

**Right to Information
as a means of
Social Change**

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LL.M (F.Y) ASSIGNMENT

Paper –LAW & SOCIAL CHANGE

SEMESTER-II

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Introduction

The Right to Information Act (RTI) was enacted as an Act by the Parliament of India *"to provide for setting out the practical regime of right to information for citizens"*¹ It has come in the backdrop of the demand for transparency and accountability in Governance. After the farmers agitation in Rajasthan in 1994-95 demanding the right to know, several states in India had enacted their own RTI legislations. The state-level RTI Acts were first successfully enacted by the state governments of Goa (1997), Karnataka (2000), Rajasthan (2000), Tamil Nadu (2001), Delhi (2001), Maharashtra (2002), Assam(2002), Madhya Pradesh (2003), Jammu and Kashmir (2004), and Haryana (2005). There then arose a demand for a national level law on the Right to Information for all the citizens of India. Thus there was a loud expression of a felt need for establishment of a national-level law providing for the right to know through a Right to Information Act. However, in view of the Official Secrets Act of 1923 it proved to be a difficult task.

The Central Government appointed a working group under H. D. Shourie and assigned it the task of drafting legislation for right to information. The Shourie Draft formed the basis for the Freedom of Information Bill, 2000 which eventually became law under the Freedom of Information Act, 2002. This Act was severely criticised for permitting too many exemptions, not only under the standard grounds of national security and sovereignty, but also for requests that would involve "disproportionate diversion of the resources of a public authority". There was no upper limit on the charges that could be levied. There were no penalties for not complying with a request for information. This Act, consequently, never came into effective force. Thus though the right to information was first enacted as Freedom of Information Act, 2002 but due to stiff resistance from the various NGOs and Civil Society Groups the Parliament in 2005 finally consented to enact the proper RTI Act, and the law was passed by Parliament on 15 June 2005 and came fully into force on 13 October 2005. Earlier information disclosure in India was restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act repealed and brought about transparency. The RTI Act 2005 applies to all States and Union Territories of India except Jammu & Kashmir. Under the provisions of the Act, any citizen may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerise their records for wide dissemination and to proactively provide certain categories of information on its Citizens Charter and Official Website so that the citizens need minimum recourse to request for information formally.

¹ Preamble Objective to Right to Information Act 2005

Some Salient Features of the RTI Act 2005

The RTI Act is mostly reactive and far less proactive approach to disclosure of information by the authorities. The disclosure of information is consequent upon an RTI request and the Act provides for a clear process and mechanism to information provision to the citizens by the government or the instrumentalities and agencies of the states except by those which are exempted..

The RTI Act requires that each authority covered under the RTI Act must appoint their Public Information Officer (PIO). Any person may submit a written request to the PIO for information. It is the PIO's obligation to provide information to citizens of India who request information under the Act. If the request pertains to another public authority (in whole or part), it is the PIO's responsibility to transfer/forward the concerned portions of the request to a PIO of the other authority within 5 working days. In addition, every public authority is required to designate Assistant Public Information Officers (APIOs) to receive RTI requests and appeals for forwarding to the PIOs of their public authority. The applicant is required to disclose his name and contact particulars but not any other reasons or justification for seeking information.

The RTI authorities are provided at two levels – for the states and for the Central Government. The State Information Commission (SIC) or Central Information Commission (CIC) acts upon complaints from those individuals who have not been able to submit information requests to a Central Public Information Officer or State Public Information Officer due to either the officer not having been appointed, or because the respective Central Assistant Public Information Officer or State Assistant Public Information Officer refused to receive the application for information or has not provided the information asked for or has provided incomplete or misleading information.

The Act specifies time limits for replying to the request for information which is as below:

- If the request has been made to the PIO, the reply is to be given within 30 days of receipt.
- If the request has been made to an APIO, the reply is to be given within 35 days of receipt.
- If the PIO transfers the request to another public authority (better concerned with the information requested), the time allowed to reply is 30 days but computed from the day after it is received by the PIO of the transferee authority.
- Information concerning corruption and Human Rights violations by scheduled Security agencies (those listed in the Second Schedule to the Act) is to be provided within 45 days but with the prior approval of the Central Information Commission.
- However, if life or liberty of any person is involved, the PIO is expected to reply within 48 hours.

