

**RIGHT TO INFORMATION LAW IN INDIA; ITS IMPACT AS  
AN EFFECTIVE TOOL AGAINST CORRUPTION**

**A Dissertation submitted to the National University of Advanced Legal Studies, Kochi in partial fulfilment of the requirement for the award of L.L.M Degree in constitution and Administrative Law**



**THE NATIONAL UNIVERSITY OF ADVANCED  
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**CERTIFICATE**

**This is to certify that Reg No.10250 has submitted her dissertation titled, 'RIGHT TO INFORMATION LAW IN INDIA; ITS IMPACT AS AN EFFECTIVE TOOL AGAINST CORRUPTION' in partial fulfilment of the requirement for the award of Degree of masters of Laws in Constitutional and Administrative Law to the National University of Advanced Legal Studies, Kochi under my guidance and supervision. It is also affirmed that the dissertation submitted by her is original, Bonafide and Genuine.**

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## **DECLARATION**

**I declare that this dissertation titled 'Right to information law in India; its impact as an effective tool against corruption' researched and submitted by me to the National University of Advanced Legal Studies in partial fulfilment of the requirement for the award of Degree of Master of Laws in Constitutional and Administrative Law, under the guidance and supervision of prof Namitha K L is an original, Bonafide, and legitimate work, and it has been pursued an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this university or any other university.**

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**LETTER OF APPROVAL**

**This is to certify Miss ATHIRAJITH A B, REG NO-LM0120005, has submitted her Dissertation titled 'RIGHT TO INFORMATION LAW IN INDIA; ITS IMPACT AS A TOOL AGAINST CORRUPTION'. The same has been approved**

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## **ABBREVIATIONS**

1	AIR	All India Reporter
2	APIO	Assistant Public Information Officer
3	ARC	Administrative Reforms commission
4	CAG	Controller and auditor general
5	CIC	Chief Information commissioner
6	CPIO	Central public Information officer
7	FOI	Freedom of information
8	GOI	Government of India
9	HC	High Court
10	MKSS	Mazadoor Kisan Shakti Sangatham
11	MGNREGS	Mahatma Gandhi National Rural Employment Guarantee Act
12	MLA	Member of legislative assembly
13	MP	Member of parliament
14	NAC	National Advisory council
15	NCPRI	National campaign for people's right to information
16	NGO	Non-governmental organization
17	NREGA	National Rural Employment Guarantee Act
18	OSA	Official secrets Act
19	PDS	Public distribution system
20	PIO	Public information officer
21	RTI	Right to information
22	SC	Supreme court
23	SCC	Supree court cases
24	SIC	State Information Commissioner
25	UNDP	United Nations Development Program
26	UNESCO	United Nations Educational, Scientific and Cultural Organizations
27	UOI	Union of India
28	USA	United states of America

**TABLE OF CASES**

<b>S No</b>	<b>NAME OF THE CASE</b>
1	Arun Verma v. Department of company affairs, Government of India, F No. CIC/MA/A/2006/00016
2	Associated indent mechanical private limited v. W B small industries development corporation limited AIR 2007 SC 788 ,2007 [1] SCALE 111,2007 3 SCC 07
3	Bengal Immunity Company limited v. state of Bihar AIR 1955 SC 661; [955 2 SCR 603]
4	CBSE v. Aditya Bandopadhyaya 2011 [8] SCALE 645
5	Celso Pinto v. Goa State Information Commission, 2008 [110] Bom LR 1238
6	Coleman and company v. U.O.I, AIR 1973 SC 106
7	Dayanand v. Departmental Personnel and Training Ministry of personnel, PG and pension No CIC /MA/A/2006/00218
8	Dhara Singh girls high school v. State of Uttar Pradesh, AIR 2008, ALL 92
9	Dinesh Trivedi v. U.O.I ,1997 4 SCC 306
10	G R. Deshpande v. Central Information Commissioner, 2012 [8] MLJ 122
11	Heydons case [1584] 3 Co Rep 7
12	High Court Bombay v. Shirish Kumar Rangrao Patil, AIR 1997 SC 2631
13	Khanapuram Gandaiah v. Administrative Officer and Others AIR 2010 SC 615
14	Kewal Semlani v. New India Assurance company limited, Appeal No. 08/IC [A]/2006, F .No 11/47/2006-CIC
15	Life Insurance Corporation of India v. Hari Das Mundhra and others
16	Manohar Manik Rao Anchule v. State of Maharashtra, AIR 2013 SC 681
17	Mohandas Lalwani v. State of Madhya Pradesh, AIR 1973 SC 2679
18	Namit Sharma v. U.O.I, 2013 1 SCC 745

19	Prabha Dutt v U.O.I, AIR 1982 SC 6
20	Rakesh Agarwal v. Commissioner of Income Tax, F No.CIC/MA/A/2006/00066
21	Reliance Petrochemical Limited v. Proprietors of Indian express newspapers Bombay private limited, AIR 1989 SC190
22	R P Limited v. India express newspaper, AIR 1989 SC203
23	R S Nayak v. A R Antulay, AIR 1984SC 68
24	Sanjeev Kumar Jain v. Ministry of Home affairs, New Delhi, F No CIC/AT/A/2006/00055 and 00030
25	Smt. Rekha Kali v. DDA No- CIC/WB/C/2006/003548
26	State of Uttar Pradesh v. Raj Narain, AIR 1975 SC 865
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28	S Vijayalakshmi v U.O.I [2011] 8 MLJ 173
29	Swantantar Singh v. State of Haryana, AIR 1997 SC 2105
30	University of Calcutta v. Pritam Raj, AIR 2009 Cal 97
31	U.O.I v. Association for Democratic Reforms AIR, 2002 SC 2114
32	Vibhor Dileep Barla, Nashik v. Central Excise and Customs,CIC/AT/A/2006/00588
33	Virender Kumar v. Rana, AIR 2007 HP 63
34	W N Chandra v. U.O.I and Others, AIR 1993 SC 1082



**TABLE OF CONTENTS**

<b>CHAPTER</b>	<b>CONTENTS</b>	<b>PAGE NUMBER</b>
1	<b>INTRODUCTION</b>	<b>12-20</b>
	Meaning, Nature and Concept of Information	12-13
	Importance and Need of Information	13-16
	Need of Research	16
	Objective of the Study	16-17
	Hypothesis of the Study	17
	Methodology of the Study	17
	Review of the related literature	17-18
	Limitation of the study	18
	Chapterization of study	19
	Scheme of study	19-20
	Bibliography	20
2	<b>HISTORY AND BACKGROUND OF RTI LAW IN INDIA</b>	<b>21-37</b>
	Need for Right to Information	22-24
	Background of RTI-International perspective	24-25
	Historical evolution of Right to Information-Indian Context	25-28
	Summary of some landmarks in RTI journey	28-30
	The Right to Know-Importance	30-31
	Constitutional perspective and judicial Recognition of Right to Know/Information	31-35
	The second ARC Report	35-37
	Conclusion	37
3	<b>RIGHT TO INFORMATION ACT-AN ANALYSIS</b>	<b>38-78</b>
	Introduction	38-41
	Legislative provisions of the RTI Act,2005 -In India	41-59
	Features of RTI Act,2005	59-63
	RTI Act and Judiciary	63-67

	Implementation of RTI Act,2005	<b>67-69</b>
	Impact of RTI Act in Rural India	<b>69-73</b>
	Right to Information Amendment Act,2019	<b>73-75</b>
	Positive aspect of RTI Act,2005	<b>75-77</b>
	Conclusion	<b>77-78</b>
<b>4</b>	<b>CORRUPTION IN INDIA AND MEASURES TO TACKLE IT</b>	<b>79-113</b>
	Introduction	<b>79-83</b>
	Definition and meaning of corruption	<b>83-85</b>
	Corruption in India	<b>86-87</b>
	Historical evolution of corruption in India	<b>87-92</b>
	Causes of corruption	<b>92-96</b>
	Impact of Corruption	<b>96-98</b>
	Legislative measures in India	<b>98-102</b>
	Significant Corruption scandals in India	<b>102-110</b>
	Problem and challenges of Indian Anti-corruption laws and agencies in preventing and controlling corruption	<b>110-112</b>
	Recommendation to combat corruption	<b>112-113</b>
<b>5</b>	<b>RTI AND CORRUPTION</b>	<b>114-144</b>
	Introduction	<b>114</b>
	Right to Know-The root of democracy	<b>114-115</b>
	RTI -Tool to curb corruption	<b>115-125</b>
	The RTI Act ,2005- A new attempt to prevent corruption	<b>125-134</b>
	International principles of RTI which helps in curbing corruption	<b>134-140</b>
	Tips for the design of access to information laws for efficiently combating corruption	<b>140-142</b>
	Conclusion	<b>142-144</b>
<b>6</b>	<b>CONCLUSION AND SUGGESTIONS</b>	<b>145-161</b>
	Introduction	<b>145</b>
	Findings of the hypothesis as well as topic	<b>145-147</b>
	Challenges for effective implementation of RTI Act,2005	<b>147-151</b>

	Recommendation /suggestions for effective implementation of RTI Act	<b>151-159</b>
	Conclusion	<b>159-161</b>
	Bibliography	<b>162-165</b>

## **CHAPTER 1**

# **RIGHT TO INFORMATION LAW IN INDIA; ITS IMPACT AS AN EFFECTIVE TOOL AGAINST CORRUPTION**

## **INTRODUCTION**

*"The right to express one's thoughts is meaningless if it is not accompanied by a relaxed right to secure all information on the matter of public concern from relevant public authorities"-JUSTICE VR KRISHNA IYER.*

We all know that India is one of the world's largest democratic countries. There is a requirement for openness and good governance in any representational democracy, such as India. According to experience, there is always a pressing need to enhance governance in any development administration.<sup>1</sup>Today, India has unprecedented levels of corruption at all levels. The primary source of corruption is secrecy, which was once used as a tool of precision against the government. If we desire transparency in government, we must crack-down on corruption by breaking down the barriers of secrecy. The R.T.I. is highlighted in this study as a critical tool in reducing corruption and taking steps to strengthen democratic governance.

### **Meaning, Nature, and concept of information**

The word "information" comes from the Latin terms "formation" and "forma," which indicate "to provide structure to anything" and "to establish a pattern." 'Information,' as a matter of speech and expression, is defined as something that reduces ambiguity in concepts through increased awareness.<sup>2</sup>According to the Black law dictionary, corruption is a charge leveled against a person for a criminal offence without an indictment.<sup>3</sup>In layman's terms, it's "earned knowledge" or "knowing the facts that counsel and lead to attaining knowledge," according to Ballentine's law dictionary. In a technical legal sense, the interpretation

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<sup>1</sup>Rouf Ahmad Bhat, Right to Information Act: A Great Step to Tackle Corruption vol 5, No 7 ,31, [2015]

<sup>2</sup> Gandham Suresh Kumar, "The Right to Information in India - A Study" Supreme Court Journal, 17-25, [2009]

<sup>3</sup> Paul Minn's The Black Law Dictionary, 5th ed., p. 621 in 13 13th Street [1999]

is comparable to that provided by the Black law dictionary.<sup>4</sup> As recently discovered, there is no well-defined definition of the term information in law dictionaries. Rodney D Ryder<sup>5</sup> defined the right to information as the ability to obtain information. "Access to information," he says, "maybe defined as a citizen's ability to obtain information held by the government." He claims that while some states' constitutions and laws provide for access, many do not. Even when access is granted, it is always subject to restrictions.

Information access is sometimes referred to as the "oxygen for a democratic society," and rightly so. "All women and men in all cultural and social environments must be allowed to go in the process of collective thinking thus started, for new thought must be developed, and more affirmative measures must be taken to shake off the prevalent condition," writes the Director-General of UNESCO in a forward to the MacBride Report titled "Many voices, one world." With the advent of new world order, everyone must learn from others while also passing on their knowledge of world events. Humankind will then have made a decisive step forward on the path to freedom, democracy, and fellowship."<sup>6</sup>

### **Importance and need of information**

Information is a powerful tool for knowing that prompts thought, and there is no expression without thought. The right to free speech is a recurring subject in a democratic administration.<sup>7</sup> People in a representative country like ours have the right to know about every act and activity undertaken by the government in their name. People also have the right to engage in the government's day-to-day operations.<sup>8</sup> The chief minister's conference on "efficient and responsive government," convened on May 24, 1997, in

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<sup>4</sup> Ibid., 5th ed., 1414.

<sup>5</sup> Rodney D Ryder, *Right to Information: Law, Policy, and Practice* (1st Edn. 2006)

<sup>6</sup> Foreword to 'Many Voices, One World'; Mac bridge Report, by Director-General of UNESCO, as quoted by Krishna Iyer, Justice V.R., *Freedom of Information*, p. IX Eastern Book House Co. (1990)

<sup>7</sup>Madabhushi Sridhar, *Right to Information Law and Practice*, Wadhwa & Company, Nagpur, 1st Edition [2006]

<sup>8</sup>Kailash Thakur, *The Right to Information Act, 2005: A Movement from Darkness to Light*, Civil, and Military Law Journal, Vol. 48, No. 3 ,170, July-September [2012]

<sup>9</sup>B.R. Saini, *Appraisal of Right to Information in India*, vol-xi part-1 M.DV. law Journal,143, [2006]

Delhi, agreed that a law on the right to information was necessary. The Indian government established a Right to Information Working Group to promote open and transparent governance, intending to make the government more accessible, accountable, and transparent.<sup>9</sup> 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. Therefore, it should perform the function as much as possible, keeping in view the public so that the city knew its aims, policies, programs and help the government accomplish them. On the contrary, maximum secrecy in government functioning would promote more corruption, nepotism, misuse or abuse by the authority, and the government is driven apart from the governed. Openness in the government functioning is considered an essential ingredient of democracy and the right to information as a fundamental democratic right.<sup>10</sup> Information tends to remove redundant secrecy surrounding the decision-making process in the government in order to improve the quality of decision-making in administration and public policy. This right helps the country's citizens know about the government decision and their basis to exercise sound judgments on the merits of public policies and respond appropriately to influence policy formulation and decision-making in public governance. To strengthen the grassroots of the democracy and ensure people's participation and bring the local government under the public scrutiny to avoid costly mistakes, information should be given to the citizens.

In short, Information is essentially for three critical points:

- The assessment of the government by the general public.
- Citizen's involvement in the decision-making process of the public authority.
- To trace out the activities of the government.

The information held by the public authorities should be disclosed to the general public as part of the lawful and routine discharge of their duties; therefore, it should not be unreasonably kept far from the citizens. The major concern of the R.T.I. is to allow for greater probity in the functioning of the government departments to promote accountability and transparency in the working of the public authorities in the government machinery and contain the scourge of corruption, which are critical for ensuring development

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<sup>10</sup> Devender Singh, Implementation of Right to Information Act, 2005, National and International experience, 99 A.I.R. 2006 (Journal section)

and good Governance.<sup>11</sup> Right to information is social legislation enacted for the benefit of society at large. It is considered as a fundamental human right, the bedrock of a high-functioning representative country. Information adds something new to our consciousness and removes the vagueness of our ideas.<sup>12</sup> Soli Sorabjee stressing on the need of the right to information deliberate in bringing openness and accountability in public life and administration, says, "Absence of transparency in administration was one of the main reason for all permeating corruption and using right to information would lead towards openness, accountability and integrity".<sup>13</sup> We live in a generation of information, in which the free flow of information and ideas regulates the pace of development and well-being of the people.<sup>14</sup> Therefore, the act is an important milestone in our quest for building an enlightened and, at the same time, flourishing society. Accordingly, the exercise of the right to information cannot be the concession of few individuals. Right to information in its little sense is only a right to access the information from the public bodies, including the right to have access to the records of the proceedings, meetings decisions, orders, notification entries in government registers and files, account books, notices, rules, maps, data, drawing or work sits, etc. and in a broader sense, it includes the right to access the information from the public as well as private entities, who own, possess or control it. It broadly confers this right to the citizens and everyone as a human being, legal entities, and foreigners. This right does not remain restricted to the national boundaries but extends to the whole world, including multinational corporations. Access to information acts is grounded in the remembrance that information in the control of public authorities is a high-priced public resource and that public access to such information promotes greater accountability and transparency of those public authorities, and that this information is vital to the democratic procedure" in the jurisdiction of public authorities is a precious public resource and that public access to such information promotes greater accountability and transparency of those public bodies and that this information is essential to the democratic procedure" The right of citizens to know what international organizations, private corporations, and governments, are doing, and how public resources are administered, directly cast back anti-corruption solicitude. Corruption thrives in darkness, so any progress towards opening governments and intergovernmental organizations to the public inquiry is likely to advance anti-corruption efforts. It hurts everyone who depends on the probity of people in a place of power or authority. Corruption is an age-old

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<sup>11</sup> J.P. Rai, The Right to Information Act, 2005: Retrospect and Prospects, The Banaras Law Journal, 76, July- Dec, [2013]

<sup>12</sup> Manish Kumar Chaubey, Right to Information Act-An Overview, Vol. 50, No. 2 Civil & Military Law Journal, p. 121, April- June [2014]

<sup>13</sup> Soli J. Sorabji, Freedom of Press: Paradoxes and Problems 46, IJPA, 27. (Apr-June 2000).

<sup>14</sup> M. Sarojanamma, Right to Information and the Voters Right to know: An Analysis, 48 Civil and Military Law Journal, No. 2, 99, [ 2012]

happening. Selfishness and greed are at its root; it also implies a lack of honesty and integrity. A corrupt society is distinguished by corruption and a lack of respect or fear for the law. When it stops valuing virtue, moral principles, or integrity, it starts to deteriorate. Corruption comes under many different aspects: inducement, misappropriations of public goods, nepotism (favoring family members for contracts and jobs ), and impact the framing of laws or regulations for personal enrichment. Corruption is an extensive disease whose roots can never be detected even by experts in investigating things. Corruption arising out of secrecy has no way out until the veil of secrecy is removed through transparency. Transparency and openness develop in the public sector only if the people are aware of laws made by the Government and government decisions and always in touch with the day-to-day activities of the government. The Right to Information act aware people of access to information. The government gives them the Right to freedom of speech and expression and freedom of life under Article 19(1)(a) and Article 21 of the Indian Constitution of India.

### **NEED FOR RESEARCH**

Corruption is the most potent nemesis of proper administration, and it is wreaking havoc on our society. The freedom to information legislation was passed in order to foster accountability and combat corruption. It will be impossible to abolish it totally, but the main goal is to make it the exception rather than the rule. Regardless matter how well legislation is enacted, its success is mainly decided by how well it is enforced. As a result, the time has come to evaluate the RTI law's effectiveness in eliminating corruption in India.

### **OBJECTIVE OF THE STUDY-**

The objectives of the research are as follows-

- 1.To highlight different aspects of R.T.I. Act,2005, including benefits and drawbacks of this Act
- 2.To examine the constitutional and judicial response concerning R.T.I.
- 3.To identify the fundamental problems or hurdles in the effective implementation of this Act
4. To study how the Right to Information Act is a vital tool in combating corruption in India.
5. To examine how far right to information helps enhance good governance by providing greater transparency and performances in public authorities.



6.To identify and study extend of implementation of the law mentioned above led to achieving the objectives of the R.T.I. Act in combating corruption.

7.To identify shortcomings of the R.T.I. law and suggest steps to redress the same.

### **HYPOTHESIS OF THE STUDY-**

1] The introduction of R.T.I. law in India leads to an improvement in government accountability and performance. It is a powerful tool for the activists and ordinary people to fight against corruption and better control over public authorities.

2]There is still scope for betterment of R.T.I Act,2005 leads to effective checking on corruption in India.

### **METHODOLOGY OF THE STUDY-**

I intend to undertake doctrinal and empirical legal research to establish my hypothesis in the best suitable way. Nevertheless, due to the pandemic situation, I could not establish my hypothesis employing empirical techniques, so the methodology adopted in this study is purely doctrinal and case study analysis. There was no fieldwork. It involves analysis of R.T.I. Act,2005 and analysis of a plethora of judicial decisions by both Supreme Courts and High Courts. The study is also based on Secondary sources, which includes books, journals, reports of the law Commission in India, of various Committees, including that of the Committee on Prevention of Corruption (Santhanam Committee), and various Commissions are traced, newspapers, internet websites, government publications, and records. Besides literature as available in books, journals, periodicals, magazines, articles are referred.

### **REVIEW OF RELATED LITERATURE-**

The literatures available on R.T.I. Act 2005 and corruption have also been consulted for the proposed research work to know its actual situation in our Country. I review a handful of Research works to build an adequate background to the study and further help guide this study. In the present Research work, various kinds of literature related to the study area have been examined to gain knowledge on the related aspects of the research problem to go in the right direction. To know the judicial response about the right to information, I consulted several volumes of All India Reporter (A.I.R.), S.C.C., and other leading journals. I have also

studied various aspects of the Right to Information Act 2005, which the Parliament of India enacted. In this course, various academicians and critics' opinion was analyzed to know the drawbacks of the Act.

**Some of the Literature reviews are as follows; -**

Books Such as Jain and Khurana (2006)<sup>15</sup> have a deep insight on the various aspect of the Right to Information Act. The book comprehensively explains the implementation of right to information act and its benefits to society. The book also explains the restraints faced by R.T.I. applicants and the problems faced by the authorities supplying the information.

