examining specific cases demonstrates how RTI has become a cornerstone for promoting good governance in India.

1. Rajasthan

In Rajasthan's Devdungri hamlet, the first notable campaign against corruption with information accessed from public authorities got underway. IAS officer Aruna Roy quit her position to work for the welfare of the village people, who were frequently scammed out of their salary due to their lack of literacy. Seeing the suffering of the rural population, Nikhil Dey, Shankar Singh and Aruna Roy established “the Mazdoor Kisan Shakti Sangathan (MKSS) in 1987”.

The residents of that area have long been the victims of persistent state corruption, including extortion, nepotism, and arbitrariness; yet, they have largely suffered in silence, mired in cynicism and hopelessness.⁷ MKSS began a new chapter in its history in 1994 when it experimented with combating corruption by using the

⁵ Dr. Abhe Singh Yadav, “Right to Information Act, 2005-An Analysis, 3-4 (3rd ed.

2012)”

⁶ “Smita Srivastava, The Right to Information in India: Implementation and Impact, Volume 1, No. 1 Quarter IV, Afro Asian Journal of Social Sciences, 2010.”

⁷ Ibid

public hearings, or Jan Sunwais, approach. Despite having a local focus, this movement had statewide effects that rocked the state bureaucracy's conventional monopoly, arbitrariness, and corruption. The RTI Act allowed for the public access to official records, which facilitated the planning of the Jan Sunwais.

2. Delhi

In rural areas across our nation, the specter of hunger, malnutrition, and sporadic deaths from starvation looms large. The Public Distribution System (PDS), instituted by the government to ensure food security and uphold nutritional standards among the populace, is meant to furnish monthly rations to those falling below the poverty line (BPL) and the most economically disadvantaged segments at subsidized rates. However, a significant portion of funds gets diverted through black market channels due to the dubious collusion between officials of the food supply department and licensees of fair price shops (FPS). Consequently, the integrity of the entire PDS framework is compromised. Yet, the residents of Delhi's Sunder Nagri neighborhood have demonstrated that leveraging the Right to Information (RTI) can catalyze transformative change within the PDS. Through RTI disclosures, egregious systemic corruption was unearthed, prompting swift corrective measures.

3. Uttar Pradesh

In response, employees and volunteers from Delhi-based organizations like Kabir and Parivartan teamed up with local workers from Chingari Sangathan to advocate for the Right to Information through the "Action Research Villages" Campaign. This initiative enabled people to request documents such as the local school teacher's medical records, leave records, and attendance records from the government, offering a ray of hope to the community.

4. Punjab

The perilous life of a spy is a constant dance with danger, a reality well understood by Kishorilal Sharma, known by various aliases including Amarik Singh and Saleem, who served as an Indian operative in Pakistan. Placing his life on the line, he relied on assurances from Indian Military Intelligence (IMI) for support, both for himself and his family. However, upon his release from a Pakistani prison on September 18, 1974, he found himself abandoned, with no one waiting at the border to welcome him. Even the IMI disowned him, a typical occurrence in the opaque world of intelligence operations. Despite assurances from the state government of financial assistance, Sharma's struggles continued fruitlessly.

In September 2005, he took matters into his own hands, filing a Right to Information (RTI) application to address his grievances. This action not only brought attention to his plight but also uncovered a web of corruption within various government departments. Sharma's lone voice echoed, sparking over 50 additional complaints detailing misconduct within the District Commissioner's office, the income tax department, the police department, the Chief Secretary's office in Punjab, and other governmental bodies. His bravery in speaking out shone a light on systemic malpractices, exposing the rot within the state's administrative machinery.

5. Assam

Krishak Mukti Sangram Samiti (KMSS), an influential organization founded by RTI activist Akhil Gogoi, operates in Assam. KMSS confronts a range of challenges, including corruption in the public distribution system, insufficient execution of "the National Rural Employment Guarantee Scheme (NREGA), land ownership issues, government and corporate malfeasance, and the construction of large dams in earthquake-vulnerable areas of Northeast India." Noteworthy is KMSS's impactful action in 2007, when it unveiled irregularities in the allocation of food meant for impoverished individuals via an RTI request. This revelation led to investigations into corruption allegations, resulting in the arrest of several high-ranking government officials. Despite facing suspensions due to allegations of corruption, KMSS remains committed to its cause.