The information is to be paid for at the rate of Rs 10 for processing and Rs 2 for a photocopy and Rs 50 for the CD. The reply of the PIO is necessarily limited to either denying the request (in whole or part) and/or providing a computation of "further fees" including fees for Inspection of the records and works under RTI. The time between the reply of the PIO and the time taken to deposit the further fees for information is excluded from the time allowed. If information is not provided

within this period, it is treated as deemed refusal. Refusal with or without reasons may be ground for appeal or complaint. Further, information not provided in the times prescribed is to be provided free of charge. The RTI Act in Section 18, 19 and 20 provides for Appeal and Complaint procedure and processes to get information which was denied. The RTI Act also provides exemptions from disclosure to several agencies such as Central Intelligence and Security agencies specified in the Second Schedule like IB, Directorate General of Income tax(Investigation), RAW, Central Bureau of Investigation (CBI), Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Directorate of Enforcement, Narcotics Control Bureau, Aviation Research Centre, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Assam Rifles, Special Service Bureau, Special Branch (CID), Andaman and Nicobar. Those Agencies specified by the State Governments through a Notification are also excluded from the purview of the RTI Act. The exemptions mostly apply to matters of national defence, national security and those under criminal investigations.

The exclusion, however, is not absolute and these organizations have an obligation to provide information pertaining to allegations of corruption and human rights violations. Further, information relating to allegations of human rights violation could be given but only with the approval of the Central or State Information Commission. The following are exempt from disclosure under section 8 of the Act:-

- Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, "strategic, scientific or economic" interests of the State, relation with foreign State or lead to incitement of an offense;
- Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- Information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- Information received in confidence from foreign Government;
- Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- Information which would impede the process of investigation or apprehension or prosecution of offenders;
- Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;

- Information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual (but it is also provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied by this exemption);
- Notwithstanding any of the exemptions listed above, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests. However, this does not apply to disclosure of "trade or commercial secrets protected by law ".

RTI and Social Change--Impact of RTI on Indian Society

The Right to Information Act 2005 is hailed as a revolution in India's evolution as a democracy. It empowers the ordinary citizen who has hitherto been armed with only his vote, with the tools of information that propel government decisions. Effect of RTI Act on Indian society has been tremendous. Even US President Barak Obama on his maiden visit to India has remarked "Your landmark Right to Information Act is empowering citizens with the ability to get the services to which they're entitled and to hold officials accountable. ..." ² Some of the effects of the RTI Act are as below:

- **Greater Transparency** : With a view to ensuring maximum disclosure of information regarding government rules, regulations and decisions, every public authority is mandated to maintain all its records. This has increased the interaction between the public authorities and the society.
- **Easy access to any information.** Take copies of documents. Inspect documents, works and records. Take certified samples of materials of work. Obtain information in form of printouts, diskettes, floppies, tapes, video cassettes 'or in any other electronic mode' or through printouts.
- **Citizen-Centric Approach to Development:** Now Govt. has shifted to citizen centric approach of development. Now the Government is aware of this fact that the citizens can ask for any type of information and now the approach is concerned with the development of the country.
- **Democratization of information and knowledge:** Information and knowledge regarding the activities of the government is easily available now. The Govt. is easily assessable.
- **Reduction in Corruption:** Lack of transparency and accountability encourage the government officials to indulge in corrupt practices, which result in lower investments due to mis-use or diversion of funds for private purposes. But RTI Act has reduced corruption

² US President Barack Obama in his address to Indian Parliament on November 8, 2010 .

to a great deal because Govt. is aware of the fact that now it can be asked for any type of information so it needs to be cautious.