Sathe S. P has presented a lucid and analytical commentary on the Right to Information Act, 2005. He has traced this legislation's history and the development of the right to information as a constitutional right. He has also expounded on the administrative process associated with the execution of this act. He has concentrated on the judicial decisions on the right and the problems faced while implementing the Act.<sup>16</sup>

Angela (2006),<sup>17</sup> in his book, skeptically covered the Right to Information Act, 2005. The author exhaustively discussed the issues and challenges thrown by this Act. The writer explained the functions, duties, and powers of R.T.I. regulatory authorities and the procedure for requesting information.

Mishra S. (2009)<sup>18</sup> examines the scope, issues, different provisions, challenges, strengths, and shortfalls of the R.T.I. Act. In his book, the author tried to discover the foundation and brief history of the Right to Information Act.

One another vital article that helped me giving insights regarding the role of R.T.I. Act in curbing corruption was Jeevan Singh Rajak's article on the right to information Act; a vital tool to fight against corruption in India.<sup>19</sup>

**LIMITATIONS OF THE STUDY: -**

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<sup>15</sup> Jain and Khurana, Right to Information, concept law practice (2006)

<sup>16</sup> Sathe S. P., —Right to Information, 1st ed., Lexis Nexis Butterworths, New Delhi, 2006

<sup>17</sup> Angela Wadia, Global sourcebook on Right to Information, (2006)

<sup>18</sup> Mishra S, Right to Information and Rural development, (2009)

<sup>19</sup> Jeevan Singh Rajak, Right to Information Act; A vital tool to fight against corruption in India, Vol 2[5] international journal of political science and development, 68-77, [2014]

The study tries to cover various probable aspects; however, it has some impediments. The research work is done under substantial limitations of resources and time. Another limitation is that the study is confined to the right to information law in India.

### **CHAPTERISATION OF STUDY**

Chapter 1-Introduction

Chapter 2-History and Background of R.T.I. law in India

Chapter 3- R.T.I. Act,2005-An Analysis

Chapter 4-Corruption in India and measures to tackle it

Chapter 5-Corruption and R.T.I.

Chapter 6- conclusion and Suggestions/Recommendation

### **SCHEME OF THE STUDY**

The study undertaken is divided into six chapters.

Chapter One of this study deals with the general introduction of the subject matter. The introductory chapter includes the general introduction on the right to information and how it helps to curbs corruption. The need for research, objectives, hypothesis, methodology, Review of Literature, Limitation of study, and scheme of work has been explained under this chapter.

The second chapter deals with the background and historical perspective concerning the evolution of the Right to Information Act,2005 in India. It also deals in a brief international scenario of the development of the right to information law and Analysis of important judicial pronouncements.

The third chapter explains the legislation on the right to information -The right to information Act 2005, the objects, and nature of the Act. This chapter highlights different essential provisions in the Acts and their salient features. The chapter also discuss the 2019 amendment to RTI Act.

The fourth chapter deals with a brief analysis of corruption in India. It discusses the meaning and nature of corruption, factors contributing to its growth. Also, the chapter highlights different legislations and some infamous scandals that happened in India.

The fifth chapter deals with an essential aspect of the entire study. It discusses the right to information, and corruption-how it acts as a tool to combat corruption.

Chapter six is the Concluding Chapter and makes specific suggestions on the subject. This chapter concludes the whole research work by offering particular suggestions to make this Act more fruitful and effective. This chapter goes to identify the theme of the research work. The findings of every chapter of this research work have been incorporated into this unit. This chapter concludes that the R.T.I. Act, 2005 to a greater extent, helped curb corruption in India to ensure openness and transparency in public authority. However, its implementation has not been so effective as intended during the enactment of the Act. This chapter also deals with the overall conclusion of the main study and deals with particular vital suggestions worth considering to improve the present system prevailing in the country considering the current significant drawbacks of the system. Particular Suggestions have been offered in this chapter to remove those challenges to make this Act more effective.

### **BIBLIOGRAPHY:**

A brief bibliography referred for the present study is added at the end of the thesis, and the list of different periodicals, journals, and web sources that I have taken help from for this research.

## **CHAPTER 2**

### **HISTORY AND BACKGROUND OF RIGHT TO INFORMATION LAW IN INDIA**

#### **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."*<sup>20</sup> -Justice P N Bhagwati

Information is an inalienable and inborn right of all human beings. The Right to Information is a fundamental natural right of all human beings. 'The renowned French philosopher Michel Foucault once opined that power has driven by knowledge, and Information is the essential component of knowledge.' Information makes men wise and helps them to be competent enough to cope up with the modern world. In a democratic country, every person has the right to freedom of opinion and expression. This Right includes holding a public opinion and seeking, receiving, and imparting information and ideas from the public authorities. The accessible and appropriate Information helps citizens to live a dignified life in a civilized society. Information that is detained by or controlled by any public authority and the public authority can access any of the law for the time being in force.<sup>21</sup> The information revolution does mean that humanity will progress towards freedom, democracy, and brotherhood. It depends upon who controls the information, as dominant classes may exploit such information for their progress and economic development. Such

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<sup>20</sup> Sahina Mumtaz Laskar, Importance of Right to Information for good governance in India, Bharati Law Review, 216, 2016

<sup>21</sup> Rayasam Siva Kumar, Right against Right to Information, 6[23], Andhra Law Times, 19, 2012

information dramatically affects the International economic order, policies, and direction of development of the developed and developing countries. The present scenario comprehends the two competing trends of the day: inclusion of information and exclusion of information. On the one hand, we claim that information technology has brought the information to our doorsteps. On the other hand, the Indian bureaucracy is still very conscious regarding excluding the information from the people's knowledge to the possible extent. The jurisprudence of Human Rights integrates the trinity of freedom of information, communication, and expression into the new world over. Atmosphere is being created in favor of more information. Fewer secrecy curtains have been thrown away, and ideas of more information, open society, restructuring of bureaucracy, and free discussions have become the order of the data.

### **NEED FOR RIGHT TO INFORMATION**

Freedom of Information is an indispensable element of Good Governance in the modern world. Aristotle considered that information is necessary if the government is to be held accountable. He dismissed the criticism that the public cannot understand information because they lack the<sup>22</sup>necessary technical skills. Freedom of information provides openness and accountability; it brings advantages not offered by freedom of expression. Freedom of information is seen as sustaining the characteristics of openness, transparency, and accountability, which are considered essential qualities of an excellent representative Government.

Harsh Mander has described the importance of this right as follows: Information is the currency that every citizen requires to engage in the life and governance of society. The greater the citizen's access to information, the greater the government's responsiveness to community needs. Alternatively, the greater the restrictions placed on access, the greater the feelings of 'powerlessness' and 'alienation' without information; people cannot sufficiently exercise their responsibilities and right as citizens or make knowledgeable choices. Government information is a national asset<sup>23</sup> and the earnings of officials. It follows that government and officials are 'administrator' of this information for the people.<sup>24</sup> Moreover, there is an immediate link between the Right to Information and good governance in a society. Good governance by a government is evident by its accountability, responsiveness, and transparency. Thereby, the citizen's Right to Information is widely

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<sup>22</sup> S.P. Sathe, *The right to know* (1991) at 1. V.R.K. Iyer, *Freedom of information* (1990) at 15.

<sup>23</sup> *The politics*, tr. T.A. Sinclair Penguin London, 1962 pp. 124-125, Prof. M.P. Jain, *Indian Constitutional Law* (2006) at 988.

<sup>24</sup> *The politics*, tr. T.A. Sinclair Penguin London, 1962 pp. 124-125., Prof. M.P. Jain, *Indian Constitutional Law* (2006) at 988. Mander and Joshi, "The Right to Information movement in India-people's power for the control of corruption" (CHRI, New Delhi, 1998).

recognized as an essential mechanism to promote openness, transparency, and government administration accountability. People are the only part of a representative form of government. So they must be aware of all the functioning of government activities to put up a practical regime of good governance in the administrative process. In India, the Right to Information is the need of the hour. Human security, food, shelter, environment, and employment opportunity are bounded up with the Right to Information. When information is not available on this issue, people cannot live a dignified life and remain a marginalized group in society. It has always been a powerful instrument to protect the fundamental rights of people. Corruption and criminalization are the nerves of Indian bureaucracy today. The secrecy they have maintained throughout is a source of corruption and harassment. Though India is the world's largest democracy, it now fails to attain confidence from ordinary people. As a taxpayer, every person should have the Right to Know the functioning of the government organs. In a democratic country, the citizen can be regarded asset only when the citizen develops the skill to access all kinds of Information and put such information to practical use. in the absence of intellectual freedom. Democratic governance cannot be achieved. Now information has become the sole of every government.

A democracy cannot exist unless all citizens have the right to participate in the country's policy affairs. The Right to engage in the country's affairs is meaningless unless the ordinary people are aware of all sides of the issues regarding what they are called upon to express their views. The one-sided information, disinformation, misinformation and, non-information all equally create an uninformed citizenry which makes a farce when the medium of Information is monopolized either by the state or any other organization. So, the government must inform citizens about whatever happens within different government bodies. Only then the transformation from governance to good governance is possible, and participation of people in governance and free access to Information can be ensured. By realizing this fact, the Indian Parliament has passed the Right to information act, 2005, to make the government accountable, responsible, efficient, and transparent. The Act attempts to harmonize conflicting interests between citizens' Right to the transparency of Information in administrative functioning and efficient Government confidentiality in sensitive matters. The Act confers statutory rights to citizens for seeking Information from the Administration. Right to Information (R.T.I.) in India is developed through Judicial precedents, thereby identify itself as a Fundamental Right under Article 19 (1) (a). After a slow period, realizing the importance of the Right to Know, this Right was established in 2005 as a statute in the name of "The Right to Information Act, 2005". This R.T.I. The act became an essential

tool to India's citizens for promoting, protecting, and defending their right to know.<sup>25</sup>The people of India have been emancipated in a way that has never been seen before. He or she can now question, audit, evaluate, study, and assess government actions and decisions to ensure that they comply with good governance, public interest, and justice principles. This Act promotes administrative openness and accountability by making the government more open to public scrutiny.<sup>26</sup>

### **BACKGROUND OF RTI-INTERNATIONAL PERSPECTIVE**

Nowadays, Right to Information (R.T.I.) is used as an index to measure a particular country's growth and development. In India, also, till 2005, the citizens had no access to any information dealt with by a Public Authority. Matters affecting public interest were not easy for an ordinary person to get accessibility. Thus, it was difficult for a citizen to participate in any social, political, or economic debate concerning the country's interest issues without getting relevant information. However, with the growing idea of participatory democracy, the inbuilt desire within the citizen to know and engage themselves in the matters concerning the country or own self reached a new height that paved how it could be ascertained and ensured by bringing accountability transparency in the Public Administration. In the International arena also, the need to disseminate Information was hugely felt. First-ever, Sweden enacted R.T.I. law in 1766, primarily motivated by the Parliament's interest in access to the King's Information. The example of Sweden was later followed by the U.S., which enacted its first law related to the right to information in 1966 and then by Norway in 1970.

In his narration on the First Amendment to the U.S. constitution, Thomas Enderson remarked that society deploys freedom of information and expression to preserve specific values, grouped into four broad classes. The first of these is ensuring individual self-fulfillment, the second set of values center on means of achieving the truth, the third addresses a method of fortifying the participation of members in the society in political and social decision making, the fourth set of values seeks to enable the balance between stability and advancement in the society. The Right to information has warmly welcomed and incorporates various international human rights documents in the international arena. These documents, namely- the Universal Declaration of Human Rights, the International Covenant on social, Economic, and Cultural Rights, and the

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<sup>25</sup> Supra note 20

<sup>26</sup> Smita Srivastava, The Right to Information in India: Implementation and Impact, 1[1] iv Afro Asian Journal of Social Science Invention [2010]



international agreement on political and civil rights, At the regional level, the documents like the European Convention for the protection of human rights and fundamental freedoms, the American convention on human and people rights incorporate the right to information as a fundamental human right. Out of 93 countries globally that have embraced the right to information or freedom of information laws, four are in South Asia. They are – India, Bangladesh, Nepal, and Pakistan. Similarly, several western democracies enacted their right to information laws (France and Netherlands 1978, Greece 1986, New Zealand and Canada 1982, Denmark 1985, Australia. By the 1990s, the number of countries with Freedom of Information laws has reached thirteen. A big step towards it was the European Union Charter of Fundamental Rights in 2000, which included the Right to access documents and freedom of expression. By 2010, more than eighty-five countries had national-level R.T.I. laws or regulations. In Asia, almost twenty nations have adopted freedom of information laws like Kazakhstan, Afghanistan, Maldives, Bhutan, etc. In India, even though Article 19(1) (a) of the Constitution indirectly guaranteed the Right to know, this Right was dormant by the Official Secrets Act of 1923. Thus the whole process of Government functioning was covered in secrecy<sup>27</sup>. In such instances, the Indian judiciary played a vital role in strengthening the spirit of democracy.

### **HISTORICAL EVOLUTION OF RIGHT TO INFORMATION - INDIAN CONTEXT**

The Right to Information is new and contemporary in its present form. Specific old Indian pieces of literature and epics directly or indirectly point towards this Right. However, today in a complex society, the Right to Information is relevant and a mighty weapon for the healthy functioning of democracy. The colonial Government in India always kept itself at a distance from the people of India. It thrived on the literature of secrecy and rendition of the people. Such culture also resulted in distrust of the government among its citizen. The culture of secrecy even continued after independence, and India became a republic. It has continued for the last fifty-six years. Secrecy has been the rule, and transparency is an exception.

#### **British Ruled Period**

Out of all laws in force in India, considered the most draconian is the Official Secrets Act, 1923. An inheritance of the British Raj, which have seriously failed on different occasions, resulted in ruing the judiciary's documentation books and simultaneously damaged our repute among self-governing nations.

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<sup>27</sup> Analyzing the Right to Information Act in India, CUTS International, (24/03/2021, 2.02 pm), [http://www.cuts-international.org/cart/pdf/Analysing\\_the\\_Right\\_to\\_Information\\_Act\\_in\\_India.pdf](http://www.cuts-international.org/cart/pdf/Analysing_the_Right_to_Information_Act_in_India.pdf) \\MANU-BJ308Q2\Logo Removal Task\04102019\Pending\02Bharati Law Review, Oct-Dec, 2016 218.

There is always an explicit expression of the opinion of eminent jurists and civil rights activists regarding scrapping the dishonorable statute. After coming into force the Right to Information Act in 2005, there is no choice to exist, a fact pointed out by Veerappa Moily, chairing the second Administrative Reforms Commission, that this Act should be abolished. The bureaucrats in the Home Ministry shot down the suggestion, mainly based on the objections moved from the intelligence agencies. The basis of the arguments for its progress and existence depends on the hypothesis that there will be an obstruction in the prosecution of spies. There is nothing that could be detached from the truth. It is essentially required to move into the historical background of the law to find out the reason for its enactment and relevancy in the present scenario.

### **After Independence**

However, after being independent, when India became a welfare state, the administrative powers increased. In a welfare State, both the government's executive and administrative branches have the responsibility and duty to take care of and implement welfare schemes. It expands and acquires vast powers, most discretionary; the government's traditional control methods are bound to prove insufficient to cope with such increased powers. Although the authorities' actions are subject to judicial review and the courts have extended the judicial review scope, judicial review has its limitations. Judicial review is formal and limited. Sometimes Abuse of power may be significantly understated and may escape judicial inspection. Corruption and abuse of power are the inevitable fall-outs of such an unaccountable system of governance.<sup>28</sup> The battle for suitable legislation for the Right to Information has been fought on two mainboards. The first is a request for amendment of the authoritarian colonial Official Secrets Act, 1923, and the second, campaign for an efficacious law of the Right to Information. The Official Secrets Act, 1923 (O.S.A.), is a replica of the erstwhile British Official Secrets Act and deals with espionage.<sup>29</sup> Despite the constitutional provisions and supreme court judgments, the actual movement for the Right to Information in India originated from the grassroots level. A mass-based organization called the mazdoor Kisan shakti Sangatham [MKSS] took the initiative to lead the people in a very backward region of Rajasthan-Bhim tehsil- to assert their Right to Information by demanding copies of bills and vouchers. They also demanded names of people shown in the muster rolls on the construction of dispensaries, schools, small dams, and community centers as paid wages. The Rajasthan experience on the demanding Right to Information is echoed in other states also. The rising demand for a right to public information from various sections of the society, led by the civil society

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<sup>28</sup> Dr. Lalit Dadwal, Right to Information, pp. 7-8, 2010

<sup>29</sup> Mitra S.C. &Kataria R.P., Law relating to Right to Information, p.28, 2010

organizations in these states, could no longer be ignored. Influential organizations, like MKSS, continued to experience vast difficulties in obtaining access to and copies of Government documents, despite clear administrative instructions that certified copies of such documents should be available to the citizens on request. This emphasized to citizens groups how important it is that the people's Right to Information should be enforceable by law.<sup>30</sup> In the early 1990s, in the exertion of the rural poor in Rajasthan, the Mazdoor Kisaan Shakti Sangathan (MKSS) hit upon a new way to demonstrate the importance of information on an individual's life through public hearings or Jan Sunway. The MKSS's campaign asked for transparency of official records, a social audit of government payout, and redressal machinery for citizens who had not been given their arrears. The campaign caught the attention of a large cross-section of people, including activists, civil servants, and lawyers<sup>31</sup> and the need to enact a law on the Right to Information was recognized unanimously by the Chief Minister's conference on 'effective and responsive government' held on May 24, 1997, at New Delhi. The department of personnel, Government of India, decided to set up a working class [on the Right to Information and promotion of transparent and open government] in January 1997 under the leadership of Mr. H D Shouri, submitted its exhaustive and detailed report and the draft bill on freedom of Information in May 1997.

In India, the apex court was insisting since 1975 to have the right to information act. The fifth pay commission [1994-1997] also recommended abolishing the official's secrets Act, 1923, and introducing the Right to Information Act; before this, the world bank and UNDP also insisted on better governance. India's government introduced the freedom of information bill, 2000 [bill no 98 of 2000] in the Lok Sabha on July 25, 2000. The press institute of India, the forum for Right to Information and the national campaign for people's right to Information, the press council of India with one accord submitted a design to the Government of India to revise the proposed bill in February 2000. The bill cast an obligation on the public authorities to furnish such Information wherever asked for, passed by the Parliament in the majority as the freedom of Information [F.O.I.] Act, 2000. However, the Act could not come into existence because the date of its enactment was not notified in the official gazette. Amending the R.T.I. Act of 2002 essentially, minimum exclusions, independent appeals, stringent penalties, and universal accessibility are the four strong transparency law indicators. However, the 2002 act failed on all these counts. The NCPRI, based on their extensive discussions with civil society groups working on transparency, formulated a set of amendments to

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<sup>30</sup> Mitra S.C. & Kataria R.P., Law relating to Right to Information, pp. 28 2010

<sup>31</sup> Prof. S.R. Bhansali, The Right to Information Act, 2005, pp.15 (2008)

the 2002 Freedom of Information Act in August 2004, designed to strengthen the Act and make it more effective. National Advisory Council (N.A.C. hereafter) was forwarded the suggested amendments, which endorsed most of them and forwarded them to India's prime minister for further action. The revised R.T.I. Bill based on the N.A.C. recommendations was introduced in the Parliament by India's Government on December 22, 2004 (Singh, 2007). Although when compared to the 2002 act, R.T.I. Bill was considerably more robust; some of the critical clauses recommended by the NCPRI and endorsed by the N.A.C. had been amended or deleted. Most significantly, the 2004 bill applied only to the central government, not to the states, and had almost no workable penalty provisions. As a result, the civil society groups reacted sharply. The administration was forced to convene a ministerial committee to review the amendments and recommend a Parliamentary Standing Committee on the draught Act.

Meanwhile, both personally and in writing, the N.A.C. expressed their unanimous support for the prime minister's original recommendations. These efforts were primarily successful as the committee and group of ministers recommended the restitution of most deleted provisions. It included applicability to states and severe penalty provisions. The Right to Information campaign, which the people of civilized society were running to protect their rights and interest, was accepted by the legislature after a long struggle and gap. Freedom of Information law was passed in 2002 (in Lok Sabha on December 3, 2002, and in Rajya Sabha on December 16, 2002) after a long debate. The revised Bill on Right to Information was reintroduced and was passed on May 11, 2005, in Rajya Sabha on May 12, 2005, in Lok Sabha. Parliament had enacted the R.T.I. Act fully operational from October 12, 2005, to promote transparency and accountability in Administration.

The new legislation confers to all the citizens the right to access the Information. It aims at advancing accountability and transparency in the working of every public authority .it has complete access to cover the central government, the state government, local bodies, and the recipients of government grants. The public authorities must give such Information. It aims to promote accountability and transparency in the working of all public authorities. The Act also kept the ideas of the world bank and UNDP with it. Based on this idea, before it gets passed in the central legislature, some states introduced their Right to Information Act. The southern state of Tamil Nadu was made first amongst other states, and it passed its Act in 1997.

### Summary of Some Landmarks in the R.T.I. Journey<sup>32</sup>

1975: Supreme Court of India held that the citizens of India have a right to know.