Important Judicial Pronouncements Relating to RTI: -

Exploring the judicial interpretation and enforcement of a Fundamental Right is crucial to understanding its impact. A series of pivotal cases shed light on various aspects of the Right to Information.

The Indian Supreme Court emphasized in the *Bennett Coleman v. Union of India* decision that the freedom of speech and expression guaranteed by Article 19(1)(a) of the Indian Constitution is inextricably linked to the right to knowledge. This landmark ruling marked the first official recognition of the right to know as a fundamental right (*Bennett Coleman v. Union of India*, 1973).⁸

Similarly, in *State of UP v. Raj Narain*, Justice Mathew emphasized that concealing routine activities behind a veil of secrecy does not serve the public interest. He stressed that officials have a paramount duty to

⁸ AIR 1973 SC 106

justify and elucidate their actions, thereby serving as the primary bulwark against oppression and corruption (State of UP v. Raj Narain, 1975).⁹

In “Secretary, Ministry of I&B, Government of India v. Cricket Association of Bengal,” the Supreme Court affirmed that freedom of expression encompasses the right to disseminate and access information through electronic media (Secretary, Ministry of I&B, Government of India v. Cricket Association of Bengal, 1995).

In the case of S.P. Gupta v. Union of India, which was decided in 1981, the Supreme Court of India reaffirmed that the general public has the right to be informed about all public actions and the particulars of every transaction that is carried out by public officials.¹⁰

In the case of People's Union for Civil Liberties v. Union of India, the importance of transparent and responsible governance was acknowledged, along with the recognition of the right to information as a fundamental human right (People's Union for Civil Liberties v. Union of India, 2004).¹¹

Landmark Decisions by the Chief Election Commission:

- In “the case of Paramveer Singh v. Punjab University,”¹² The applicant asked for details on the merit list that the university used to select candidates for a certain post. But appropriate information was not given. According to the Commission's ruling, all public authorities are required by Section 4(1)(a) to take all necessary steps to establish effective record management systems at their workplaces. This will enable them to respond to information requests in a timely and correct manner.
- In “the case of Shyam Yadav v. Department of Personnel Training,”¹³ The applicant had requested information from bureaucrats' property declarations. According to the Commission, property declarations submitted by public employees are not private and can be released in accordance with the RTI Act's rules once relevant officials have been consulted.
- In case of “Ram Bhaj v. Delhi Government,”¹⁴ The department of personnel and training's policies on the expeditious handling of public grievances were the subject of the appellant's request for information. The Delhi Government has been instructed by the Central Information Commission (CIC) to inform the public of the exact duration within which their grievances would be resolved.

RTI activists, though pivotal in advancing transparency and accountability in governance, face significant risks to their safety. Despite their efforts to serve the public good, they often confront perilous situations. Regrettably, bravery often exacts a heavy toll, as seen in the alarming rise of attacks against RTI activists since 2011. Media accounts recount numerous instances of intimidation, threats, coercion, and violence directed at both RTI users and their loved ones, carried out by various actors, be they state or non-state entities. Civil society groups and the media have played a crucial role in spotlighting the imperative to shield RTI users, sparking debates in Parliament, courts, and government circles. It's now widely recognized that RTI activists are at risk of exploitation by vested interests, underscoring the urgent need for protective measures to combat such injustices.¹⁵

Ms. Shehla Masood, a renowned figure in the realm of Right to Information (RTI) activism in Madhya Pradesh, met a tragic end through a brutal murder. She dedicated her efforts to various noble causes, prominently wildlife conservation, alongside advocating for good governance, police reforms, environmental protection, and women's rights. Unfortunately, her fate echoes a disturbing trend where RTI activists face grave risks, residing in close proximity to corrupt public officials, political figures, and criminal elements who resist the disclosure of their unlawful activities. Media attention often ignites only upon the occurrence of fatal incidents, injuries, or when a life hangs in the balance.

⁹ 1975 (004) SCC 0428 SC

¹⁰ AIR 1982 SC 149

¹¹ 2003(001)SCW 2353 SC

¹² the case of Paramveer Singh v. Punjab University, (CIC/OK/A/2006/000669, 15/6/2006).