- **Promotion of Citizen-Government Partnership:** The RTI Act provides a framework for promotion of citizen-government partnership in carrying out the programmes for welfare of the people.
- **Greater Accountability:** It means that the Govt. is required or expected to justify actions or decisions which it is taking. If anyone isn't getting the benefits which come under the Govt. policies then he/she can make use of RTI Act. Various Govt. Policies are: National Rural Employment Guarantee Scheme Sarwa Shiksha Abhiyan (Education for all) Mid-day Meal Scheme Drinking Water Mission Integrated Child Development Services National Rural Health Mission Bharat Nirman (Rural Infrastructure, mainly road, electricity, drinking water, sanitation etc. Indira Awas Yojna (Shelter for poor)
- **Solving Peoples Problems :** Examples of Impact is Ghara Katara village of Shankar Garh block in Allahabad where daily wage workers had a tough time arranging a proper meal as they were not receiving rations on their cards. On December 19, 2006, some 21 villagers prepared RTI applications and questioned the administration. The very next day all the ration card holders got their rations.
- **Implementation of Welfare Schemes:** The Act is influencing people to come forward and question the progress on various welfare schemes, creating a positive change in the most backward areas like Eastern UP, Bihar , Jharkhand, Madhya Pradesh , Karnataka , Assam and in Maharashtra. For e.g. Laborer employment programs initiated in UP and Bihar.
- Even the most backward sections of rural societies are seeking information related to Prime Minister's Employment Scheme, Indira Awas Yojna, ration card, midday meal, uniform distribution in the schools and the conditions of village roads.
- It has been observed that across India most questions in RTI applications are related to public distribution system, Ration card, BPL card , Indira Awas Yojna, lands, irrigation, corruption in the welfare schemes and day to day working of local village administration.
- Sidhakahna Jot Keshav village in Bahraich district of Uttar Pradesh is one such example . Five inspired residents of the village filed RTI applications and questioned the district administration about the conditions of the village roads and drains. They also raised questions as why there were no allotments under the Indira Awas Yojna. On filing of RTI Applications the administration immediately acted and the construction of the roads and drains began in the village. Since then, 32 villagers have been allotted the houses under the Indira Awas Yojna and the administration has displayed a list on the village wall, containing the names of the villagers eligible for the allotments under the scheme.

- Example of reduction in bribery has been seen in Chaibasa, the tribal village in Jharkhand where there was a complaint against the post master who didn't come to the post office regularly and there were charges of bribe against him also.
- Many NGOs and RTI Clubs have been started by ordinary citizens and awareness programmes for villagers have been started so that the people come to know about RTI Act. Procedure for application filing RTI application are being facilitated so that the information can be easily transferred to those citizens who want that information.

The Act has generated an overwhelming response in different sections of the society, particularly in the middle class. The mechanism of the Act and awareness generation initiatives of the civil society showed that the common man could raise his voice and rightfully ask for the desired information. There are mixed experiences with the use of the Act which have been highlighted by media and several publications working on issues of Right to Information. No democracy can survive without accountability and the basic postulate of accountability is that the governed should have information about the government. An open society in the new democratic culture and our country should be no exemption. The concept of open government directly emanates from the right to know which seems to be implicit in the freedom of speech and expression guaranteed under Art 19(1)(a) of the constitution of India.³

Section 4 of the Act mandates the public authorities to disseminate information by publishing certain information within 120 days from the enactment of the Act. They must provide details of the nature, management and their functioning. It is mandatory on the part of public authorities to do so within the time specified in the Act. But the reality is that majority of the public authorities had not complied with the requirement under section 4 to the satisfactory level. Some public authorities had not even attempted to comply with this mandate.

The information Commissions, Appellate authorities and Public Information Officers are the pivots of this revolutionary legislation and so is the general public. Four years have passed since its enactment and some good things have happened. There have been instances of useful information made available to citizen; though in the initial days, all concerned have problems in the implementation of the Act. Now it is likely to be implemented fully as the initial problems of organizational stream lining, training officials and awareness of the public about their right have been sorted out. But there is still a long way to go, so far as, effective implementation of the Act is concerned. The task of ensuring free and fair exercise of RTI by common people is quite challenging. But these challenges could be converted into opportunities to ensure win –win situation for all state holders.