1982: Supreme Court held that the right to information is a fundamental right guaranteed to all citizens.

1985: An application was filed in the Supreme Court by environmental N.G.O. asking for access to information relating to environmental hazards following the Bhopal gas tragedy.

1989: The new coalition government to bring in a transparency law as part of an election promise.

1990: Before introducing the law, the government falls.

1990: Mazdoor Kisan Shakti Sangathan (MKSS) was formed in Rajasthan and launching a movement demanding village-level information.

1996: The National Campaign for People's Right to Information (NCPRI was formed).

1996: NCPRI prepared a draft bill and sent it to the government of India with the help of the Press Council of India.

1997: A committee set up under the Chairmanship of H.D. Shourie studied the Bill. The Shourie Committee submitted the report to the government.

2000: A Case was filed before the Supreme Court of India demanding the institutionalization of the R.T.I.

2000: Then, the Shourie Committee report was referred to a Parliamentary Committee of India.

2001: Several recommendations were made by the parliamentary Committee.

2002: Supreme Court gives stipulation to the government regarding the enactment of the right to information Act.

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<sup>32</sup>Sri Keshabananda Borah Right to Information Act: a key to good governance, 2[2] International Journal of Humanities and Social Science Invention, 11-22, [2013]

2002: Both houses of Parliament passed the Freedom of Information Act.

2003: even getting presidential assent, it was never notified.

2004: The UPA party formed a coalition government and as part of election promise R.T.I. Bill was introduced in Parliament of India and immediately referred to a Parliamentary Committee. However, the Bill was only relevant to the central government.

Jan-April 2005: parliamentary committee revised the bill, covering both the central and state government within the purview of the Act. The R.T.I. Bill passed by both houses of Parliament.

June 2005: R.T.I. Bill gets the presidential assent .

October 2005: The R.T.I. The act comes into force.

### **THE RIGHT TO KNOW-IMPORTANCE**

*'The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security.'*<sup>33</sup> - *The supreme court*

The Right to Know is a recent concept, yet it has its roots in the Bhagavad Gita. The right to know their activity, inaction and banned action is provided in text 17 of chapter 4 of Shree Bhagavad - Gita. It's challenging to grasp the complexities of action. As a result, one should understand what constitutes action, criminal behavior, and inaction.<sup>34</sup>The contemporary Right to Information may be traced back to Sweden, where the 1766 Freedom of the Press Act ensured public access to government documents. This Act is commonly regarded as the world's oldest piece of freedom of information legislation.<sup>35</sup>

The notion of 'public access' in Swedish means that the general public is guaranteed an unlimited view of government and local government activities; all documents handled by the authorities are public unless legislation expressly specifies otherwise. Many countries have adopted this principle, and legislation

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<sup>33</sup> State of up v Raj Narain ,AIR 1975 SC 865 ,reiterated in [SP Gupta v UOI ,AIR 1982 S C 149]-

<sup>34</sup> Bhaktivedanta swami prabhupada A.C, Gito- upanishad,bhagawad-gita as it is,2nd ed.,Mumbai,the bhakti Vedanta book trust ,pp. 216-217, 2010

<sup>35</sup> [<https://Sweden.se/society/openness-shapes-swedish-society>,visited 10th march 2021]

implementing it has been created. Everyone should have reasonable access to information about the decision-making process. It is necessary to offer adequate access to judicial and administrative actions, including redress and remedy. Every citizen of a democratic country contributes to the government's coffers by paying direct or indirect taxes. As a result, they have the right to know what the money they give to the national treasury is used for. Government employees and bureaucrats are paid from the government treasury; as a result, they are trustees of the public in their various public offices and are responsible for keeping the account up to date. In some circumstances, the fund is being passed to non-governmental organizations and volunteer groups for public benefit. As a result, all such institutions must account for the same to maintain good governance and transparency. The Right to Know, often known as the Right to Information, is a legal right to know about the workings of the office unless it is prohibited by law. There has been an almost unstoppable global push in recent years to recognize the Right to Information by countries, multilateral organizations, civil society, and the general public. The right to information has been recognized as a fundamental human right that respects all people's inherent dignity. The right to information is a critical component of action-based democracy, as it ensures accountability and good governance.<sup>36</sup> The right to information requires citizen access to information as well as government responsiveness to community needs. On the other hand, because all information cannot be revealed, such information must be restricted. Citizens cannot fully enjoy their rights as citizens or make informed decisions if they do not have enough information.

### CONSTITUTIONAL PERSPECTIVE AND JUDICIAL RECOGNITION OF RIGHT TO KNOW/INFORMATION

Article 19[1][a] [part iii] of the constitution of India guarantees to all citizens, among other things, the fundamental rights to freedom of speech and expression, subject to specific 'reasonable restriction, 'imposed by law, on the exercise of such Right in the interest or the ground of the uprightness and sovereignty of India, the security of the state, friendly relation with foreign state public order, decency or morality or concerning contempt of court, defamation or incitement to an offense. The right to keep and transmit information has been deemed to be a part of the freedom of speech and expression guaranteed by sub-clause [a] of clause [1] of article 19 of the constitution, subject to reasonable restrictions imposed on such Right in terms of and to

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<sup>36</sup> Krishna pal mallik, Right to information and protection to whistleblowers, 2<sup>nd</sup> edition, pp. 3-4, 2016

the extent permitted by clause [2] of the same article. The right to information is not explicitly guaranteed in the Indian constitution.

Before and after the country's independence, the press was the only source of information for the general people. Because of this, press freedom was unavoidable. From Tilak to Gandhi, the press played an essential role during colonial rule; every leader who mobilized the people against colonialism used the press to enlighten and educate them about progressive ideas. Tilak opposed the statute of sedition, which punished even honest and non-violent criticism of the rulers in publications as interpreted by the courts.<sup>110</sup> For India's war for independence, Gandhi Ji insisted on the truth and ahimsa (nonviolence), and such a movement could only succeed if the people could speak freely and without fear. The Gandhian movement highlighted the importance of freedom of speech.<sup>37</sup> The Supreme Court once stated, "Every citizen of our country has a right to be aware of every public act, everything that is undertaken by their public authorities in a public way." They have the right to know the specifics of any public proceeding in all of its ramifications. Though not complete, the right to know derived from the principle of freedom of speech is a factor to be skeptical of when confidentiality is claimed for proceedings that can, at the very least, have no impact on public security. The ordinary routine activity is not in the public interest, to conceal it with a veil. Such anonymity is rarely desired legitimately. It is commonly desired for political parties and campaigns, as well as personal self-interests in bureaucratic routines. The primary safeguard against oppression and corruption is officials' responsibility to explain and justify their actions.<sup>38</sup>

Our Supreme Court has often stated that we have freedom of information, which is an element of the freedom of expression guaranteed by Article 19 of the Indian Constitution. Freedom of expression is useless without freedom of knowledge. Article 19(1) guarantees the right to freedom of speech and expression (a). We will look at several instances that demonstrate how the Supreme Court has construed this right to mean unlimited access to information on several occasions. As mentioned in article 19, it has been recognized by the courts in a variety of situations (1). (a). Since 1973, the R.T.I. has been recognized by the Supreme Court in its decisions. *Bennet Coleman Vs. U.O.I.*<sup>39</sup> often known as the Newsprint case, was the first to recognize it.

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<sup>37</sup> Pk Tripathi 'Free Speech in the Indian Constitution: Background and prospect', yale law journal page 384(1957-1958) Reprinted in Pk Tripathi Spotlights on Constitutional Interpretation, pp.213, 1972

<sup>38</sup> Supra note 32

<sup>39</sup> AIR 1973 SC 106



In *State of UP v Raj Narain*<sup>40</sup> the court concluded that the people had a right to know about every public act because everything was done in a public fashion by their public authorities. They are authorized to know every public official's personal information. They have the right to know the specifics of any public transaction in all of its ramifications. The government's claim in the request for the bluebook provided by the central government, which contained guidelines and instructions for protecting the prime minister while on tour, was denied by the court. The court held that, unless the document belonged to a protected class, courts should examine it in camera to determine whether the privilege to withhold or disclosure based on public interest should be exercised. In a government accountable like ours, where all the public agents must be accountable for their behavior, there can be few secrets. The citizen of this country have a right to know every public Act, everything that is done in a public means, by their officials the right to know, which is obtained from the notion of freedom of speech, though not universal, is an element which should make one wary, when secrecy is asserted for transactions which can, at any rate, have no repercussion on public security to cover with the envelope of secrecy, the everyday routine business is not in the interest of the public.'

The court acknowledged the Right to Know as implicit in the right to free speech and expression, i.e., Art 19[1][a], in *S P Gupta v Union of India*<sup>41</sup>. The government claimed privilege over correspondence between the chief justice of India, the law minister, and the chief justice of the high court, as well as the high transfer court and the non-confirmation of an additional High court judge in this matter. The court dismissed the government's contention and suggested that the century-old provision of sec 123 of the Indian Evidence Act, 1872 be re-enacted to some extent in order to meet the needs of empire builders. It must change in the context of India's people's establishment of a republican system of government. In *reliance petrochemical ltd v. proprietors of Indian express newspapers Bombay Pvt ltd*<sup>42</sup> the court recognized the right know as emanating from the Right to life, i.e., Art 21. Citizens at large have a right to know to participate in activities-based development in industrial life and democracy. The Right puts more incredible tasks upon those who take upon the responsibility to inform. In *Dinesh Trivedi v. U.O.I.*<sup>43</sup> India created a commission to investigate the links between criminals and politicians, bureaucrats, journalists, and members of the court. The Vohra Committee Report was therefore presented to Parliament. A writ petition was filed, seeking the

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<sup>40</sup> AIR 1975 SC 865

<sup>41</sup> AIR 1982 SC 149

<sup>42</sup> AIR 1989 SC 190

<sup>43</sup> 1997 4 SCC 306

court to require the government to make public the report, its annexure, memorials, and written evidence provided to the committee and divulge the identities of all people identified in the report who had physical evidence against them. The court found that the report tabled in Parliament was genuine, authentic, and unabridged and that it was also a public document. Full disclosure of 'supporting material' would be counterproductive to the public interest and thus would not be directed. The court stated, "In modern constitutional democracies, citizens have a right to know about the affairs of the government, which, having been elected by them, attempts to formulate sound policies of governance for the people's welfare." However, secrecy can be claimed in transactions with severe implications for national security because no right is absolute. Such matters should not be made public or disseminated in the public interest. Article 19[1][a] guarantees the right to information as part of the right to free speech and expression. The right to free expression is useless unless backed by the right to obtain all information on matters of public concern from the appropriate governmental authorities in Bengal. In *Coleman and company v U.O.I.*<sup>44</sup> the court stated unequivocally that "freedom of the press" meant "all citizens' rights to publish, express, and convey their opinions," and "freedom of speech" included "all citizens' rights to read and be informed." The court authorized the media to interview convicts awaiting death in *Prabha Dutt v U.O.I.*<sup>45</sup> This right to obtain information also includes the right to access information sources. On the other hand, the press does not have unrestricted access to an undertrial detainee in custody. The court will grant authorization after careful consideration, not mechanically. The right to acquire and publish information has been held to be included in the words "freedom of speech and expression" in art 19[1][a][secretary, ministry of I and B v cricket association, *Bengal with cricket association, Bengal v U.O.I.*<sup>46</sup> This is a historic decision because it acknowledges the Freedom to Information as a component of Article 19[1][a fundamental ]'s right to speech and expression. The court granted private broadcasters access to the airwaves. The airwaves, according to the court, are public property. They must be governed by an independent, autonomous public authority representing all sections and interests of society. This autonomous authority or agency is responsible for determining who has the right to use the airwaves. It should free the electronic media from the monopoly of the government and bureaucratic control. The court ordered the government to create such an autonomous agency as soon as possible.

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<sup>44</sup> AIR 1973 SC 106

<sup>45</sup> AIR 1982 SC 6

<sup>46</sup> AIR 1995 SC 1236

The court expanded the fundamental right to free speech and expression. According to the court, a citizen has a fundamental right to employ the most effective ways of transmitting and receiving information. The Supreme Court concluded in the *U.O.I. v association for democratic reforms*<sup>47</sup> that the voters' right to know about the antecedents of a candidate running for M.P. or M.L.A., including the candidate's criminal history, is considerably more crucial to democracy's survival. Voters talk or express themselves by casting their votes, and information on the candidate to be chosen is essential for this purpose. The right to obtain information is highlighted throughout the book and is a natural right that flows from the democratic notion. Article 21 of the constitution includes freedom of information as a right; in *R.P. Ltd v Indian express newspaper*<sup>48</sup> the court stated that it must be recalled that citizens at large have a right to know in order to participate in democratic and industrial growth. The Right to Know is a basic right that all citizens of a free country strive for, and it has taken on new dimensions in the context of the Right to Life as defined by Article 21 of the Constitution. As a result of this right, those who face the duty of informing bear greater responsibilities.

As a result of these judicial precedents, the government passed the Freedom of Information Act of 2002. Significant limitations in the Act, on the other hand, became a roadblock to accomplishing the goal of accountability and transparency. As a result, the Right to Information Act of 2005 abolished the 2002 Act. All citizens are entitled to access to information managed by public bodies/offices under this law. This Act requires the authority to provide information and preserve records that are relevant to its functional purposes. These records would need to be adequately cataloged, indexed, and disseminated on a regular basis, as required by the appropriate government or authority.<sup>49</sup>

R.T.I. is inherent in democratic functioning and a precondition to good governance and realization of all other human rights. The main objectives of the law on the R.T.I. area are.

- a. To operationalize the fundamental Right to Information;
- b. To set up mechanisms and systems that can provide people's easy access to Information;

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<sup>47</sup> AIR 2002 SC 2114

<sup>48</sup> AIR 1989 SC 203

<sup>49</sup> J. N. Pandey, *The Constitutional Law of India*, 175 (46th ed. 2009)

c. to promote transparency and accountability in governance, minimize corruption and inefficiency in public offices and ensure people's participation in governance and decision-making secrecy needed for the country's sovereign.<sup>50</sup>

### THE SECOND ARC REPORT

The Indian government was curious about how the Right to Information Act worked. As a result, it has sent the matter to Mr. Veerapa Moily's second administrative reform committee. Some of the provisions should be added or altered, according to the second A.R.C. commission. The main recommendations are

1. The provision regarding unauthorized communication of official Information and confidential character of notes /files have to be amended
2. The commission has recommended for the repeal of the officials secret Act,1923
3. Every government servant should make available to the public or any organization complete and accurate information that can be disclosed concerning the provisions under the R.T.I. Act.
4. Files and noting per se are not confidential and should be accessible to the people unless exempted under the Right to Information Act.
5. Para 118[1] of the office procedure manual should be delated as it violates the R.T.I. Act. The rule book currently deems file noting to be confidential for the eyes of those within the secretariat
6. A roadmap should be chalked out to implement the R.T.I. Act in the legislature and the judiciary at all levels.
7. Total recognition of public record for effective implementation of the Right to information act. One percent of all flagship government programs should be earmarked for five years to update records and buildings Information.

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<sup>50</sup> M. M. Ansari, Impact of Right to Information on Development: A Perspective on India's Recent Experiences, (22/03/2021; 1.35 pm), [cic.gov.in/CICIntlEvents/IC-MA-LectureAtUNESCO-15052008.pdf](http://cic.gov.in/CICIntlEvents/IC-MA-LectureAtUNESCO-15052008.pdf)

8. At least half the information commission members [IC] should be drawn from a non – civil service field. Thus the body will represent variety and experience in society,

9. The I.C. should be entrusted with monitoring and implementing the R.T.I. Act in all public bodies/offices. For this purpose, clear guidelines should be evolved to determine which non-governmental the organization came under the Act

10. Most requests for Information are for the redress of grievances. The state may be called to establish independent public authorities to deal with delay, harassment, and corruption.

After all these reforms and counter-reforms, the R.T.I. Act indeed makes a significant step forward toward openness and transparency in governance. The secrecy here holds all the Information under control, but the R.T.I. made it transparent in government settings. Even after globalization, the government is holding critical departments. The R.T.I. laws were first successfully enacted by the state governments. In 1997, the state of Tamil Naidu was the first to enact the R.T.I. Act. Followed by this, in 1997 itself state of Goa enacted the same Act. Other states like Rajasthan [2000], Karnataka [2000], Delhi (2001), Maharashtra ( 2002 ), Madhya Pradesh ( 2003 ), Assam ( 2002 ), and Jammu and Kashmir ( 2004 ) Respectively. The Maharashtra and Delhi state-level enactments are considered the most widely used among all the states.

### **CONCLUSION**

It is worth noting that the freedom to information act of 2005, a watershed moment in Indian democracy, also places India among the world's most advanced democracies for having implemented such a law furthering democracy. It is also worth noting that the R.T.I.A. Act complies with several ground-breaking international agreements. Before this statute, the government's responsibility was minimal. Citizens who voted for the formation of a democratically elected government and paid taxes to fund public finance activities had no legal right to know what procedure was followed in enacting policies that affected them, how the programs were implemented, who were the officials involved in the decision-making process and scheme implementation, and why the enactment of the policies was delayed. Citizens in a democratic country had the right to information, which allowed them the power to exercise their rights. They can now pursue their interests in any field they want. However, knowing the fundamental facts about the field you wish to work in is a must. Information is nothing more than a piece of paper and facts without awareness and ignorance. The Indian constitution has provided an excellent foundation for success. If done correctly, it can make a

significant impact on the smooth operation of administrative policies for the sake of public policy and the benefit of citizens.<sup>51</sup>The correct measure of the Act's effectiveness will be movement on the side of public authorities toward its practical implementation in earnest and the Act's widespread acceptance and usage by the people as a tool against non-transparency and accountability of public bodies/officials. To achieve the Act's goal, all stakeholders involved in its implementation—both on the supply and demand sides—will need to work together in a mission mode.

### **CHAPTER 3**

#### ***RIGHT TO INFORMATION ACT,2005-AN ANALYSIS***

##### **INTRODUCTION**

**"Democracy cannot meaningfully function without an informed citizenry,and such a citizenry is impossible without broad public access to information about operations of Government." -Ryan Shapiro.**

These wise words of Ryan Shapiro, a renowned Freedom of Information Act researcher in the US, clearly emphasize the importance of providing access to information to the general public in modern democratic setups. An aware and informed citizenry is an essential pillar on the support of which a democratic country grows and prospers. The general public form the primary and most important unit of a Democracy, and providing the said unit with easy and open access to information relating to operations and working of the Government enables the entire democratic system to function smoothly.

In the era of welfare, information to the ordinary people is a prerequisite for creating any democratic setup, meaning meaningful participation of the people in public affairs. Without being adequately informed regarding government functions, such a setup cannot exist. A democratic government must and need to be sensitive towards the public estimation, for which information must be made available to them. Transparency, openness, and accountability are the fundamental postulates of any responsive, responsible, and accountable government. Effective accountability rests on the people's acquaintance with the information and circumstances for the decisions taken. The Government that pursues personal aims or operates in secrecy tends to lose the people's faith and thereby lessen its legality and dependability. Transparency and full access to information are two central pillars of any representative form of state. Information is the principal source

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<sup>51</sup> Pandey Saket; Right to information – An effective tool against corruption or just an illusion, 3[6] International Journal of Advanced Research and Development, [2018]

of power in the hands of ordinary people in democratic societies. Access to public records is an essential requirement for a modern government, especially in a democracy. Democracy expects transparency and openness in a concomitant of a free society. The openness is possible only when the 'right to know' is exercisable by the people. In a democratic setup, the citizens are sovereign; they have the Right to know their representatives. Hence, information is indispensable for the transparency and accountable functioning of a proper democratic government. It provides an essential guard against abuses, mismanagement, corruption, and corrupt practices. It is also beneficial to the governments as openness and transparency in the decision-making process assist in developing citizen's trust in governmental actions and maintaining a civil and democratic society. More than 177 years ago, James Madison, the fourth President of the US, said: "A popular government deprived of popular information, or the means of obtaining it is a preface to a farce or a tragedy, or perhaps both. Knowledge will forever rule ignorance, and a people who mean to be their governors must arm themselves with the power which knowledge gives."<sup>52</sup>

The terms right to information and freedom of information are often used interchangeably and have been regarded as fundamental human rights. In the first session in 1946, the UN General Assembly adopted Resolution 59 (1), stating that the freedom of information is an essential human right and the touchstone of all the freedoms to which the United Nations is consecrated. Therefore, governments around the world are increasingly making available more information about their activities. "Over fifty Countries around the World have now adopted comprehensive Freedom of Information Acts or Right to Information Acts to facilitate access to records held by governmental bodies." The various factors such as international pressure, modernization, corruption and scandals, recognition of Right to Information as a human right, etc. have been responsible for this wave. Our country, too, has been active in this field. In 2005, the Government of India had passed the Right to Information Act. The Right to Information law is one of the most important laws enacted by our parliament. It recognizes the people's right to information, which numerous judicial pronouncements have proclaimed as a fundamental right enshrined in our Constitution. "The Right to Information Act of 2005 was a watershed moment in India's history. It replaces the culture of secrecy and control with openness and participation." It encompasses the Central and State Governments and the grassroots democratic bodies, and the institutions receiving government grants; the law has a broader reach

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<sup>52</sup> Letter to Edward Livingston (7.10.1822), quoted from the article by Justice Runa Paul "Information and Fundamental Rights I' 10, SCC, 49-59[2009]

to empower citizens with information for ensuring transparency, accountability, and good governance. The Act also casts an obligation on every public authority to provide information Suo Motu to the public and to publish annually various particulars concerning the organization, including the categories of documents available with it. The citizens are gradually becoming more aware of their Right to information. "The Act has been used as a tool to hold elected representatives accountable for the manner in which they spend public funds. In this way, more than the law Right to Information Act is a tool, a process, concept and a cultural approach to life."