¹³ “the case of Shyam Yadav v. Department of Personnel Training, (CIC/WB/A/2009/000669, 17/6/2009).”

¹⁴ (CIC/SG/A/2010/000537+000538/7492, 19/4/2010).

¹⁵ “Manu Moudgil, Analysing victimisation of RTI applicants and strategies for their protection, (22/08/2022, 12.17pm), http://rti.gov.in/manu_moudgil_rti_fellowship_report.pdf”

Despite the implementation of the Right to Information Act in 2005, there is a glaring absence of measures to safeguard whistleblowers. Neither the Central Commission for Information nor the State Commissions for Information are empowered to address the threats or assaults faced by activists or offer essential protections.

The nation's consciousness regarding whistleblower safety heightened when Satyendra Dubey, an engineer with the National Highways Authority of India, was slain following his expose of corruption within highway construction projects. Despite his plea for confidentiality to the Prime Minister's office, his letter was leaked, and he was subsequently murdered. This tragic event sparked national outrage and prompted the Supreme Court to urge the government to take swift action. However, despite numerous discussions in parliament, a lasting solution remains elusive.

The NHRC has noted a rise in attacks on RTI activists and is investigating. Urgent amendments to the RTI Act are needed to protect them. The Asian Centre for Human Rights suggests adding a section to the Act for this purpose. Although the RTI Act doesn't explicitly safeguard individuals, a study by NCPRI-RaaG¹⁶ proposes treating threats and assaults as complaints under Section 18(1)(f). If a complaint seems valid, an inquiry should begin under Section 18(2), with the IC granted civil court powers under Section 18(3) and (4). The report underscores that acts of intimidation, threats, or attacks against RTI activists may constitute obstruction and fall under the purview of Section 20(1), rendering them punishable offenses.

The government's concern regarding the escalating assaults on RTI activists is evident. "The Public Interest Disclosure (Protection of Informers) Bill 2010, which was introduced in the Lok Sabha on August 26, 2010," aimed to provide a system for reporting claims of government misconduct or corruption. The measure also contained clauses that protected informants from reprisals. But even after being introduced, the law hasn't been passed.

In the absence of significant legislative safeguards, the plight of RTI activists continues unabated, with numerous incidents occurring nationwide. Without robust legal support, seeking justice for victims or their families becomes an arduous task. Furthermore, the lack of sustained media attention further compounds the challenge, making it difficult to track the progress of criminal proceedings initiated in such cases.

Conclusion and Suggestions

The act stands as a powerful tool for accessing public information, leveling the playing field between ordinary citizens and those in positions of authority such as MPs or MLAs. While the RTI is a commendable legislation, its execution and implementation encounter challenges, particularly in marginalized areas.

To enhance the effectiveness of the Act, several suggestions are proposed:

1. Simplify the process of filing RTI applications. Given the low literacy rates in rural India, many individuals struggle with the procedural formalities. Bihar has pioneered a phone-in system for filing RTI complaints, setting a precedent that facilitates access even for the illiterate. Adopting such a system nationwide would democratize RTI access.
2. The Right to Information (RTI) holds dual potential for fostering good governance and fostering inclusive development. Therefore, it is imperative to raise awareness about the accessibility and impact of RTI through public campaigns, particularly targeting impoverished and marginalized communities who bear the brunt of its absence. NGOs and media play pivotal roles in this endeavor.
3. Safeguarding whistleblowers, who are often vulnerable to targeting and attacks, is of utmost urgency. The imminent passage of protective legislation is crucial, failing which supplementary stringent measures must be enacted without delay.
4. The disconcertingly low disposal rate of RTI applications poses a significant obstacle to the Act's objectives. Efforts to mitigate the backlog are essential, necessitating heightened activity and efficiency within the Information Commission. Successful enforcement of this legislation hinges not only on political resolve but also on the active engagement of civil society.
5. Presently, the RTI Act in India stands at a critical juncture, demanding comprehensive measures to nurture its evolution and efficacy. Mere protestations against its underutilization are inadequate; instead, proactive support for its implementation and growth is indispensable for its maturation.

¹⁶ "Report Published on 2009 available at <http://timesofindia.indiatimes.com/articleshow/4791397.cms> (23/08/2022, 12.17pm)"

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