Good governance requires that institutions should serve all the stake holders within a reasonable time frame. Lack of fixing time limit was one of the main draws backs of our system. But RTI mandate that information should be furnished to the applicant within 30 days of receipt of the

³ S.P Gupta Vs. Union of India Air 1982 SC 149

application has had a great impact on governance action. Therefore bureaucracy came out of the concrete barriers of Official Secrets Act and realized that RTI will only aid good governance and will never be a stumbling block to administration.⁴ Right to Information laws, or “sunshine” laws as they are commonly called, grant citizens the legal right to access information held by their governments, bringing much-needed transparency in the otherwise opaque functioning of government. Globally, **more than 80 countries** have now enacted such laws, with the list growing each year. India’s RTI Act is internationally recognized as a strong and effective law. Over the last six years, the RTI has been used extensively by ordinary Indian citizens to demand a vast range of information from their government.

Unlike many countries where RTI laws have been used primarily by journalists and the media, in India the law has a broad base of users. A **2009 study** estimates that in the Act’s first three years alone, close to two million RTI requests were filed in different parts of the country. Case studies and media reports show that RTI is being used to redress individual grievances, access entitlements such as ration cards and pensions, investigate government policies and decisions, and expose corruption and misuse of government resources.

For many, particularly India’s poor and disadvantaged, the simple act of filing an RTI application is **empowering**, and often leads to tangible results. In 2010, K.S. Sagaria, a resident of Kushmal village in rural Orissa, filed an RTI application seeking information on the number of ponds constructed in his village under the government’s national wage employment scheme. The information he received was revealing: the ponds had never been constructed even though money had been allocated and spent. Following complaints from villagers, the local administration was forced to take action and suspend the officials involved in the **pond scam**. In addition, a **recent experiment** by students at Yale University found that India’s RTI Act can be as effective as bribery in helping the poor access their entitlements. As part of the experiment, slum dwellers in Delhi were divided into four groups and asked to submit applications for ration cards. While the first group submitted their application and did not follow up, the second group attached a recommendation letter from an NGO to their application, the third group paid a bribe and the fourth group filed an RTI request to follow up on their application. Yale Ph.D. students Leonid Peisakhin and Paul Pinto found that while the group that paid a bribe was the most successful, those that filed RTIs had their applications processed nearly as fast. According to Peisakhin: “Access to information appears to empower the poor to the point where they receive almost the same treatment as middle-class individuals at the hands of civil servants. This is something that payment of a bribe cannot do.”

Civil society organizations here have played an important role in raising public awareness about RTI and assisting citizens in filing requests for information. For example, Delhi-based NGO **Satark Nagarik Sangathan** (SNS) runs an information center in South Delhi to assist local residents and slum dwellers to file RTI applications. Using RTI, SNS has successfully campaigned for improvements in the quality of public services including water, sanitation, the public distribution system, and even the performance of local elected representatives. In addition to such initiatives, the law is increasingly being used to tackle high profile corruption. Much of the information

⁴ Chandran S R. (2013) RTI Act – Its social impact. Kerala State Information Commission rti.img.kerala.gov.in/RTI/elearn/ArticlebySmt.SheelaRChandran.doc

regarding corruption in the allocation of tenders and contracts for last year's Commonwealth Games was unearthed using RTI. In 2010, a series of RTI applications filed by the Housing and Land Rights Network, a Delhi-based NGO, revealed that the Delhi government had **diverted funds** from its social welfare programs for infrastructure development under the Commonwealth Games.

Using India's RTI is not without its risks, however. RTI activists have increasingly come under threat and attack, with many **suffering fatal injuries**. Over the last year, a number of RTI activists **were murdered** in different parts of the country, causing widespread alarm among civil society groups. Most of those killed were investigating irregularities in sectors such as mining, land, and local elections where corruption is rampant. Civil society organizations are now demanding that the government take concrete measures to protect the lives of such individuals. Despite these risks, the RTI Act has continued to grow in popularity among citizens and activists alike. While activists are split on whether the RTI has led to a reduction in corruption in India, most agree that the law is a critical step in the right direction. Speaking to *The New York Times*, RTI activist Shekhar Singh said that the main objective of India's RTI movement was to empower people, concluding that "this law has done that – given the people the power to challenge their government. That is no small thing."⁵ Also the rise of many leaders like Arundhati Roy and Arvind Kejriwal (who led his NGO Parivartan) can be credited to the successful use of the RTI Act.