The Right to information has worldwide recognition globally, and no part of world civilization has remained untouched or unaffected by the information revolution. The largest democratic nation took over 55 years to enact a law on this subject, but the Supreme Court of India recognized this Right in its landmark pronouncements. According to some critical verdicts of the Supreme Court, the Right to information is inherent in the fundamental rights primarily defined under Article 19 (1) a) and 21 of the Constitution of India. "In the landmark case of Sheela Barse (1987)<sup>53</sup>, the Supreme Court observed." public gaze must be permitted on the prisoners, and the pressmen as friends of society and public-spirited citizens should have access to information about and interviews with the prisoners. In the Cricket Association of Bengal Case (1995),<sup>54</sup> the Supreme Court expanded its views on Article 19 (1)(a) towards the Right to information. In this case, whether an organizer or producer of any event has a right to get the event telecast through an agency of his choice.

Information frames men wise and competent enough to cope up with the modern world. So, the Government must inform citizens about the day-day whatever happens within the government machinery. The alteration from governance to good governance is possible if there is the possibility of increasing involvement of citizens in governance and free access to information. By realizing this fact, the Indian parliament has passed the Right to information act, 2005 to make the Government accountable, responsible, efficient, and transparent Right to Information Act 2005 is one of the most empowering and innovative legislation enacted by the Indian parliament in the post-independence era. The Act envisages setting out the practical system of Right to information for citizens to secure access under the control of public officials to promote transparency and accountability in the working of every public authority.<sup>55</sup> The Act also casts an

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<sup>53</sup> Sheela Barse v. State of Maharashtra, AIR 1983 SC 378

<sup>54</sup> The secretary, Ministry of Information and Broadcasting, AIR 1996 SC 1236

<sup>55</sup>Supra note 32.



obligation on every public authority to provide information suo motu to the public and publish various particulars concerning the organization annually, including the categories of documents available. Citizens are gradually becoming more aware of their Right to information. The Act has been used to hold elected representatives accountable for how they spend public funds. "Nearly ten years ago, when the parliament enacted the Right to Information Act, it was praised as one of the most powerful and pioneering legislation. The idea was that successful Right to information applications would go a long way in making the Government responsible and accountable, positively impacting governance. Unfortunately, some significant conceptual issues have emerged that prevent the Right to information from creating systemic transparency. The successful accomplishment of the Right to Information Act, 2005, depends on three elementary shifts, namely, from the traditional society of secrecy to a new society of openness; from personalized authoritarianism to authority coupled with answerability; and finally, from one-sided decision-making power to participative governance.<sup>56</sup>

### **LEGISLATIVE PROVISIONS OF THE RIGHT TO INFORMATION ACT, 2005 - IN INDIA**

"For democracy to work, citizens must have access to information about what their government is doing and how decisions have been reached." -Lotte E. Feinberg.

In a representative state, each citizen is like a stakeholder, and they should have the right to know what is happening within the government departments. For Making Indian democracy more inclusive, all people should be included in political participation. The RTI Act gave every citizen the right to know what is happening in society and the government departmental proceedings. RTI Act was enacted in 2005 by the Indian parliament to fortify the democratic spirit of the country. Every citizen must know about the proper process and use of the RTI Act to accomplish the same goal.

The RTI Act, 2005 is pathbreaking legislation in the history of India. The Act has the unprecedented capacity to transform governance and bring accountability and transparency to the Government's functioning. It has already been recognized and accepted that the state and its machinery works mainly for the wellbeing of the ordinary peoples of the country. Governance is a process or a system of the Government for the control,

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<sup>56</sup>Abhishek Jain, "RTI Implementation at the District level: Issues and Challenges.", 55[3], The Indian Journal of Public Administration, 347, [2009].

administration, and wellbeing of the state, various authorities, and individuals, either person or citizen. In the present scenario Right to Information Act, 2005 is a potent tool in the hands of the country's ordinary people, but fortunately or unfortunately, very few people use this tool. Mainly the users of the Act include few politicians against their rivals, journalist, and some so-called RTI activists. By and large, this Act could not become a tool of the ordinary people even to date. The lacunas in the Act and lack of administrative zeal to implement the Act in letter and spirit are the reasons. Despite the vital provision of the Right to information to provide and make the system transparent and help the Government and bureaucrats for the smooth functioning of the administration. There is a need to study the various provisions of the Right to information of the Indian Act.

### **Scheme of RTI Act,2005**

**Chapter I-** Preliminary (section 1) includes a short title, extent, and commencement, and section 2 deals with definitions.

**Chapter II-** includes Right to Information and Obligations of Public Authorities (section 3-11).

**Chapter III-** deals with The Central Information Commission and its powers and duties (section 12-14).

**Chapter IV-** The State Information Commission and its power and duties (section 15-17).

**Chapter V-** Power and Functions of the Commissions, Appeals, and Penalties (section 18-20).

**Chapter VI-** Miscellaneous (section 21-31).

### **Objectives of the Act**

In a democratic society, the Government must be sensitive to public opinion. Public opinion can be formed only when the knowledge about the functioning of the Government is available to the ordinary people. It is, therefore, essential that the people should have access to complete knowledge about the functioning of the Government. Therefore, the Right to know the facts about the functioning is one of a citizen's critical and valuable rights in a democratic State. Thus, it is also a principal object of the Right to information. The preamble,<sup>57</sup> of the Right to Information Act, 2005, which contains the objectives of the Right to information

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<sup>57</sup> Preamble of the Right to Information Act, 2005

says that- " The Act was enacted to establish a practical system of right to information allowing citizens to obtain access to information held by public authorities; In order to encourage openness and accountability in the working of every public authority or establishment, the Constitution of a state Information Commission and central Information Commissions and for matters connected therewith or incidental thereto."

The Preamble further points out that democracy requires an informed citizenry and transparency in information vital to its functioning, containing corruption and holding governments and their instrumentalities accountable to the governed. The Act proposes to harmonies these conflicting interests while preserving the paramount importance of democratic ideas. In *S. P. Gupta v. Union of India*<sup>58</sup>, the Supreme Court emphasized the object of openness in Government in express terms. The Court observed that the demand and for transparency in the Government is based mainly on two arguments. It is now widely conceded that democracy does not consist merely of citizens exercising their franchise once in five years to choose their leaders. The people should cast intelligent and rational votes and exercise sound judgment on the behavior and management of the Government. Nevertheless, this important role people can fulfill in a democracy only if it is an open and transparent government where there is full access to information regarding the functioning of the Government to its citizens. Thus, the preamble to the Right to Information Act, 2005 contains main objectives regarding access to information to inform citizenry and transparency of information. The informed citizenry may be termed a whistleblower against corruption and hold the Government and its instrumentalities accountable to the governed for smooth working.

In the case of *Dhara Singh girls high school v state of up*<sup>59</sup>, The Allahabad HC observed that 'from the perusal of the objects and reasons for enacting the Right to information act,2005, it is apparent that the Government desired to establish a practical system of Right to information for people to acquire information under the control of public officials, in order to promote responsibility and transparency in their working. *In the case of Namit Sharma v UOI,2012*<sup>60</sup> The supreme court stated that the Right to Information Act was enacted to make the Government machinery more open and accountable to the general public. It was felt that in the current democratic framework, free flow of information for citizens and non -government institutions

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<sup>58</sup> 1981 Supp. SCC 87 para 85

<sup>59</sup> AIR 2008, All 92

<sup>60</sup> 8] scale 593

suffers from several bottlenecks, including the existing legal framework, lack of infrastructure at the grass-root level, and an attitude of secrecy within the civil services as a result of the old framework of rules. The Act is to deal with all such aspects.

This Act marks the conclusion of the intense struggle that the citizens had to endure to gain access to information previously withheld from disclosure by the public authorities. Being one of India's most vital indicators of growing strength and reputation as a democratic country, the RTI Act promotes openness, accountability, and transparency in the functioning of the Government Agencies. The most important objectives of this Act are as follows

- i. To bring transparency and accountability in the working of every public authority.
- ii. To protect and foster the Right of any citizen of India to secure access to information, and it is the duty of Govt. to entertain the request.
- iii. To improve the quality of administrative services and policies while also framing the civil society to reap long-term benefits.
- iv. To build public trust in the Government's functioning and those leaders who have had the endeavor and vision to enact and effectively implement the Right to information.
- v. To promote more effective and efficient records management techniques needed to facilitate information provisions in response to the public interest.
- vi. To curtail corruption and to hold Govt. and their instrumentalities accountable to the governed. vii. To create an aware and informed citizenry.
- viii. To ensure less expensive and time-bound information

The primary aim of this Act is to safeguard justice that extends to all sections of society. There is transparency and accountability in the functioning of the public authorities, at the same time ensuring that

this law does not become a "tool to block the national development and integration or to destroy the tranquility, peace, and harmony among the citizens."<sup>61</sup>

### **Meaning of Information and Right to Information under RTI ACT,2005**

**Consideration on 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".<sup>62</sup>**

The Right to Information Act, 2005 defines 'Information' as 'Information' means any material in any form, including records, documents, memos, e-mails, opinions, pieces of advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models and data material held in any kind of electronic form. It also comprises information relating to any private body which a public authority can access under any other law for the time being in force—section 2(f) of the Right to Information Act, 2005. **It is of utmost significance to keep in mind that, under the RTI Act, only such information can be sought by the citizens who come within the definition for the term 'information' provided by Section 2(f) of the Act.**

In **Vibhor Dileep Barla, Nashik v. Central Excise & Customs**<sup>63</sup>, the Central Information Commission held that the hypothetical questions could not be called in the definition of 'information' under section 2(f) of RTI Act. **In Celso Pinto v. Goa State Information Commission**<sup>64</sup>, the Hon'ble High Court of Bombay (Panji Goa Bench) held that the definition of information could not include answers to the question 'why' as that would be asking for a justification. The public information authorities cannot be anticipated to share to the citizen why a sure thing was done or not justified because the citizen makes a requisition for information. Justifications are matter within the domain of the adjudicating authorities and cannot correctly be classified as information.

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<sup>61</sup> Shashi Bala Kashyap, The Right to Information and the Role of Media, 39[162], Indian Socio-Legal Journal 29, 2013

<sup>62</sup> Supra note 9

<sup>63</sup> Vibhor Dileep Barla, Nashik v. Central Excise & Customs, CIC/AT/A/2006/00588

<sup>64</sup> Celso Pinto v. Goa State Information Commission, 2008 [110] Bom L R 1238

Right to information is defined under Section 2(j) of the Right to Information Act of 2005<sup>65</sup>. The Act defines 'Right to Information' as 'Right to Information means the Right to information accessible under this Act, which is held by or under the control of any public authority and includes

- 1.the right to Work, documentation, and records are all subject to inspection.
2. Taking notes on documents or records, extracting information, or obtaining certified copies of papers or records
3. Obtaining information on diskettes, floppies, tapes, video cassettes, or any other electronic medium, or through printouts when such information is stored in a computer or other device

The people generally misunderstand that the Right to information means only the Right to strive for information. This misapprehension is reduced by the Right to Information Act, 2005 up to a great extent by providing a comprehensive definition that clarifies the position, dispels the misunderstanding, and makes clear that Right to information includes<sup>66</sup>:

- The Right to seek information.
- The Right to obtain information.
- The Right to store information.

According to Sarbjit Sharma and Krishan Gopal, the Right to information is a tool for social welfare. They point out that this Right is a potent tool for countering many social evils and protecting the people's fundamental rights. The Right to information is also necessary for protecting civil liberties, for example, by making it easier for civil society groups to check on wrongdoing such as encounter killing or the abuse of preventive detention legislation.<sup>67</sup>

### **BRIEF ANALYSIS OF DIFFERENT PROVISIONS UNDER RTI ACT**

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<sup>65</sup> See sec 2[j]

<sup>66</sup> AT Jagadish, Right to Information-A Silver Lining in Democracy, 2[8], Karnataka Law Journal, 61, [2012]

<sup>67</sup> Sarbjit Sharma & Krishan Gopal, Right to Information: Implementing Information Regime (2006) pp. 2-3

In Dec 2004, the bill of Right to information was introduced in the Lok Sabha, passed by both Houses of Parliament with significant amendments in May 2005, and received the President's assent on June 15, 2005. On June 21, 2005, the Act was notified in the Gazette of India and came into force on October 12, 2005. Six chapters and two schedules make up the Right to Information Act. The first chapter, labeled 'preliminary,' defines terms such as suitable government, public authority, information, record, third party, and so on. This Act has two parts (a) Substantive law; section 3 coupled with sections 8, 9, 18, 19, and 20 deals with substantive law (b) Procedural law, section 6 along with section 7 deals with procedural law. Thus the present Act is a completed code in itself and contains the following provisions

i. Section 1 deals with the title, extension, and commencement of the RTI Act. It says that the Act may be called the Right to Information Act, 2005, which may extend to the whole of India except Jammu and Kashmir.

ii. Section 2 of the current Act comprises the definition clause. It is a very well-settled principle of the interpretation of statutes that whenever the definition clause is added to any Act, the definitions of the words given therein simply define the meaning of that word in order to make the terms specified in the sense in which that word is used in the different sections of the Act. The expressions used in the definition clause are made fixed; the precision and certainty in law also require that it should not be made loose and should be kept tight as far as possible. It is not acceptable to give broad meaning to any terms used in any statute simply because that statute does not define an expression.

#### What is a Public Authority?

Section 2[h] of the RTI Act defines a Public authority. Any authority, body, or self-government institution established or constituted by or under the Constitution, or any other law passed by the Parliament or a State Legislature, or any notification issued or order issued by the Central Government or a State Government is referred to as a "public authority." The term of public authority also includes bodies owned, controlled, or significantly supported by the Central Government or a State Government, as well as non-government organizations financed by the Central Government or a State Government. The funding of the NGO or any other body by the Government may be straight or indirect.

Public Information Officers are in charge of providing information to anyone who makes a request under the RTI Act. Assistant Public Information Officers are the officers at the sub-divisional level to whom a

person can give his RTI application or file an appeal. These officers, in turn, send the application or appeal to the Public Information Officer of the public authority or the concerned appellate authority. At the central and state levels, every public authority is mandated to appoint public information officers in all its units and offices. The Act comprehensively covers a broad spectrum of bodies as a 'Public Authority' like the departments and undertakings of Central governments and state governments, Panchayati Raj institutions, urban local bodies, other bodies established, constituted, owned, controlled, or substantially financed by the government including governmental organizations. This may also include private schools, hospitals, and other commercial institutions that receive subsidies or concessions in taxes from the government. The Act ensures to eradicate any type of corruption in Public Authority by providing a mandatory obligation to the Public Authority to disseminate the information sought by the Indian citizen within a certain period with a nominal fee. It also imposes the Public Authority to maintain and provide access to all the information by applying suo motu action. So, due to the mandatory dissemination of information in the accessible format, transparency and accountability can be established because that information helps to aware the people and could admit as evidence in any legal proceeding. Every Public Authority shall designate as many officers as Public Information Officers (PIOs) or Assistant Public Information Officers (APIOs) in all administrative units or offices under it as may be necessary to provide information to persons requesting the same. Suppose the required information is not provided to the applicant within 30 days. In that case, the same will be construed as a deemed refusal under the Act. The applicant can prefer an appeal against it to the Appellate Authority, a senior official of the same department.

Furthermore, the Act also mandates the constitution of Information Commissioners and State Information Commissioners (SICs) to inquire into complaints, hear second appeals, oversee and guide the implementation of the Act. It also prescribes penalties on public information officers if found guilty of the violation of the Act. Under the Act, the first party is the applicant for information; the second party is the public authority. The Public Information Officer is the officer; the third party is the person to whom the information relates and which information is available with the second party. If the third party claims that the information is confidential, its claim whether confidentiality overweighs the public interest shall be examined. If the PIO decides that the public interest overweighs the purpose of confidentiality, he should disclose the information to the applicant.

iii. Section 3 of the current RTI Act comprises that every citizen of India has been provided a right to information. This is indeed very necessary for promoting transparency, openness, and accountability in the



working and functioning of every public authority. Without having adequate information relating to any matter, a citizen cannot form any conversant opinion. It is a very well-settled principle that any Democracy cannot survive or carry on until the citizens are free and reasonably informed. In this regard, the honorable Supreme Court of India has also held that the Right to information is a fundamental right, covered under 'freedom of speech and expression'. Before coming into force of this current RTI Act, the Supreme Court has already decided it through many of the cases that to receive any information regarding any matters of public concern is a citizen's Right, as well as to know about the affairs and sound policies formulated for governance aimed for welfare, of the Government, that they have elected. The Supreme Court also held that a voter has a right to know about his candidate's previous history, qualifications, and experience as a part of his Right. The public, in general, is also entitled to know the conditions through which their elected representatives got the distributorships and dealerships of petroleum products because one-sided information, disinformation, misinformation, and no information will similarly produce an inappropriately informed citizenry, and democracy requires appropriately informed citizens who can make positive contributions in the governance.

iv. Section 4 of the current Act comprises that in order to provide the information to the citizens, every public authority must uphold and preserve all its records appropriately cataloged and indexed in a manner and in a form that facilitates the Right to information under this Act simultaneously all records should be computerized and connected through a network all over the country on different systems, subject to the availability of the resources so that any citizen can access to such records from any place in the country. It shall be a continuous endeavor of every public authority to provide as much as possible information to the public suo motu at regular intervals through different means of communications, including the internet so that the ordinary public needs a minimum use of this Act for obtaining any information. Each information should be circulated extensively and in such a manner and form which should be easily accessible to the public by considering the local language, cost-effectiveness, and the utmost operative process of communiqué in that local area. Exception given to the process of investigation or apprehension or prosecution of offenders, or would endanger the life or physical safety of any person or identity, the source of information or assistance given in confidence for law enforcement or security purposes. However, these exemptions are not absolute, as information about the allegations of corruption and human rights violations shall not be excluded. Information on such cases shall only be provided after the approval of the central information commission and within 45 days from the date of the receipt of the request.

Section 5 of the current Act comprises that in order to provide the information to all those, request for information every public authority shall designate as many officers either as central or state public information officers and central or state assistant public information officers as the case may be in all executive offices or units within the period specified for the same. Every such central or state public information officer shall deal for providing the information to the persons seeking information and also provide practical assistance to such persons, may also seek the assistance of other officers for the same purpose

. vi. Section 6 of the current Act comprises that in order to receive any information from any public authority; a request is to be made through electronic means or in writing, in Hindi or English or in the official language of the area concerned to the central or state public information officer or the state or central assistant public information officer as the case may be by specifying the details of the information sought by him along with such fee as may be prescribed for such purpose. Different fees and different modes of payment have been prescribed by the center and the states, respectively. For receiving the information, there is no need to give any specific reason or personal details except to contact him. It was unanimously resolved that a law on the Right to information should be definite and necessities to be given authentic material.<sup>68</sup> The public information officer cannot refuse to receive a handwritten application for receiving the information under this Act if it is otherwise legible.<sup>69</sup> Where the information requested belongs to any other public authority, the information officer to whom the application is made to transfer such application to the concerned department as possible but not later than five days.

vii. Section 7 of the current Act comprises that on receipt of any application, the central or state information officer as early as possible within thirty days either deliver the information sought on payment of prescribed fee as for the same or reject the application on the grounds specified in the Act. Compliance with the time limit is mandatory, and on non-compliance with it, request shall be deemed to have been refused, and the information requested will be provided free of charge. If an extra fee is required for making the information, an intimation of the same is to be sent to the person making the request. No fee is to be charged from the persons below the poverty line as determined from time to time, and for the convenience of identification of such person, a card is issued. In case of rejection of the application, the person making

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<sup>68</sup> Chief Ministers conference on "effecting and responsible government" held on May 24, 1997, at New Delhi.

<sup>69</sup> Smt. Rekha Kali V. DDA, no. CIC/WB/C/2006/0003548 Dayanand V. Departmental Personnel and Training, Ministry of Personnel, PG, and Pensions, no. CIC/MA/A/2006/00218

the request will be communicated the reasons for rejection, the name and particulars of the appellate authority, and the period within which appeal may be preferred. The information should be delivered in the form in which is sought. No information in consolidated form or opinion can be sought under the Right to Information Act when no such information in consolidated form or opinion is available in any document or record with the public authority. Thus only that information is to be provided to the applicant under the Right to Information Act which exists with the public authority. It has been decided that the petitioner may seek information from the Registrar of Companies (ROC) as instructed by the appellate authority. Under the Right to Information Act, he will not be denied access to information.<sup>70</sup>The requirements for payment of costs of providing the information, as prescribed, should be determined in consultation with the requester. Accordingly, deposits should be accepted from the information seeker in advance to minimize the wastage of resources of the public authorities.<sup>71</sup>

viii. Section 8 and 9 of the current Act comprises the exemption clauses that provide, there shall be no compulsion for providing any citizen such information, disclosure of which would prejudicially affect the relationship with a foreign state, economic or scientific interests of the state, strategic, security, integrity and sovereignty of the country, or lead to incitement of any offense. However, the provisions of this Act are also being misused to acquire such information, which would allow them to fulfill their personal and mala fide intentions. In order to impede such misuse, Section 8(1) of the RTI Act provides for the grounds based on which information can be exempted from disclosure to the general public. If the information sought falls under any of the exempted grounds under Section 8(1) of the RTI Act and the public authority can establish likewise. It would not be legally bound to furnish such information.

Exemptions:

Exemption from disclosure of information: Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen—

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<sup>70</sup> Arun Verma V. Department of Company Affairs, Government of India, F No. CIC/MA/A/2006/00016.

<sup>71</sup> Kewal Semrani V. New India Assurance Co. Ltd., Appeal No. 08/IC (A)/2006, F.No. 11/47/2006- CIC.

1. Information that could jeopardize India's sovereignty and integrity, as well as the country's security, geopolitical, scientific, or economic interests, relations with other countries, or incitement to commit a crime;
2. Information that is expressly forbidden to be published by any court of law or tribunal, or whose disclosure would be considered contempt of court;
3. Information that would be a breach of Parliamentary or State Legislature privilege; Cabinet papers including records of deliberations of the Council of Ministers, Secretaries, and other officers
4. Information such as commercial confidence, trade secrets, or intellectual property that, if disclosed, might impair a third party's competitive position, unless the competent authority is persuaded that it more significant public interest warrants the disclosure of such information;
5. The information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the more significant public interest warrants the disclosure of such information;
6. Information received in confidence from foreign Government;
7. The information which would impede the process of investigation or apprehension or prosecution of offenders;
8. Information, the disclosure of which would endanger any person's life or physical safety or identify the source of information or assistance given in confidence for law enforcement or security purposes;
9. Information is available to a person due to a special relationship of trust (fiduciary relationship).
10. No confidential information about third parties shall be disclosed. As a result, the CIC determined that a bank has a duty to protect the privacy of its clients, who are also third parties.
11. Frivolous applications should not be entertained.
12. The information which is twenty years old cannot be disclosed
13. Consultation between the President and the Supreme Court cannot be disclosed

Reason for rejection of the request for information must be provided. However, a PIO may allow access to information to the applicants despite the above exemptions provided in Section 8(1) if the public interest in providing the information is greater than the harm done in private interest. Thus, while dealing with requests for information, the PIOs must never forget that public interest shall outweigh the private interest in disclosing information. That disclosure of the information is the rule, and denial of information is an exception.

Specific public organizations are exempt from the RTI Act under section 8.<sup>72</sup> Nineteen government organizations are exempted from the purview of the RTI Act. These include intelligence agencies like the Directorate of Revenue Intelligence, Intelligence Bureau, Central Economic Intelligence Bureau, Research and Analysis Wing, etc. Research bodies working with the country's security wing are also immune to the RTI law, as are paramilitary forces. The Directorate of Enforcement, Special Service Bureau, particular police branches in the Lakshadweep, Andaman, and Nicobar, and Dadra and Nagar Haveli are exempted from the Act. However, these organizations must provide information under the Act if the panel finds that the appellant's query relates to a case of abuse of human rights or corruption. Despite anything in the Official Secrets Act, 1923, nor any of the exemptions said above; a public authority may allow access to information if there is a public interest in disclosure of the information sought outweighs the harm to the protected interests.

ix. Section 10<sup>73</sup> of the current Act states that if a request for information is denied because the requested information is exempted from disclosure, access may be granted to the portion of the record that does not contain any exempted information and can be reasonably separated from any part that contains exempted information. Citizens can have partial access to that information covered under exemptions from disclosure [Section 8(1) of RTI Act]. Suppose a PIO has rejected the request for information on the ground related to information, exempt from disclosure [under Section 8(1) of the RTI Act]. In that case, some part of the information, which is not covered in the exemption list, can be disclosed. Such information should be reasonably severed from the information, which falls in the exemption list. This means if a document or record contains information, part of which is exempted from disclosure under the RTI Act while the other part is not exempted from disclosure, then the PIO of a public authority can be severe (separate) the parts and provide information that is not exempted to the applicant.

Section 11<sup>74</sup> of the current Act comprises that where the information requested is related with any third party that has treated it as confidential and the central or state public information officer as the case may be intended to disclose any information or record, or part thereof, he may, within five days of such request, give written notice and invite to the concerned third party for submitting in writing or orally, regarding whether the information should be disclosed. Such submission shall be kept in view while deciding disclosure of

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<sup>72</sup> See sec 8 of rti act

<sup>73</sup> For more see sec 10 of RTI Act,2005

<sup>74</sup> For more see sec 11 of RTI Act,2005

information. Where the appellant has sought information about tax returns filed by a third party and a copy of the investigation report on tax evasion petition filed by him, which is in progress, it has been held that the appellate authority has correctly applied the Right to Information Act for exemption of information from disclosure.<sup>75</sup>

xi. Section 12<sup>76</sup> and 15<sup>77</sup> of the current Act comprises that the general superintendence, direction, and management of the affairs of citizen's Right to information have been assigned to the central or state information commission as the case may be, which shall exercise all the powers conferred on, and shall perform the functions allocated to it under this Act. The concerned commission shall consist of the chief information commissioner and the such number of central information commissioners as may be necessary. It is the mandate of the parliament that the state information commission should be a multi-member body, and the state cannot be allowed to plead that it be permitted to have a single member commission on the ground that the work is less or that it would lead to unnecessary expenses.

xii. Section 18<sup>78</sup> of the current Act comprises the powers and functions of the state or central information commission as the case may be and says that the commission is duty-bound to inquire into a complaint received from a person who has been unable to submit a request to a state or central public information officer, either by reason that no such officer has been appointed under this Act or who has been refused access to any information requested under this Act; or who has not been given a response to a request for information or access to the information within the time limits specified under this Act; or who has been required to pay an amount of fee which he or she considers unreasonable; or who believes that she or he has been provided false, misleading or incomplete information under this Act; and in respect of any other matter connected with requesting or securing access to records under this Act. On being satisfied by the commission that some reasonable grounds exist for inquiry, it may suo moto initiate inquiry regarding the matter and have the same power vested in a civil court.<sup>79</sup>

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<sup>75</sup> Rakesh Agarwal v. Commissioner of Income Tax, F. No. CIC/MA/A/2006/00066.

<sup>76</sup> For more ,see sec 12 of RTI Act,2005

<sup>77</sup> For more see sec 15 of the RTI Act,2005

<sup>78</sup> For more see sec 18 of the RTI Act,2005

<sup>79</sup> Virender Kumar v. Rana, AIR 2007 HP 63(64 and 66): 2007 AL HC 461 (NOC)

xiii. Section 19<sup>80</sup> of the current Act comprises the appeal against the decision of the central or state public information officer, within thirty days from the expiry of such period or the receipt of such a decision to the officer senior in rank to such information officer in the same office in each public authority. A second appeal against the decision of the first appellate authority shall lie within ninety days from the date on which the decision should have been made or was received, with the central or the state information commission. In every appeal, the onus to prove that denial of the request was justified shall be on the information officer. The first or the second appeal shall be disposed of within a total period of forty-five days, and the decision will be binding. When the appellant preferred an appeal against the order of CPIO, it was directed to the central information commission. It was held that as the appellant had not preferred any appeal before the first appellate authority on the decision of the CPIO after he received the same, he should do so at the first instance before approaching the commission.<sup>81</sup>

xiv. Section 20 of the current Act comprises the penalties against the public information officer who has without any reasonable cause, destroyed the subject of the request, knowingly given misleading, incomplete, or incorrect information, mal- fidedly denied the request, not furnishing the information within the time specified or refused to receive an application by the information commission while deciding any complaint or appeal, a penalty of two hundred and fifty rupees each day till either application is received or information is furnished. However, the total amount of penalty imposed shall not exceed twenty-five thousand rupees. Further repetition of the same Act may invite disciplinary action against such information officer. In accordance with natural justice principles, the State Information Commission has the authority to levy a penalty or take disciplinary action.<sup>82</sup>

xv. Section 23 of the current Act comprises any application, complaint, or even appeal that cannot lie in any civil court. This Act makes a bar of jurisdiction of a civil court. The Act bars the jurisdiction of all courts, including High Courts, to the extent of its original or appellate jurisdiction to entertain any suit, application, or other proceedings regarding any order made under this Act.<sup>83</sup> It states clearly that no prosecution, suit, or other legal proceedings shall be laid against any person who does anything relating to information. The civil

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<sup>80</sup> For more see sec 80 of the RTI Act, 2005

<sup>81</sup> Bhagwan Chand Saxena v. Export Inspection Council of India, Appeal No. IICPB/A-16/CIC/2006.

<sup>82</sup> Manohar Manikrao Anchule v. the State of Maharashtra, AIR 2013 SC 681.

<sup>83</sup> Sanyukta Moitra, Containing Corruption in India through Right to Information: An Analysis, 9 INDIAN J.L. & Just. 127 [2018]

courts have the jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.<sup>84</sup>

xvi. Section 24 of the current Act comprises that public authority almost covers the entire departments upon which this Act is applicable even then there are specific departments which are beyond the limits of this Act provided under the second scheduled as intelligence bureau, research and analysis wing of the cabinet secretariat, etc., being intelligence and security organizations established by the central or state Government or any information furnished by such organizations to the concerned Government. However, any information of the allegations of corruption and human rights violations shall not be excluded. However, before parting with the appeal, the central information commission would urge the high officers of the intelligence bureau to consider if they could volunteer to supply the information requested by the appellant if it did not in any way compromise the functioning of IB.<sup>85</sup> The Act lays down that any information that cannot be denied to a Parliament or a State Legislature cannot be denied. These exceptions, on the other hand, have a shelf life and will not be exempt forever. The Act allows us to request information about any event, occurrence, or matter after 20years, even though one or more exemptions may have covered it at one time or another.<sup>86</sup>

xvii. Section 25 of the current Act comprises that to ensure whether the Act is being implemented in the true sense or not, the responsibility is on the Central or State Information Commission to prepare a report about it after the end of each year and forward a copy to the appropriate Government containing: the number of request made to each public authority; or decisions where applicants were not entitled to access to the documents; or appeals referred to the central or state information commission; particulars of any disciplinary action taken and the amount collected by each public authority.

xviii. Section 26 of the current Act comprises that until and unless the country's people are not aware of the provisions of any law, the purpose of making that particular law will not succeed. With this view, the duty is cast on the appropriate Government to develop and organize educational programs to make the people aware of their rights, especially to the disadvantaged community, and to encourage public authority to participate in such programs and to provide the required information on time for that to train their information officers.

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<sup>84</sup> Sec 9 of Civil Procedure Code 1908.

<sup>85</sup> Sanjeev Kumar Jain v. Ministry of Home Affairs, New Delhi, F. Nos. CIC/AT/A/2006/00055 and 00030

<sup>86</sup> Supra note 83



### The Format in which the Application is to be submitted

There is no specific format of application for seeking information under the RTI Act,2005. The request can be made on plain paper. However, the application should have the applicant's name and complete postal address even in cases where the information is sought electronically; the request must contain the name and postal address of the person who applies. It is not at all required to give reasons for seeking information.

### Process of application

The request must be made in writing to the Public Information Officer, along with the fee specified in the Act (PIO). Each department/agency will have a public information officer (PIO) to receive requests and deliver information. Assistant PIOs will receive applications, appeals, and complaints at the sub-district level. The information must be provided within 30 days if life or liberty is at risk, 48 hours if life or liberty is at risk, 35 days if the request is made to Assistant PIOs, 40 days if a third party is involved, and 45 days for information on human rights violations from listed security/intelligence agencies. No action on the application for 30 days is a deemed refusal. (There is no fee for the delayed response.)

This punishment will be imposed by the Information Commission (IC) at the federal and state levels. The Information Commission can also propose disciplinary action against an erring PIO for violating the law. (S.20). The Information Commissions have the same legal authority as the courts. The Act established a two-tiered appeals process. The initial appeal is to a higher-ranking officer inside the organisation than the PIO. The Information Commission will hear the second appeal. The municipal court's jurisdiction is limited under section 20 of the Act. The Central/State Information Commission has a significant role in enforcing the implementation of the provisions of the Act and educating the parties, mainly information seekers and providers. The powers vested with the Information Commissioners appointed by the President of India/Governor of a State ensure effective implementation.

### Role of the Central and State Governments:

The role of the Central/ State governments includes inter-alia the following:

1 Develop RTI-related educational initiatives for the general public, with a focus on underprivileged populations.

2 Encourage government agencies to take part in the planning and implementation of such programs.

3 Properly train officers and develop the relevant training materials

4 Create and distribute a User Guide in the official or regional language for the wider public.

5 Make public the names, designations, contact information, and postal addresses of PIOs, as well as additional information such as notices of costs due, legal remedies available if the request is denied, and so on (S.26)

*Proactive disclosure of the information*

The RTI Act requires the government to provide information upon request. However, it also imposes a duty on public authorities to actively disclose, disseminate and publish information as widely as possible. The RTI Act, 2005 also provides all public authorities covered under the Act to publish suo motu or proactively a wide range of information independently, even if no one has particularly asked for it. All public authorities are required to publish seventeen kinds of information on a regular basis under Section 4 of the Right to Information Act of 2005. This provision prescribes that all public officials must make constant efforts to provide as much information suo motu to the general public at regular intervals, through various means including the Internet, to have a minimum need to use this Act to access information. In addition, the public authorities' self-disclosure should be disseminated considering the local language, cost-effectiveness, and the most successful means of communication to reach a large number of citizens. This ensures that people always have access to authentic, valuable, and relevant information. This is a crucial provision because it recognizes that some information is so valuable and vital to the community that it should be given out regularly, without anyone explicitly requesting it. Self-disclosure enables the promotion of transparency and accountability in governance. It reduces the demand for information by the citizens from public authorities, as most of the critical information is available in the public domain. It is essential to mention here that information sought by the applicant should be apparent within the scope of section 4 (1)(d) of this RTI Act,2005; otherwise, it can be rejected. The panel also believed that the applicant's information should be provided free of charge. The Commission held that every public authority, particularly after the implementation of the Right to Information Act, must take all measures in pursuance of Section 4(1)(a), to implement efficient record management systems in their offices so that the requests for information can be dealt with promptly and accurately. The Commission further states that "every public authority is required to make pro-active disclosures of all the information required to be given as per the provisions of Section 4(1)(b) unless the same

is exempt under the provisions of Section 8(1). An information system should be created so that citizens would have easy access to information without making any formal request for it".

The RTI process involves reactive (as opposed to proactive) disclosure of information by the authorities. An RTI request initiates the process. Each authority covered by the RTI Act must appoint its Public Information Officer (PIO). Any person may submit a written request to the PIO for information. The PIO must provide information to citizens of India who request information under the Act. Suppose the request pertains to another public authority (in whole or part). In that case, the PIO's responsibility is to transfer/forward the concerned portions of the request to a PIO of the other authority within five working days. In addition, every public authority must appoint Assistant Public Information Officers (APIOs) to receive RTI requests and appeals and forward them to their respective PIOs. The applicant must provide his name and contact information, but no further reasons or justifications for requesting information. Individuals who have been unable to submit information requests to a Central Public Information Officer or State Public Information Officer because the officer has not been appointed or because the respective Central Assistant Public Information Officer or State Assistant Public Information Officer has not been appointed can file complaints with the Central Information Commission (CIC). The Act provides time limits for replying to the request. v If the request has been made to the PIO, the reply is to be given within 30 days of receipt. v If the request has been made to an APIO, the reply is to be given within 35 days of receipt. v 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 the PIO of the transferee authority receives it. v 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. If a person's life or liberty is at risk, the PIO is required to respond within 48 hours. Because the information must be paid for, the PIO's response must be limited to either refusing the request (in whole or in part) or calculating "additional fees." The time between the PIO's response and the time it takes to deposit the additional costs for information is not included in the authorized time. If the information is not submitted within this time frame, it is considered refuse. Refusal, with or without justification, might be the basis for an appeal or complaint.<sup>87</sup>

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<sup>87</sup> Supra note 19

## **FEATURES OF RTI ACT,2005**

The RTI Act, 2005, enacted to bring in a new era of transparency and open government, on an analysis and comparison with other freedom of information laws across the globe, clearly reveals certain unique features to ensure the effective implementation of this exemplary Indian scenario. Access to information has been granted as a 'right' instead of being guaranteed as a 'freedom.' The Supreme Court of India has held the right to information to be a fundamental right which the RTI Act, 2005 has statutorily recognized. Thus, access to information is not a discretionary gift to the people by a benevolent government but a fundamental right endowed upon them by the land law. Thus, the government and the public information authorities should adequately implement the mandate. With its object to promote transparency in the working of 'every' public authority, the Act has brought within its ambit a wide range of authorities, both at the central and state levels. As the access to information forms the crucial underpinning of participatory democracy, such an inclusive definition is essential to widen the Act's scope to ensure more accountability and good governance. The inclusive definition of the term 'information' is well expanded to cover a wide range of documents and material in any form. If the desired information has not already been assembled, an information-based regime requires authorities to respond to requests for information and search documents, as well as extracting and compiling information from various documents. As a result, the reach of the information legislation is broadened. As an added unique feature, information relating to any private body which a public authority can access under any law for the time being in force is also brought within the realm of the word 'information'. Some important features are summed up below-

1] Any citizen of India can seek information from any department of the central or state government, from panchayat raj institutions, and from any other organization or institutions [including NGOs] that is established, constituted, owned, controlled, or substantially financed, directly or indirectly by the state or central government.<sup>88</sup>

2. The act empowers every citizen to;

-ask any questions from the public authority or seek any information

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<sup>88</sup> see sec 2[a] and [h] of RTI Act,2005

-take copies of any documents under the control of the public authority

-inspect any documents of the public authority

-inspect any work of the public authority

Take samples of materials of any work of the public authority.

3. In each department [public authority], at least one officer should be designated as a public information officer/the officer should accept the request forms from any citizen, without asking for reasons, and he has to provide the information sought by the citizen.<sup>89</sup>

4. In each subdistrict /divisional level. the public authority has to appoint assistant public information officers, who shall receive requests for the information and appeal against the decisions of the public information officers, and then send them to the appropriate authority.<sup>90</sup>

5. Any person seeking information should file an application in writing or through an electronic medium in English or hindi [or in the official languages of the area] along with the application fees with the public information officer or assistant public information officer.<sup>91</sup>

6. Where a request cannot be made in writing, the public information officer is supposed to render all reasonable assistance to the person making the request orally to reduce writing.<sup>92</sup>

7. Where the applicant is deaf, blind, or otherwise impaired, the public authority is supposed to provide assistance to enable access to the information, including providing such assistance, as may be appropriate for the inspection.<sup>93</sup>

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<sup>89</sup> see sec 5[1] of the RTI Act 2005

<sup>90</sup> see sec 5[2] of the RTI Act, 2005

<sup>91</sup> see sec 6[1] of the RTI Act, 2005

<sup>92</sup> see sec 6[1] of the RTI Act, 2005

<sup>93</sup> see sec 7[4] of the RTI Act, 2005

8. Besides the applicants' contact details, the applicant is not required to either give any reasons for requesting the information or any other personal details.<sup>94</sup>

9. A reasonable applicable fee [Rs.10, as prescribed by the central government, whereas in states, fee amount may vary] will be charged for each application and supply of information. However, no fee is chargeable from persons below the poverty line, or if the information is provided after the prescribed period.<sup>95</sup>

10. A fee will be charged for obtaining the documents. The central government has prescribed a fee of Rs 2 for each page created and copied. It may vary in the state. If the information is not provided in the stipulated time limit required, the information will be provided free of cost.<sup>96</sup>

11. If the public information officer feels that the sought information does not pertain to his department, it shall be his responsibility to forward the application to the related/relevant department within five days and inform the applicant about it. In such instances, the stipulated time limit for the provision of information would be 35 days.<sup>97</sup>

12. Where the information is related to the third party, ten additional days will be given. The public information officer is duty-bound to notify the concerned person to whom the information is related. The public information officer also has to inform the applicant.

13. If the PIO does not furnish information within the prescribed period or unreasonably troubles the applicant, then the applicant can file a complaint against him with the appropriate information commission.

14. In case a PIO without any reasonable cause fails to receive an application for information, mala-fidely denies a request for information, or knowingly gives incorrect, incomplete, or misleading information, or ask for high fees for furnishing the information, the applicant can file a direct complaint to the central or the state information commission.

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<sup>94</sup> see sec 6[2] of RTI Act, 2005

<sup>95</sup> see sec 7[5] and 6 of the RTI act 2005

<sup>96</sup> See sec 7[6] of the RTI act.

<sup>97</sup> See sec 6[3] of the RTI act.

15. The PIO can deny information where required information is exempted from disclosure, as listed in section 8 of the act.