In Goa

In Goa, the RTI Act has been used extensively by the RTI Activists and Social activists in order to expose the governmental and bureaucratic mismanagement, illegalities and corruption. The extent of exposures on failure of governance especially it helped exposed the previous government and illegal mining and brought government change during the State Assembly elections of 2012. Many RTI Activists and Social activists such as Aires Rodrigues, Kashinath Shetye, Ramesh Gawas, Sudip Tamankar, and the author himself have successfully used the RTI Act to cause change in the way the governance is carried out in the state of Goa. In Goa the illegal mining scam, the drug trafficking scam, the Police-Drug mafia nexus, the RTO scam, the land grab scams etc would have not been brought to the knowledge of the public if it was not for the RTI Act.

Conclusion

The RTI provides people with mechanism to access information, which they can use to hold the government to account or to seek explanation as to why particular decisions have been taken, by whom and with what consequences or outcomes. In addition, every public authority is required 'to provide reasons for its administrative or quasi-judicial decisions, to the affected persons' u/s 4(1)(d) of the Act. Until the advent of the RTI Act, it was not possible for an ordinary citizen to seek the details of a decision making process, which was found most often, as ineffective in terms

⁵ Surie M D (2011) Right to Information in India: An Effective Tool to Tackle Corruption, at <http://asiafoundation.org/>

of its outcome. It was, therefore, not possible to hold a free and frank discussion on issues of common concern of people or to fix responsibility for any action. Such an era of darkness in policy planning is now history. The information regime has, in effect, created conducive conditions for everyone to have a better understanding of how the government works or how a particular decision was reached. Such a regime empowers people to make appropriate choice of leaders and the policies that affect them. This has begun to impact on delivery of socio-economic services, particularly for the poor. The RTI Act provides a framework for promotion of citizen-government partnership in carrying out programmes for the welfare of the people. The principle of partnership is derived from the fact that people are not only the ultimate beneficiaries of development, but also the agents of development. The stakeholders' participation leads to better projects and yields dynamic development. The disclosure of information has enabled the beneficiaries, mainly through NGOs, to assume a central role in design and execution of projects. RTI has instilled a wider sense of ownership in development activities. Besides, access to information has enabled the people to participate in economic and political processes through a dialogue between people and the government or public campaign on public policies. For instance, information obtained under RTI, in respect of utilization of funds, allocated under rural employment guarantee scheme, has been used by NGOs for campaigns in favour or against political leaders during recent elections in some States, resulting in desirable impact on political processes. Almost all the welfare projects, particularly at Village and Panchayat levels, are being designed and pursued in cooperation with, and support of, NGOs or affected persons, with a view to raising the satisfaction level of people. In the words of Mahatma Gandhi, the real swaraj (self-governance) will come not by the acquisition of authority by the few but by the acquisition of the capacity by all to resist authority when abused. To that end, the right to information plays a vital role in promoting literacy levels, besides literacy itself. It ensures transparency, accountability, openness, good governance, empowerment of citizens and curb corruption. Indeed, it is the lifeline of democracy.

The RTI Act has thus become a vehicle to change the Indian polity and society like never before. It has empowered the ordinary citizen. The RTI Act has given a powerful weapon in the hands of the people the weapon of information and knowledge in an age of Information and knowledge. The Indian society and polity is thus undergoing a dramatic change due to the RTI Act. The new movements by leaders like Anna Hazare, Arvind Kejriwal and many others including in Goa are being helped and facilitated by the RTI Act to effect necessary change in the society and polity in India. Hence the RTI has been the tool to strengthen democracy, peoples power and transparent and good governance in India and Goa.

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