16. If the sought information is not of public interest, then the exemptions enumerated in sec 8 can also be disclosed.

17. An aggrieved person may file a complaint before the information commission as per the procedure prescribed in Sec 18 for not implementing the act.

18. If a person fails to get a response from the PIO within the prescribed period or is aggrieved by the response received or misuses sec 8 of the act. He or she has 30 days to initiate an appeal with an officer of higher rank than the PIO, who has been designated by the public authority as the first appellate authority.<sup>98</sup>

19. If the appellant is not satisfied with the decision of the first appellate authority, he can file a second appeal before the information commission [state/central] within 90 days.<sup>99</sup>

20. If the PIO fails to furnish the information asked for under the Act or fails to communicate the rejection order within the time specified, the PIO may be liable to pay a penalty of Rs 250 per day for each day of delay, subject to a maximum of Rs25,000. IC can also recommend disciplinary action against the concerned PIO under the service rules applicable to him. See sec 20 of RTI act.

21. The act has an overriding effect over the other statutes

The features mentioned above are sufficient to indicate that the current RTI Act 2005 has all the essential elements necessary for sound access to information law. Now it is on the citizens and the administration to ensure that the Act is used responsibly by various stakeholders.

### **RTI ACT AND JUDICIARY**- *Some recent cases*

In *Andhra Pradesh v. Canara Bank*,<sup>100</sup> held that, The right to information is not absolute. It is a part of the right to freedom of speech and expression. Section 8(1)(i) of the RTI Act balances the right to privacy and

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<sup>98</sup> See section 19[1] of the RTI Act for more information.

<sup>99</sup> See sec19[3] of the RTI act.

<sup>100</sup> (2005) 1 SCC 496.

information. It recognizes that both rights are essential and require protection. In case of conflict between two rights, the test of overriding public interest is applied to decide whether information should be withheld or disclosed.

In *C.P.I.O., Supreme Court of India v. Subhash Chandra Agarwal*,<sup>101</sup> held that, When someone is arrested, their privacy rights are protected under section 8(1)(j) of the RTI Act. However, because the public interest element seeps through that provision, this isn't always the case. When a member of the public demands personal information about a public worker, such as asset declarations, a difference must be made between personal data that is intrinsic to the position and personal data that is not and so affects only his or her private life. This balancing act appears simple on the surface, but it is not so in actuality due to the conflict's dynamics. If public access to the personal data containing details, like photographs of public servants, personal particulars is requested, the balancing exercise, necessary dependent and evolving on a case by case basis, would consider many factors that would require examination regarding circumstances of each case.

In "*Khanapuram Gandaiah v. Administrative Officer and Ors*",<sup>102</sup>. The definition of information within the meaning of section 6 of the right to information Act of 2005 shows that an applicant can get any information already in existence and accessible to the public Authority under the law. Under the Act, an applicant is entitled to get a copy of the opinions, advice, circulars, orders, etc., that have been passed, especially in matters of judicial decisions. A judge speaks through his judgments or orders passed by him. Suppose any party feels aggrieved by the order and or judgment passed by a judge. In that circumstances, the only recourse accessible to such a person is to file an appeal, a revision, or any other legally permitted mode of challenge. No litigant is permitted to inquire as to why and for what reasons the judge reached a certain decision or result. A judge is not obligated to explain why he reached a particular conclusion afterwards.

In the decision reported in *G.R.Deshpande v. Cen. Information Commissioner*,<sup>103</sup> According to the Supreme Court, an employee's/performance officer's job is primarily a matter between the employee and the employer, and those aspects are typically governed by service rules that fall under personal expression information, the disclosure of which has no connection to any public activity or public interest. On the other hand, its revelation would constitute an unjustified breach of that person's privacy. Of course, if the central public information officer or the state public information officer of the appellate authority determines that

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<sup>101</sup> (2009) CLT 481

<sup>102</sup> AIR 2010 SC 615

<sup>103</sup> 2012 (8) MLJ 122



the greater public interest justifies the revelation of such material in a specific instance, appropriate orders could be passed. Those information, however, are not available to the petitioner on a first-come, first-served basis. In this case, the petitioner has not established a genuine public interest in obtaining information. The publication of such information would constitute an unjustified breach of the individual's privacy under section 8(1)(j) of the RTI Act.

**Namita Sharma v. UOI**<sup>104</sup>, was decided by the Supreme Court of India. In this case, the constitutionality of provisions 12(5)<sup>105</sup>, 12(6), 15(5)<sup>106</sup>, and 15(6) of the Right to Information Act, 2005 was debated. The eligibility qualifications for appointment to the positions of Chief Information Commissioner and Central Information Commissioners are addressed in Sections 12(5) and 12(6). The commissioning of the State Chief Information Commissioner and State Information Commissioners is dealt with under Sections 15(5) and 15(6)<sup>107</sup>. Members of the State and Central Information Commissions should be people of eminence in public life with extensive knowledge and experience in law, science, and technology, social service, management, journalism, mass media, or administration and governance according to Section 12(5),15(5), Sec12(5) of The R.T.I. Act,2005. The Chief Information Commissioners shall be persons of eminence in public life with broad knowledge and experience in Law, science and technology, social service, management, journalism, mass media, or administration and governance.

The Act gives the Information Commission criminal powers, including the ability to levy penalties and conduct investigations. The Commissions are mandated by the Act to resolve conflicts between parties by striking a balance between the right to privacy and the right to knowledge. As a result, Information Commissions have adjudicatory rather than merely administrative functions. This necessitates judicial tasks such as hearing a disagreement between two parties, assessing the parties' arguments, and issuing a ruling in

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<sup>104</sup> (2013) 1 SCC 745

<sup>105</sup> Sec12(6) of The R.T.I. Act, 2005- The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any state or Union territory, as the case may be or hold any other office of profit or connected with any political party or carrying on any profession

<sup>106</sup> Sec15(5) of The R.T.I. Act, 2005- The State Chief Information Commissioner and The State Information Commissioners shall be persons in public life with broad knowledge and experience in Law, science and technology, social service, management, journalism, mass media, or administration and governance.

<sup>107</sup> Sec.15(6) of The R.T.I.Act,2005- A State Chief Information Commissioner or a State Information Commissioner may not be a Member of Parliament or a Member of the Legislature of any State or Union territory, as the case may be, or hold any other profit-making office, be affiliated with any political party, or engage in any business or profession.

accordance with the law. As a result, the Information Commissions are quasi-judicial authorities or tribunals that execute judicial powers. The Supreme Court upheld the constitutional validity of sections 12(5), 12(6),

15(5), and 15(6) by reading them down. The Supreme Court, on the other hand, has stated that the legislature must revise the Act appropriately. The Supreme Court further ordered the Central Government and the competent authorities to draught rules within the six months from the date of the judgment to make the practice and procedure of the Information Commissions following the rule of law. In its decision, the Supreme Court also stated that the Information Commission must follow the rule of precedence when it comes to Supreme Court and High Court decisions, but not when it comes to smaller Information Commission benches. Thus, by this judgment, the Supreme Court of India clearly defined the powers, functions, duties, criteria, rules, and procedure for the appointment of the Commissioners in the Information Commissions. As we all know, the Right to Information Act, 2005 is one of the most potent statutes in the hands of the citizens of India in the fight against Corruption in our governance, so its proper and meaningful implementation has always been a necessity for a more robust democracy. As the former Honorable Chief Justice of India, Justice R.M. Lodha has rightly said that if we can appoint 'GOOD' judges the 'REST' will automatically follow so in the matter of functioning of the Information Commissions under The Right to Information Act, 2005, appointment of able, efficient and impartial Commissioners is a sine qua non. The well-defined mode of functioning of the Commission is another indispensability. As such this landmark judgement of the Honorable Supreme Court of India will surely usher a new era of functioning of the Information Commissions in our country, which will hopefully instill the confidence of the mass people in the Information Commission or, for that matter, on the effectivity of The Right to Information Act, 2005 itself.

Judicial tendencies concerning provides remedies in violation of the right to information. The various cases play an essential role in legislating such an act in India. Various courts interpreted the term "Information" & "Right to Information," "Right to know," & "Right to enjoy freedom" in different judicial cases. The courts in India gave a verdict to create such an environment for the citizens so far as the basic fundamental human right, which is inevitable and inalienable rights of individuals as per the right to information. The Indian courts held that the Right to Information is a fundamental human right and basic legal right. The repute and image of the Indian judiciary would elevate further in the eyes of our citizens if the right to information Act is implemented by the honorable courts in letter and spirit with relevant exception to protect the independence of the judiciary, which is indeed part of the basic structure of the constitution. Our judiciary, one of the

strongest in the world and enjoys an exalted status above all other pillars of democracy, ought to set a hallmark in implementing the right to information so that other organs of our system may follow suit. The central information commission and various state information commissions are also interpreting and scrutinize each section of this Act and violate any provision of the right to information act, 2005; such commission took necessary action in this regard through imposing fines and disciplinary action. Every aggrieved person must get information through the application under this Act, which is the motto of such Act, for which the commissions follow the procedures and provisions enshrined in the said Act. For the promotion and protection of such Act, the courts and commissions are taken necessary actions, i.e., publications, promote awareness, safeguard individual rights, etc.

### **IMPLEMENTATION OF THE RIGHT TO INFORMATION ACT**

Corruption, favoritism, and nepotism are mainly considered as the result of secrecy. Many of the well-planned programs, schemes, and policies of economic development and social upliftment are made. However, in the absence of any genuine and timely information, ordinary people remain far from benefiting. Before enacting this Act, secrecy and confidentiality existed in the government machinery. The government's policy was to keep the entire matter secret and away from the public to preserve their supremacy over them. The Right to Information Act has only strived to improve transparency, openness, and accountability in the activities of all public organizations since its introduction in 2005. This Act is considered a landmark and exceptional legislation for numerous reasons. The most significant of these is that it recognizes the country's ordinary people's right to access information. It set out a deadline for the execution of such rights available to the country's ordinary people. It made every public authority liable to publish detailed information relating to the organization and its policy. As a result, it can easily be seen that there has been an essential change in the governance from secrecy to openness and the concept of secrecy almost came to an end. The country's ordinary people are legally entitled and empowered in seeking any information from the public authorities until the required information comes within the exempted category. The moment RTI Act, 2005 came into force, the sense of accountability, responsibility, and openness in government increased. On the one hand, merely enacting any legislation on any subject may not be sufficient unless and until the country's ordinary people are cautious, vigilant, observant, and assertive relating to their legal rights. On the other hand, the public functionaries are approachable, responsive, receptive, quick to respond, and cooperative in providing the required information. To ensure the implementation of the Right to Information Act effectively, it is very much essential that the provisions of this Act must be reached to and empower the ordinary people, including

the poor. It essentially requires the people's participation in the smooth functioning of the governance and the government's accountability towards the people for transparency in the entire system.

The main objectives of the law on 'right to information' is to operationalize the fundamental right to information to set up systems and mechanisms to people for having easy access to information, to promote transparency and accountability in governance, to minimize corruption and inefficiency in public offices and to enable people's enthusiastic participation in governing polity of the country. The scope and ambit of the Act are much more comprehensive. The Act shakes off the monopolization of information by few and sets transparency, which promotes accountability. The act proposes to transform the Indian 'mass of citizens' into the informed class of citizenry. The intent and spirit of the act is the free flow of information, which leads to the formation of wise citizens and a knowledge society. The right to information is an effective and landmark Act that has changed the citizen's relationship with the state. This Act was enacted to ensure smoother, more significant, and more effective access to information and provide a practical framework for effectuating the right to information recognized under Article 19 of the constitution. The architecture for accessing information through RTI is simple, timebound, and inexpensive. An analysis on the provision of the right to information is necessary in order to ensure whether the ordinary people of the country are aware of the same provisions or not, simultaneously to make sure whether the provisions of the Act promotes transparency, accountability, and suitable governance mechanism in India as well the grounds that restrict the information provider in providing the desired information sought by the public.

The Right to Information Act was legislated and approved with pride by the UPA (United Progressive Alliance) government in 2005. They presented the Act as a watershed moment in India's democratic transformation since independence. It is more than 15 years since the RTI was passed; the performance on the implementation front is far from perfect. As a result, the impact on the attitude, mindset, and behavior patterns of the public authorities and people are not as expected. Most of the citizens are still not aware of their newly acquired power. A significant number of those who are aware either do not know how to access it or lacks the guts to invoke the RTI guaranteed under the Act. The benefits of this Act could be multiplied if the government, NGOs, and other enlightened and empowered citizens provided a bit more stimulus.

RTI will aid not only in the fight against corruption in government, but also in the fight against poverty, two of India's most heinous ills. India has traditionally prided itself on being the world's largest democracy, but it has also become a responsible, interactive, and participatory democracy since the passage of the Right

to Information Act in 2005. This right has elevated the Indian citizen to a position where he may assess administrative choices and actions and ensure that the government protects and promotes his interests. For Indian democracy, the Right to Information Act is a watershed moment. The citizens of India have never been more empowered than they are now as a result of this Act. He can now question, evaluate, audit, access, and study government acts and decisions to verify that they are in line with good governance, public interest, and justice principles. This act encourages transparency and accountability in administration by making the government more open to public scrutiny. Prior to this Act, government accountability was almost non-existent. People who voted for democratically elected governments and paid taxes to fund public activities had no legal right to know what process was used in framing policies that affected them, how the programs were implemented, who was involved in the decision-making process and execution of the schemes, and why the promises made for them were not kept. Not unexpectedly, from colonial control to the first six decades of independence, a culture of concealment fueled endemic corruption. Inefficiency was generated by a lack of openness and accountability in government operations, which perpetuated all forms of poverty, including nutrition, health, and education. People in general, civil society groups and non-governmental organizations (NGOs) in particular, demanded greater access to information held by public bodies, which the Government agreed to in 2005, in order to correct deficiencies in the mechanism that denied entitlements to the intended beneficiaries. Information can assist poor communities to fight their situation and balance the power imbalance amongst marginalized groups. Inefficiency was generated by a lack of openness and accountability in government operations, which perpetuated all forms of poverty, including nutrition, health, and education. x, as well as their governments.

### **Impact of RTI in Rural India:**

The greater the citizen's access to information, the greater the government's responsiveness towards its people. It is a non-deniable fact that the rural people are less aware of knowing and exercising their rights, resulting in a growing corruption rate of public works in the rural area. At this juncture, a tool like RTI can make a path-breaking impact in combating corruption and giving the people their share of interest, which the Government ensures them. The most essential aspect that sets the Right to Information apart from other rights is that it is strongly entrenched in the struggles and concerns for justice and survival of the poorest rural people. The Act encourages rural people to question the status of numerous welfare initiatives, resulting in a good change in Rajasthan, Uttar Pradesh, Bihar, Jharkhand, Madhya Pradesh, Karnataka, Assam, and

Maharashtra's most backward areas. Let us look at some examples of how the RTI has been used to promote good governance in India.

1. Rajasthan- In the village of Devdungri in Rajasthan, the first notable effort to combat corruption by gaining access to public information began. Because of their illiteracy, Aruna Roy, an IAS official who left her work to help the villagers, says they are frequently deceived in their wages. Aruna Roy, Nikhil Dey, and Shankar Singh created the Mazdoor Kisan Shakti Sangathan in 1987 after observing the plight of the rural people (MKSS). For years, the inhabitants in that area have been routinely victims of state-sanctioned acts of corruption such as extortion, nepotism, and arbitrariness. Nonetheless, they have largely been quiet suffering, mired in despair and pessimism.<sup>108</sup> MKSS launched a new phase in 1994, breaking new territory with experiments combatting corruption using the 'Jan Sunwais' or public hearings methodology. Despite its local nature, this movement had statewide repercussions, shaking the very underpinnings of the state bureaucracy's conventional monopoly, arbitrariness, and corruption.<sup>109</sup> It was because of this RTI Act that made access to official records available which helped in organizing the Jan Sunwasi.

2. Delhi- Hunger, malnutrition, and occasional starvation deaths in the rural areas of our country are significant causes of concern. In order to ensure food security and to maintain the appropriate nutritional level among the citizens, the Government has put in place the Public Distribution System (PDS), which is supposed to make available the monthly rations to the people at a subsidized rate to the below poverty line (BPL) and the poorest of the poor section of the population. Nevertheless, due to the existence of unholy nexus between the licensees of the fair price shops (FPS) and the officers of the food supply department, a substantial portion of the money is siphoned off through black marketing whole PDS system is in shambles.<sup>110</sup> But, the fact that the use of RTI can change the whole PDS system was proved by the people of Sunder Nagri area of Delhi. The information gathered through RTI showed the massive corruption in the system, and immediate action was taken.

3. Uttar Pradesh- In a Pre-Middle School in Panchampur village, situated 70 kilometers away from the District Headquarters of Banda, Uttar Pradesh, a teacher was appointed for the school. However, the teacher was absent most of the time. The workers and volunteers from the Delhi-based organizations like Kabir and

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<sup>108</sup> Supranote26

<sup>109</sup> Ibid

<sup>110</sup> Pradeep Baisakh, Right To Information and Rural Development, (24/08/2016, 12.09 pm), <http://pradeepbaisakh.blogspot.in/2009/02/right-to-informationand-rural.html>

Parivartan, along with the local workers from the Chingari Sangathan under the 'Action Research Villages' Campaign, propagated the Right to Information. Finally, the villagers witnessed a ray of hope when they learned that they could question the Government and ask for information related to the attendance records, leave records, and medical records of the absconding village school teacher.

4. Punjab- The life of a spy is perilous as it consists of risk at every point. Moreover, no one knows better than Kishori Lal Sharma, alias Amarik Singh, alias Saleem, who spied for India in Pakistan. He put his life in danger, relying on the Indian Military Intelligence (IMI), who promised him that they would help him and his family as and when needed. He was expecting a warm welcome after his release from Pakistani prison on September 18, 1974, yet no one turned up at the border to receive him. Even the IMI refused to recognize him, which is a common tendency in the intelligence system of any country. However, the state government assured that it would provide financial aid for people like Sharma. He fought for a long time, yet nothing materialized. In September 2005, he filed an RTI application regarding this matter. When this case came to light, over 50 other complaints were also received about the malpractices in the District Commissioner office, Police department, Income Tax department, Chief Secretary, Punjab, and many other departments. This single complaint led the way to expose central corrupt practices in the Government departments of the State.

5. Assam- Krishak Mukti Sangram Samiti (KMSS) is a well-known Assamese group founded by RTI activist Akhil Gogoi. The organization works on a variety of issues, including public distribution system corruption, non-implementation of the National Rural Employment Guarantee Scheme (NREGA), land rights, government, and corporate corruption, and the construction of large dams in seismically vulnerable areas of North East India, among others. The Krishak Mukti Sangram Samiti's most well-known work was in 2007 when they filed an RTI application that showed discrepancies in the distribution of food to persons living in poverty. Corruption claims were investigated, and numerous high-ranking government officials were arrested. Because of their corrupt conduct, they are still under suspension.

However, the road to acquiring the information remains difficult more than five years after Parliament passed the Act in June 2005. The impact of RTI on the system and its personnel have been both tangible and intangible. RTI has been used to obtain ration cards, passports, pension funds, birth certificates, and income tax refunds, among other things. Several high-ranking government officials were detained after allegations of corruption were examined. They are still under suspension as a result of their corrupt behavior. The Right to Information Act (RTI Act) is one of the most populist pieces of legislation ever passed. Thousands of

people have benefited from it. However, more than five years after Parliament passed the Act in June 2005, obtaining the information remained challenging. RTI has had a concrete and intangible impact on the system and its workers. RTI has been used to get, among other things, ration cards, passports, pension funds, birth certificates, and income tax refunds. RTI has been used by people as young as nine years old and as old as ninety years old to get their job completed. People living in poverty, the crippled, and the blind have all benefited from it. RTI has helped to prevent large-scale fraud. For example, after RTI revealed that shops and food grain officers diverted 87 percent of wheat and 94 percent of rice meant for the poor, steps were taken to streamline the system. In 2007, citizens used RTI data to investigate elected officials in the Crawford Market redevelopment concerns in Mumbai, which resulted in a scandal of over Rs. 6,000 crores.

The Right to Information Act (RTI Act) has been incorporated in the National Rural Employment Guarantee Act (NREGA). To expedite NREGA, RTI has been used wisely. As a result, RTI has a real-world impact. People do have a sense of being more in control. Their negotiating influence with government officials has multiplied. Governance has become more transparent as a result of the right to information. The records of all levels of government, including the Centre, states, and local authorities, including village-level panchayats, have been made public through publications and the internet in regional languages. Annually, the number of RTI applications has climbed by eight to tenfold. States that passed the RTI Act before 2005 had a superior implementation rate. This implies that its adoption and utilization will accelerate over time. The impact involves changes in people's mindsets and attitudes, as well as utilization by the general public and marginalized groups. On the other hand, there have been cases where information seekers were bullied, threatened, and charged exorbitant sums in order to gain information. When a social activist in Bihar made a straightforward RTI request for information on food grain distribution and kerosene under the Public Distribution System (PDS), the supply officer demanded Rs. 78,21,252 for supplying the information. In Bihar, a man was even imprisoned after seeking information from a district magistrate. Ordinary persons are afraid of physical reprisal if they use RTI against powerful people. As a result, only powerful NGOs with a well-established name and broad public backing, or politicians with opposing muscular power, can attempt this, not ordinary civilians, no matter how patriotic or public-minded they may be. Ordinary citizens lack the guts to come into a police station and demand factual information about detention, custody duration, required papers, and so on. There have been countless examples of torture and harassment directed at persons who attempt to use RTI. RTI's spirit is ruined as a result of this.



The Right to Information Act had raised high hopes that it would reduce corruption to a considerable extent. There is no denying that the Act has brought in successful results in matters of civic action such as roads, sanitation, streetlights, and information on utilization of MP and MLA funds. It has also highlighted scams worth millions, from ensuring attendance of sweepers in cities to identifying lost postal orders. Today getting access to answer scripts, selection, and recruitment procedures are only made possible through this Act. The establishment of the Central Information Commission providing for an institutional framework ensuring transparency is engaged in the implementation of the right to information. However, its misuse has also not gone unnoticed. There are instances where the Act's provisions are misused as information is demanded for petty matters that halts government functioning or causes wastage of time and money. The veil of secrecy still exists in the governance of the country. The Official Secrets Act, 1923 has not been formally repealed, although the Right to Information Act has an overriding effect on the Act. The Evidence Act, 1872, also gives unbridled power to the bureaucrats to continue with the disclosure policy.

Government to carry out its constitutional obligation of promoting and protecting the socio-economic interest of every citizen, implements development projects, poverty alleviation programs, and various welfare schemes from time to time. Information relating to these programs is not available to the citizens. Lack of accountability and transparency in such policies leaves doubts in the minds of the public. Even when we have structured Panchayati Raj Institutions (PRIs) and the Urban Local Bodies (ULBs) to carry out these functions, these institutions are bypassed most of the time. In the rural areas, even the Gram Panchayat has no access to such information. Denial of such information results in criticism of the government and encourages corrupt activities. The Act is still a tool in the hands of bureaucrats as it gives umbrella protection to the government from disclosure under the garb of exemption. There are ambiguities in the definition of specific terms that the authorities can easily misuse. Moreover, the right only makes the information accessible, but the citizens do not have the power to question the authorities.<sup>111</sup> Any law's fate is determined by the caliber of individuals in charge of enforcing it, the system's sociopolitical culture, and citizens' vigilance and engagement. Looking at the RTI applications that have been filed so far, it is clear that men have filed almost 75% of the applications. It has been employed more by those in positions of power or within the system. Similarly, residents of urban areas have used RTI more frequently. The bulk of RTI requests are for personal reasons or benefits related to service issues. The majority of the submissions are submitted by the same individuals.

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<sup>111</sup> Supra note 83

When authorities are asked for benign information, they respond more positively. Nonetheless, when information is provided with the intent of exposing some wrongdoing,

### **RIGHT TO INFORMATION AMENDMENT ACT 2019**

Despite protests over some of the updated Act's problematic provisions, the President gave his assent to the Right to Information (Amendment) Act, 2019. The purpose of this Act is to empower the Center to decide on the Information Commission's and State Information Commission's tenure, pay, allowance, and other provisions. Giving the Center these powers jeopardizes the Act's core purpose: to ensure the government's integrity and transparency. We all know that the right to information's practical regime was for citizens to have access to information under the government's jurisdiction. Its purpose was to ensure that every government agency's operations were transparent and accountable. In this part, I am trying to look into the changes brought by way of amendment.

### **What are the changes made in the Right to Information (Amendment) Act, 2019?**

**The duration of the office:** According to the RTI Act of 2005, the Chief Information Commissioner (at the federal and state levels) can serve for a maximum of five years. The modified Act removes this provision and requires the Union's government to notify the Chief Information Commissioner and Information Commissioners of their terms of office. Right to Information (Amendment) Act, 2019 (78 Id.)

**Quantum of salaries:** According to the Right to Information Act of 2005, the Chief Information Commissioner and Information Commissioner (at the national level) should be equal to the salaries of the Chief Election Commissioner and Election Commissioners, respectively. The updated Act removes specific phrases and states that the Central Government would evaluate the Chief Information Commissioner's pay, benefits, and other terms and conditions and those of the Central and State Information Commissioners.

**•Salary deductions:** According to the 2005 Act, their income will be reduced by an amount equal to the pension at the time the Chief Information Commissioner and Information Commissioners are selected (at the federal and state levels), regardless of whether they receive pensions or other retirement benefits for previous government service. This section was removed from the amended Act of 2019.

The government's justification for these amendments was · When the right to information was passed in 2005, it had ignoramus technical flaws. These amendments will help in the reduction of those flaws. ·

The Chief Information Commissioner has been given a supreme court judge; however, the information commission's decision can be challenged in high courts. The central, as well as the State Information Commissions, are meant to play diverse functions. It was also thought to be a fault in the software. The Central Information Commission and State Information Commissions are statutory bodies established under the 2005 RTI Act, and the Indian election commission is a legislative entity. To remedy these inconsistencies, the RTI Act of 2005 has been amended. It is also believed that these adjustments will enhance the overall RTI system.

### **Criticisms against this Amendment**

**Threats idea of federalism:** It empowers the Center to determine the appointment, salaries, allowances, and other terms of service of information commissioners, both at the level of the Center and the level of the department arbitrarily. That intentionally opposes the principle of federalism. This amendment put a question mark on the federal autonomy as the Act allows the Center to fix the salaries and terms of the state information commissioner.

- Constrains the autonomy of the Information Commission: it also diminishes the status of the Chief Information Commissioner, Information Commissioners and State Chief Information Commissioner's from that of the Supreme Court Judge and restricts their right to give orders to senior government officials, thus weakening the Right to information's fundamental concept. Such reforms could "destroy the Right to Information Act" and are an "affront to federalism, good government and, fundamentally, democracy" It would also meaninglessly make a free expression.

- The Chief Information Commissioner has been given a supreme court judge; however, the information commission's decision can be challenged in high courts. The Indian Election Commission, as well as the Central and State Information Commissions, are intended to serve a variety of purposes. The Central Information Commission and State Information Commissions are statutory bodies established under the 2005 RTI Act, and the Indian election commission is a legislative entity. To remedy these inconsistencies, the RTI Act of 2005 has been amended. It is also believed that these adjustments will enhance the overall RTI system.

**Autonomy at issue:** The amendments will allow the Center to decide the terms, remuneration, and payment of information commissioners at both the federal and state levels. The integrity of the Commission is critical to its smooth operation, and the modifications take away exactly that. The Commission's freedom

is limited due to these reforms, as it can only act as a Central Government Agency. A statutory term of appointment, for example, provides employment security. However, if the Information Commissioner is required to serve within the terms of the government, the institution's autonomy is jeopardized.

- No public consultation: The Reform Bill was introduced to Parliament without consultation with the people. That is a significant issue in a democratic world since it goes against the wishes of the people.

### **POSITIVE EFFECT OF THE RTI ACT**

The RTI Act started as a slight social justice movement in a village in Rajasthan. It became a nationwide campaign for legislation,<sup>112</sup>"empowers Indian citizens to seek any accessible information from a public authority and makes the government and its functionaries more accountable and responsible".<sup>113</sup>Over two million requests for information were filed under the Act less than two and a half years after it was enacted in 2005, demonstrating the considerable interest in the legislation and its potential to increase the political influence of the excluded community. In the last ten years, the RTI Act has primarily been used to obtain information on various subjects, such as development programs, anti-poverty measures, and public projects, to expose corruption and assert rights.

As it is considered that the enactment of the Right to Information Act, 2005 is a praiseworthy step, which covers the public sector and non-governmental organizations and the private sector also up to a certain extent (public interest override). It is possibly one of the most challenging legislations in the world which imposes a penalty on the erring Public Information Officers. Approximately fifteen years after its execution, it can be said that the response to the RTI Act has been reasonably positive. The ordinary people of India are now gradually realizing the significance of the power of information and started using their rights in progressive numbers; public authorities are also becoming aware of their responsibility for furnishing the information. The execution of this Act has taken place in the whole nation. However, the pace and growth of execution vary from state to state. This Act has brought a 'drastic' change in the government and bureaucracy functions. Now the era of closed, secretive, inaccessible, hidden, inward-oriented administration came to an end. Gradually but progressively, the various government departments are being trained to execute the provisions

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<sup>112</sup> R Jenkins and AM Goetz, "Accounts and Accountability: Theoretical Implications of the Right-to-Information Movement in India," *Third World Quarterly* 20, no. 3 (1999).

<sup>113</sup> Pricewaterhouse Coopers, "Final Report: Understanding the Key Issues and Constraints in Implementing the Rti Act," (New Delhi: Department of Personnel and Training, 2009).

of the Act. The last ten years' experience has shown that different social strata are invoking this Act for various reasons.

In most cases, this Act has proved pretty successful in preventing the irresponsible behavior of administrators, indulging in political and administrative corruption—many of the citizens having a solid zeal to fight against the corruption remedy the RTI Act. Most of them have successfully defended their civil liberties, provided the Public Information Officers concerned have acted responsibly. Specific roadblocks are found in a weak position for the smooth operation of the Act, and these have to be amended to bring pervasive transparency in administration.

### **CONCLUSION**

The introduction of the RTI Act, 2005, is a laudable move forward. The Act, to some degree, protects not only the public sector but also the NGOs and the private sector. Beyond this, it has many other beneficial aspects, such as First and Second Appellate Authorities. It is also one of the most rigid laws in the country since it is the only RTI Act that carries fines on any violation of the rule. The reaction to this Act has been very positive after nearly fifteen years since its introduction, and it has received a huge and warm welcome from the people. People realize the importance of intellectual strength in their pockets. That is why each section's people were searching for information from the different authorities. Local authorities and officers in public information are becoming even more mindful of their duties. For every person engaged in the operation of the law, it has been a learning experience. However, pure right conferment is not enough. Various apprehensions have been raised, such as abuse of the Act, blackmailing officials, and pressure on the government exchequer. In addition, other procedural impediments have been found in the successful application of the Act, such as the non-designation of RTI functionaries in many organizations. Often, many public bodies, especially at the district level, do not show on their notice boards the names and information of PIOs, making it difficult for the public to know where to send the application. Moreover, too young officers are also named PIOs who are unable to gather departmental details.

Above all, while only PIOs can be penalized under the Act, they are not equipped with sufficient resources to perform their obligations and duties. The right to information will be strengthened rather than reduced to the government's benefit. In truth, it is, according to the decision of the SC, an integral part of the right to

freedom of speech and expression under Article 19 of the Indian Constitution. This revised Act has to be updated to bring on the government's integrity and responsibility because that is, in the first place, the very object of this Act. Both state bodies have to digitize their documents so that they are in the public domain, and the people do not need to officially seek information from the government. There needs to be visibility such that all human people are informed about the workings of the government and its effect on their lives. It is the public's responsibility to protect democracy at large. Hence, for it to be safe and stable, they should be active in political action. All must regularly use the RTI Act for the common good.

To ensure social justice, accountability, and holding the government responsible for its acts, the RTI Act was introduced. This legislation does have other weaknesses and disadvantages, in any case. Steps must be taken to improve the RTI Act, as it plays a vital role in Indian democracy. The RTI Act, 2005 has also provided a remedy for facilitating the exercise of the RTI, and the reason for the remedy is also indicated in the preamble to the Act. The court held that such an Act must receive a purposive interpretation [direction in *Heydon's case*<sup>114</sup> followed by the SC in *Bengal immunity co. Ltd v, state of Bihar*,<sup>115</sup> looking into the purpose of the Act, so any interpretation which frustrates the purpose of the right to information Act must be eschewed. Following the wheel known canon of construction, the SC interprets the expression public authority under sec 2[h][d][i] liberally, so that the authorities like the appellant who are controlled and substantially financed, directly or indirectly, by the government, come within the purview of the RTI Act .in concluding, the SC referred to the preamble of the RTI Act which necessitates a construction which will hopefully clean our democratic polity of the corrosive effect of corruption and infuse transparency in its activities[*Associated indent mechanical p ltd v WB Small industries development corporation ltd*]<sup>116</sup>The RTI Act in India is currently going through a critical phase, and much more has to be done to help it grow and thrive. Protesting against the legislation's lack of execution is insufficient; instead, one must support this initiative in order for the law to develop and evolve.

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<sup>114</sup> [1584] 3 co Rep 7

<sup>115</sup> AIR 1955 SC 661;[1955] 2 SCR 603]

<sup>116</sup> AIR 2007 SC 788 [2007 [1] SCALE 111 ;[2007] 3 SCC 07

**CHAPTER 4**  
***CORRUPTION IN INDIA AND MEASURES TO TACKLE IT***

**INTRODUCTION**

Corruption is a long-standing issue that has become a global concern that poses a severe threat to a country's and its people's growth. It is a global threat that destroys nations and paralyzes government administration. In a democracy, every government employee must disclose information about the expenditures they make on behalf of taxpayers and the decisions they make for the people's welfare. The absence of such accountability leads to abuse of authority and widespread corruption, impeding the nation's growth and progress. Another barrier to stopping such unethical acts is the ineffective execution of anti-corruption legislation.

To a great extent, the enforcement of the laws lies with the bureaucrats who use them conveniently to their advantage. Most civil servants work under political leaders and remain loyal to them until they are in power. This loyalty shifts with the shift in the ruling government, leading to a never-ending cycle of unbridled corruption. This insidious plague called corruption is found in all countries - big and small, rich and poor undermining democracy and the rule of law. Corruption disproportionately harms the poor by diverting development funds, diminishing a government's ability to provide essential services, fueling inequality and injustice, and discouraging foreign help and investment. It is a significant contributor to economic underperformance and a significant impediment to poverty alleviation and development.

Every year, since the passage of the United Nations Convention against Corruption on 31 October 2003, 9th December is observed as International Anti-Corruption Day to facilitate and support international cooperation and technical assistance in preventing and fighting against corruption. Transparency

International, an international non-governmental organization that works against corruption, has placed India in the 80th position in the global corruption perception index in 2019 and it slipped to 86th in 2020. It reflects India's dominant position as a corrupt nation. The existing governmental machinery across the states and central governments has not been able to inspire confidence among the people of India as far as eliminating corruption is concerned. In order to wriggle out the corruption that has been spreading in India like a disease and to ensure a corruption-free society, umpteen attempts have been taken up by the government of India in the form of legislation and establishment of institutions to tackle the menace of corruption. However, little progress has been achieved in this sphere so far.<sup>117</sup>

Corruption has repeatedly been cited as India's greatest development impediment. Corruption has grown ingrained in the culture, and it is expected to be a part of each transaction. In the past, people paid a bribe or an additional fee to get an illegal benefit, but now public servants have to be bribed even for a legitimate demand or for services citizens are entitled to.<sup>118</sup> Several government commissions have noted corruption as being systematic in India because of the concentration of power among bureaucrats and politicians, "who flourished on the basis of mutual dependence and institutional abuse of power structures". Many trace the growth of corruption to its colonial roots. They believe that the culture of secrecy in governance, which began during the British rule and continues now, has perpetuated corruption, where a large amount of public money is diverted from development projects and welfare schemes for private use by the authorities.<sup>119</sup> Highlighting the prevalence of corruption and its impact on development, former Prime Minister Rajiv Gandhi estimated that for every rupee spent on anti-poverty programs by the government, only 15 percent went to intended beneficiaries,<sup>120</sup> where the remaining 40 percent was spent on administrative costs and nearly 45 percent "disappeared into the corruption column".<sup>121</sup> Hence, it comes to an as little surprise that India is ranked 86 among 180 countries in the Corruption Perception Index,<sup>122</sup> In India, the continuing existence of corruption has been attributed to the weak system of governance, the societal structure based on caste and kinship, the differences in the stages of development, nepotism, society's tolerance of amassing of wealth as it is viewed as a "symbol of competence," which measures the perceived level of public-sector corruption around the

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<sup>117</sup> Supra note 83

<sup>118</sup> N Vittal, *Corruption in India: The Roadblock to National Prosperity* (New Delhi: Academic Foundation, 2003).

<sup>119</sup> MM Ansari, "Impact of Right to Information on Development: A Perspective on India's Recent Experiences" (paper presented at the UNESCO Lecture, Paris, May 15, 2008).

<sup>120</sup> CR Kumar, "Corruption and Human Rights: Promoting Transparency in Governance and the Fundamental Right to Corruption-Free Service in India," 17 *Columbia Journal of Asian Law* [2003-2004]

<sup>121</sup> Ibid

<sup>122</sup> Transparency International, "Corruption Perceptions Index,"



world.<sup>123</sup> Corruption is also believed to be a result of policy distortion, institutional incentives, and governance. Experts say people are not concerned with corruption on higher levels, instead of worry about corruption "at the cutting edge level of administration", which they experience daily. Detailed empirical research in 2007-08, focusing on 22,728 households living Below the Poverty Line (BPL), found that they paid about Rs 9,000 million (approx US\$ 192 million) in bribes to access basic and need-based public services.<sup>124</sup> This survey, one of the largest undertaken in India, found the police to be the most corrupt. It also found that in "two-thirds of the instances bribes were paid to an official or staff in the concerned service," where one-third of the bribes for basic services like getting a new ration card, new connection, new installation, or school admission.<sup>125</sup> A similar study conducted in 2005 on 14,405 respondents found that citizens had paid bribes to the tune of Rs 21,068 crores (approx US\$ 4517 million) to avail public services.<sup>126</sup> The two studies set up corruption as a major obstacle in governance in India and underline the importance of laws like the RTI Act in facilitating "greater transparency in public spending".<sup>127</sup> Transparency International said in a 2008 research that over 40% of Indians have first-hand experience paying bribes or utilizing contact to get a job done in government.<sup>128</sup> Marshal Clinard and D. Abbot have collected considerable evidence of the prevalence of corruption to a lesser and greater degree in developing countries. They have noted that in the developing countries, politicians and Government employees engage in criminal practices, such as embezzlement or misappropriation of public funds, acceptance of bribes, indirect acquisition of public funds through padded payrolls, illegal employment of relatives, making financial gains by granting favors to business houses, accepting commission on public contracts, issuance of fraudulent licenses or certificates, under-estimated tax valuation, etc. Writing in "Young India" on 29th January 1925, Gandhiji had said: "I hope to demonstrate that real Swaraj will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused." Since corruption is an abuse of public authority, Gandhiji insisted that almost the first task of the national Government in India would be to ensure that authority is used solely to improve the condition of the poor masses but not for their exploitation. In the first place, many of our men in authority, soon after assuming power, forgot that they were there as trustees

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<sup>123</sup> Kumar, The Black Economy of India; D Mehta, Tackling Corruption: An Indian Perspective, United Nations Asia and Far East Institute Seminar (Japan2010) growing consumerism and the practice of the dowry system.

<sup>124</sup> Centre for Media Study Transparency International India, "Tii-Cms India Corruption Study 2007 with Focus on Bpl Households: National Report," (CMS India Transparency International India, 2008).

<sup>125</sup> Ibid

<sup>126</sup> Transparency International India, "India Corruption Study 2005 to Improve Governance," (New Delhi: Centre for Media Studies, 2005).

<sup>127</sup> Ibid

<sup>128</sup> Rajak .J. S, The Right to Information Act: A Vital Tool to Fight against Corruption in India, 2. International Journal of Political Science and Development, 69 [2014]

of the poor masses and turned to promote their private interests. Of course, they continued to profess concern for the poor, but this concern was confined to speeches and slogans. This does not mean that everyone in public authority was a man of this kind, but the point is that the genuine concern for the poor very soon became a rare thing. Secondly, those who abused the public power allied themselves with corrupt but powerful elements in all walks of our national life. This alliance was often open but mostly concealed. Thirdly, corruption became increasingly systematic, even scientific, so that legal accountability was challenging to establish in the event of exposure. Fourthly, corruption in political life encouraged it in official circles; one depended on the other. Fifthly, the limited resources of an already developing country invested in capital work like irrigation, power, communication, transport, and the like did not produce national assets to the expected degree. Many of the works were failures. Nevertheless, while they failed to achieve the purpose they were meant for, they almost always became a source of private profit to individuals or groups of individuals. The programs did not fail in their entirety, and the assets created were by no means in any real relation to the expenditure to them. Sixthly, the process of the General Election has turned into a source of widespread corruption, mostly hidden from the public eye. Donations to political parties, particularly to the party in power and themselves of dubious nature, did not in their entirety reach the party funds. Vast sums of money reached private pockets instead. Seventhly, a hierarchy of corruption was established, where at every stage, a great many people have received and given bribes. Bribes were given on the principle that to gain a great deal, it was not unreasonable to pass on a few gold pills. Eighthly, the economic consequences of this extent of corruption have been just enormous. Some economists should go into this question, but hardly anyone has done that so far. Above all, corruption in the past fifty-nine years of our public life has created a most dangerous cynicism regarding the place of values in public affairs. So that not only have corruption and dishonesty flourished, but most people have come to believe that it is foolish to be honest, and straight in public dealings. Such is the situation of our country. Nowadays, bribery and corruption among public servants and politicians have reached a climax in our society. Corruption has penetrated every sphere of Governmental and political activities. *Mr. Tyler Marshall* threw some light on the extensiveness and intensiveness of the problems of corruption in India in comparison with the Western Countries. He narrated: "Unlike western democracies, where corruption tends to be concentrated towards the top of the hierarchy, in India it has infested not only politics but also virtually every level of society". To speak in one sentence; corruption in public services in India now stands a significant national problem putting a bar on her path of progress. The question arises: What the Government of India is doing to solve this significant problem? Is it that the Government has become a silent observer? Certainly not for steps have already been taken via the adoption

of various anti-corruption measures to fight with. However, one thing to be constantly borne in our mind that what constitutes the Government? Can we imagine a government minus the politicians, the so-called leaders of the nation? In the researcher's opinion, they are the source of power and, at the same time, the source of corruption. They are the leaders of the people and at the same time of those who abet corruption and who adopt it. So, there lies the honest answer. Of course, there are certain defects in the anti-corruption measures, so adopted, but now it is clear that these defects are not solely responsible.<sup>129</sup> Therefore Corruption is an intractable problem. It can only be controlled but cannot be eliminated. It may not be possible to root out corruption completely at all levels, but it is possible to contain it within tolerable limits. Honest and dedicated persons in public life, control over electoral expenses, and candidature could be the most important prescriptions to combat corruption.<sup>130</sup>

### **DEFINITION & MEANING OF CORRUPTION**

Etymologically the word 'corruption' comes from the Latin "corruptus" (to break). It refers to a broken object. Corruption is defined as a pattern of behavior that violates ethics, morality, tradition, law, and civic virtue. According to the World Bank and Transparency International, corruption is defined as using one's public position for unlawful private benefit. However, abuse of power and personal gain can occur in both the public and private domains and often in collusion with individuals from both sectors.

According to Black's Law, Dictionary Corruption means- Illegality, a malicious and fraudulent intention to evade the law's prohibitions. The act of a fiduciary or official who violates duty and others' rights unlawfully and wrongfully utilizes his or her official position or character to obtain some profit for oneself or another person.<sup>131</sup>

As per Transparency International (TI); Corruption is operationally defined as the misuse of entrusted power for private gain or the use of public office for private gain. In other words, an officeholder abusing his or her official position, title, or standing for personal gain. Bribery, fraud, stealing public resources,

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<sup>129</sup> International Herald Tribune, Thursday, August 30, 1979 Bibes, India Bureaucracy Trives on corruption by Tyler Marshall.

<sup>130</sup>K. MADHAVI, Right to Information Act: A Tool To Tackle Corruption "Cancer Of Corruption And The Numbering Millennium", 21[2] ver.7, IOSR Journal Of Humanities And Social Science 13-15 [2016]

<sup>131</sup> Black's Law Dictionary Free Online Legal Dictionary 2nd Ed.

partiality/favoritism, seizure of public assets for private use, and so on are examples of corrupt behavior. Transparency International (TI) distinguishes between corruption that follows the rules and corruption that does not.

According to a General Assembly Resolution, the United Nations Convention Against Corruption (UNCAC) (adopted 9 December 2003, entered into force 14 December 2005), Corruption is an insidious plague with a wide range of destructive impacts on communities. It erodes the quality of life, undermines democracy and the rule of law, leads to human rights violations, distorts markets, and allows organized crime, terrorism, and other dangers to human security to thrive".

The term 'corruption' is difficult to define accurately. The Anti-Corruption Committee, often known as the "Santhanam Committee," defines corruption as follows: - "Corruption, in its broadest sense, refers to the improper or self-serving exercise of power and influence associated with a public office or a particular position in public life."<sup>132</sup>

In India, the Law Commission in its 29th report<sup>133</sup> considered the corruption in public services as a "Socio-Economic Offence" while dealing with the social and economic offenses to recommend as to whether those offenses could be transferred to the Penal Code. Law Commission, in its later report<sup>1</sup>, has very nicely exposed the nature of such socio-economic offenses. In that light, the nature of corruption in public services can be very well discussed. It is not only the individual who, under compulsion, offers the bribe or gratification who becomes the victim of such crime but also the State as a whole. It damages the economy of the nation. The pervasiveness of such crime leads to the moral degradation of society. This crime is committed not emotionally but deliberately and willfully. The Law Commission further continued that scope for corruption is more significant and the incentive to corrupt stronger at those points of the organization where substantive decisions are taken in matters like assessment and collection of taxes, determination of eligibility for obtaining licenses, grant of licenses, ensuring fair utilization of licenses and goods obtained thereunder, giving of contracts, approval of works and acceptance of supplies. In many contracts of construction, purchases, sales, and other regular business on behalf of the Government or undertakings in the public sector,

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<sup>132</sup> Santhanam Committee Report- P. 15

<sup>133</sup> 29th Report of the Law Commission p. 2. & 3

a regular percentage is paid by the parties to the transaction, and not infrequently, this is shared in agreed proportions among the parties various officials concerned.

The Santhanam Committee too gave a list of socio-economic offenses similar to that of twenty-ninth Report of the Law Commission of India, where they included various forms of corruption in public services in it as follows

- 1) Crimes intended to stifle or hinder the country's economic progress and jeopardize its economic health;
- 2) Tax evasion and avoidance that is legal.
- 3) Public servants abusing their positions in making contracts, disposing of public property, issuing licenses and permits, and other similar matters; 4) Individuals, businesses, and industries that deliver goods that do not satisfy agreed-upon requirements in order to fulfil contracts with government agencies;
- 5) Profiteering, black-marketing, and hoarding are all examples of unethical behavior.
- 6) Food and drug adulteration;
- 7) Theft and theft of public property and funds; and
- 8) Trafficking in licenses, permits etc.<sup>134</sup>

6. An additional incentive (money or payment in-kind) for the assignment above the regular price. The corrupted there-by violates generally accepted moral and/or legal standards and damages the interests of a third party or competitor and/or the public interest. Therefore, corruption is often hidden and concealed.

As a result, the trade logic of corruption has the following seven components:<sup>135</sup>

1. The buyer (the bribe taker: the corrupter) is looking for.
2. A good /service (an order, license, or position) which

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<sup>134</sup> Santhanam Committee Report, Govt, of India pp 53-54.

<sup>135</sup> Corruption in Germany The Debate in Politics and Political Science Ulrich von Alemann, Barcelona May 25 and 26, 1995

3. The seller /service provider (the person to be bribed: the corrupted) can assign, and the latter receives

### **CORRUPTION IN INDIA**

India has been one of the worst impacted countries by the adverse consequences of corruption from the post-Vedic era to the post-modern age. In practically every area and walk of life in India, corruption is rampant. The present anti-corruption legislation in India either controls public servant behavior or interfere in post-corruption instances through investigations. The Swedish Nobel Laureate economist, sociologist, and politician Gunnar Myrdal has described Indian society as a —softy society. According to him, a peaceful society lacks the political will to create laws necessary for its progress and development and the political will to enforce the laws after being enacted, even if there is no discipline. He has emphasized that without social discipline, no real or meaningful development or advancement is conceivable. Corruption and indiscipline coexist because they are both willing to accommodate, tolerate, and support each other. Corruption has a tremendous impact on governance and is anti-poor.

Most of India's most significant sources of corruption are entitlement programs and social spending schemes enacted by the Indian government. India's trucking business, which is required to pay billions in bribes annually to countless regulatory and police checkpoints on its interstate highways, is another familiar source of corruption. The Indian media has widely published allegations of corrupt Indian citizens stashing trillions of dollars in Swiss banks. Swiss authorities, however, deny these allegations. The Excessive regulations, complicated tax and licensing systems, numerous government departments with opaque bureaucracies and discretionary powers, monopolies by government-controlled institutions on delivering specific goods and services, and a lack of transparent laws and processes are all factors contribute to corruption in India. Across India, there are considerable differences in the level of corruption and efforts by state governments to combat it. Corruption affects India at all levels of Governmental decision-making. Corruption in India poses a significant danger to the quality of governance and threatens the very foundations of its democracy and statehood in an accelerated manner. The recent revelations of corrupt practices in defense purchases, Parliament horse-trading, and distribution of 2G Spectrum tend to undermine the security of the Indian state and fundamentally shake the people's trust and belief in the Government of India and its institutions. N. Vittal, who himself is a bureaucrat and the former Vigilance Commissioner, argues that there are five players on the corruption scene in the Indian System that makes for a vicious circle. These are: 1. the "neta", the corrupt politician; 2. the "babu", the corrupt bureaucrat; 3. the "lala", the corrupting businessman;

4. the "jhola", the corrupt NGO, and 5.the "dada", the criminal of the underworld.<sup>136</sup> So all this requires transparency in administration, drastic reforms in Civil Services, and a system that functions as a means for the quick redressal of citizens' grievances. The RTI Act, 2005, introduced by the Indian government, is a step towards cleaning the Indian administrative system.<sup>137</sup>

### **Historical Evolution Of Corruption In India**

#### **Ancient era to pre-independence**

Unfortunately, corruption has been a patent fact of public life ever since the beginning of human civilization. It in one form or other has always existed in India since time immemorial having roots and ramifications in society as a whole. In 4th century B.C., the most famous administrator in Indian History', the sage Kautilya, wrote the following in his world-renowned treatise, The Arthashashtra, about the corruption as it prevailed in the Mauryan administration. Even Kautilya in his "Arthashashtra" refers to the various forms of corruption prevalent in his times.<sup>138</sup> In ancient India, bribery of officials, even judges, and the misuse of public office was by no means unknown. The bribery of judges must have been so common even in Pre-Maurya days, and the fears on that account so deep, that a Jataka story gives expression to both. The story is that a king dreams sixteen evil dreams, and a sage interprets them to the king. The interpretation of the fifth dream was that 'unrighteous and foolish kings will appoint unjust and covetous men as judges, and these base and foolish person in giving judgments from their seat of justice will accept bribes from both the complainant and the defence'. This was a prophecy of coming public disaster. The two problems of bribery and misappropriation

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<sup>136</sup> <http://www.india-seminar.com/2000/485/485%20vittal.htm>The 1 Quoted by N. Nagarajan Vittal, Central Vigilance Commissioner, in his article "Corruption in Public Life: Steps to Improve India's Image", [www.google.com](http://www.google.com) , India Corruption Study - 2005 to Improve Governance Vol-I June 30, 2005, Transparency International India published by Centre for Media Studies [www.cmsindia.org](http://www.cmsindia.org) ., India 2006: A Nation Stung to Action by Rajinder Puri, [www.google.com](http://www.google.com)

<sup>137</sup> Chetan Agrawal, Right to Information: A Tool for Combating Corruption in India, 3[2], Journal of Management & Public Policy 26-38 [2012]

<sup>138</sup> L.N. Rangarajan (Ed.), Kautilya - The Arthasashtra, Penguin Books India (P) Ltd., New Delhi, pp 281-293 1992

of public revenues continued to exist in Mauryan times. Lot can be gathered about the prevalence of corruption in ancient India from the text Arthashastra'(c. 280 BC) by Kautilya, a minister in the Kingdom of Chandragupta Maurya (324/321- 297 Before the Common Era). There are 40 types of embezzlement listed in the Artahshastra. The related functionaries, such as the treasurer (nidhayaka), prescriber (nibandhaka), receiver (pratigrahaka), payer (dayak), person who induced the payment (dapaka), and ministerial servants (mantri-vaiyavriyakara), were to be probed separately in all of these cases. If any of these officials lied, their sentence would be increased to match that of the chief officer (yukta), who was primarily responsible for the crime. As a result, Kautilya was anxious about bringing the fraud cases to a logical conclusion. According to the Arthashastra, an increase in expenditure and a decrease in tax collection (parihapan) indicated that corrupt authorities had embezzled monies. The Kautilya Arthashastra thus demonstrates that the ancient system of governance and administration had very modern operational standards when it came to dealing with corruption. It also firmly indicates that corruption is not a phenomenon unique to the modern era.

This is seen in how contemporary writers such as Ksemendra and Kalhana have criticized government officials and other employees at various levels in their well-known works. Ksemendra advises the monarch in his Dasavataracharitam to remove all officials, ministers, generals, and priests from office immediately if they were either collecting bribes or engaged in corruption in some other way. However, in Narmamala, another work by Ksemendra, corruption and bribery are depicted as prevalent malafides. He also discovered an answer to the much-debated subject of how to stop corruption in his time's India; he has specifically urged the modern intellectuals to stand forth and share the responsibility of purifying their people. In his own time, Kalhana was ruthless in his condemnation of corrupt government officials in India. He cursed the officials outright and warned the king to be wary of their nefarious alliance. Kalhana has also listed some of the most high-profile cases of corruption in India during his time. He claimed that Bijja grew even wealthier than the monarch as a result of his illegal methods of obtaining money, while Ananda bribed his way into a top position in the administration.<sup>139</sup>

Beginning in 1858, the British Raj divided India into districts with provincial administrations overseen by a commissioner, effectively excluding Indian residents from political involvement. The Official Secrets Act of 1923, ostensibly to protect military and government intelligence, made it illegal for officials to expose state information to citizens. Following India's independence in 1947, the new government imposed strict

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<sup>139</sup> Corruption and Bribery in Ancient India of Kautilya's Arthashastra.....posted Date: 19-Feb-2011 Author: Kumaraditya Sarkar at <http://www.indiastudychannel.com/member/Kumaraditya2210.aspx>



economic rules aimed at expanding domestic markets; for example, the 1951 Industries Act required all new industrial enterprises to get a license from the federal government. Bribery became an accepted aspect of doing business due to the policy, which restricted foreign investment and discouraging competition. Due to the government's heavy monitoring of the economy, the years leading up to 1991 were termed the "License Raj." The poor were disproportionately affected by pervasive corruption, which misappropriated enormous sums of public funds meant for public works, relief, and social welfare programs. "Historically, the proliferation of licences was the foundation of India's corruption," said Jagdish Bhagwati, a former CFR Senior Fellow for International Economics. "The objective was to make efficient use of resources in order to avoid wasting foreign exchange. This is something that Indians have known for a long time: the institution of licences and permissions was responsible for widespread corruption."

### **After Independence**

The new popular governments assumed office in an atmosphere imbued with patriotism and high ideals following the peaceful transition of power. Even though the new Governments were faced with grave problems that arose after the partition of the country and other urgent tasks of reconstruction and had to run the administration after having lost the services of many senior and experienced officers, the new Governments did exhibit commendable energy in dealing with the problem of corruption. The Delhi Special Police Establishment was put on a permanent footing by the Delhi Special Police Establishment Act, 1946. The Prevention of Corruption Act became law on 11th March 1947. The Bakshi Tek Chand Committee was set up in 1949 to review the working of the Prevention of Corruption Act, 1947, to make recommendations concerning any improvement that might be considered necessary in the laws as well as regarding the machinery for enforcing them, to assess the extent of the success achieved by the Special Police Establishment in combating corruption and to make a recommendation regarding continuance, strengthening, etc of the Special Police Establishment. Some Ministers in Rajasthan and Vindhya Pradesh were prosecuted in 1949-50. There was no hesitation in making over inquiries into allegations against Ministers to the Special Police Establishment. The Railway Corruption Inquiry Committee under the chairmanship of Acharya Kripalani was appointed in October 1953. The Administrative Vigilance Division was set up in August 1955, and the vigilance units in the Ministries/Departments came into existence. The Vivian Bose Commission was appointed in December 1956.

Some leading industrialists of the country were prosecuted in the decade between 1950- 1960. During this decade, the number increased almost two-fold. However, various factors have operated to nullify in some measure the anti-corruption drive. The government's abrupt expansion of commercial operations, accompanied by a large arsenal of laws, controls, licenses, and permissions, created new and abundant opportunities. The pursuit of political power at various levels achieved a more important goal than the methods used to achieve it. Complaints against high-ranking public officials were not handled so that they should have been in the public trust was to be maintained. Weakness in this area led to cynicism and the notion that, while the government was fighting corruption, it was not fighting corrupt individuals, provided such individuals had the necessary power, influence, and protection. After 1980, several regional parties mushroomed during 1990; the emergence of coalition governments at the national and state levels gave birth to political instability. These changes contributed to a bottleneck in good governance. Furthermore, this new system of Governance gave ample opportunities for individuals and groups to seize and hold political power resulting in a dangerous emergence of a "nexus between corrupt politicians and public servants and unlawful elements in society". During the 1990s, a series of mammoth scandals (e.g., the Bofors and submarine deals, the Hawala case, and the fodder scam) came to light. Prime Ministers and Chief Ministers were accused of being associated with these scandals. Subsequently, senior bureaucrats - even those of the ranks of Director-Generals of Police and Chief Secretaries - were prosecuted for misuse of their power. Other examples include the Tehelka Scandal and repeat stock market scams. Similarly, in 2002-03, in a house to house survey of over five thousand citizens, Transparency India International found that Rs.26,758 crore (1 crore = 1 million) were extracted from citizens who interacted with the top ten most corrupt departments of the Government of India. Lower strata with lower earnings were hit harder due to corruption. Thus corruption in one form or another has always existed since time immemorial.

Graft has infiltrated society in recent years, ranging from small-scale "harassment bribes" (payments for vital social services) to national scandals. According to a 2012 Hindustan study, at least 42% of young Indians had paid a bribe. There has been corruption in India for thousands of years—it is endemic—but what you see is the kind of corruption changing," says Milan Vaishnav, a South Asia associate at the Carnegie Endowment for International Peace. "There has been a shift toward grand corruption in the last two decades: the recent scandals are qualitatively and quantitatively larger than anything we've seen before. Furthermore, India's rapid growth is a major factor. Rent-seeking opportunities have grown as a result of growth." According to a 2011 research by KPMG, 68 percent of India's overall illegal capital loss occurred after the country's economic liberalization in 1991, showing that the country's economic reform and growth have contributed to

the transfer of "black money" overseas. Several high-profile scandals in recent years have highlighted the scope of the problem. The Commonwealth Games, which cost about eighteen times their budget estimate, were accused of gross misallocation of finances in 2010. Two top Congress Party members and other government officials resigned after reports of substandard infrastructure and financial irregularities involving contracts arose. According to the Central Vigilance Commission, the entire theft of funds is estimated to be around \$1.8 billion. Soon after, the administration was embroiled in scandal once more when an auditor's report revealed a vast telecom scam that cost the government \$39 billion, making it one of the greatest incidents of state corruption in Indian history. Anand Kumar, the telecom minister, resigned in 2010 after being accused of coordinating the sale of licenses below market value. (He was arrested in 2011, and as of late 2013, he was out on bail.) During the incident, the opposition parties shut down parliament for three weeks, resulting in massive protests in Delhi. When the prime minister was implicated in the 2012 "Coalgate" affair, where an estimated \$34 billion was stolen, public outrage grew. Wikileaks cables revealed in 2011 that a Congress Party leader allegedly showed a US diplomat's chest of cash used as a bribe to obtain Parliament's approval of a disputed 2008 US-India nuclear accord.<sup>140</sup> Anna Hazare, a social activist who promised a "fast unto death" unless the government formed a new anti-corruption agency (Lokpal) to investigate complaints at the highest level, emerged as a key organizer of the anti-corruption campaign. Thousands of people rallied behind him, and the United Progressive Alliance (UPA) government stated in August that it would form a committee to draft the law. After months of delay in Parliament, the law was finally enacted in mid-December 2013 with the support of both the Congress and the BJP, putting an end to Hazare's nine-day hunger strike in a rare show of solidarity. " Nonetheless, in India's political scene, corruption is rampant. Criminal charges were filed against 31% of members of parliament and the legislative assembly in 2012. Low campaign spending restrictions drive expenditures underground and encourage reliance on "dark money." Many analysts also point to Indian voters' complicated relationship with corruption; research from various states shows that political candidates frequently promote their criminality as a sign of their capacity to protect their communities' interests.<sup>141</sup> At the federal level, India's government has undertaken a few initiatives to curb corruption. Citizens can request access to any public material under the 2005 Right to Information Act and, if authorized, obtain it within thirty days. The law has been praised as a major step forward in the battle against corruption, as it allows for penalties for noncompliance and

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<sup>140</sup> India's Corruption Problem - Council on Foreign Relations <http://www.cfr.org/corruption-and-bribery/governance-india-corruptio...> 2 of 5 10.06.2021 11:48 am

<sup>141</sup> Prospects for Progress India's Corruption Problem - Council on Foreign Relations <http://www.cfr.org/corruption-and-bribery/governance-india-corruptio...> 3 of 5 10.07.2021 10.00 pm

forces officials to digitize information. The government is also proposing revisions to the national anti-corruption law, including penalties for corporations that fail to prevent bribery. In early 2011, the Supreme Court ordered all trial courts in the country to accelerate corruption cases, indicating that the judiciary is taking a harder stance against corruption. The following year, the government was given less time to decide whether or not to pursue a public figure for corruption." Furthermore, in July 2013, the Supreme Court declared that lawmakers convicted of crimes could not continue to hold office. On the other hand, Singh's government reversed the edict in a very contentious decision in October. Modi said in an August 2014 speech that his government would take serious anti-corruption measures, comparing the issue to a "disease." The procedure has also been facilitated by technology. Online systems for state contract bidding have been built in several states, such as Gujarat, allowing for greater transparency. Others have put land records and death certificates online, while websites like IPaidABribe.com reveal graft in government services. The government is also working on an electronic ID system that will allow low-income people to bypass middlemen and get paid directly through their bank accounts. However, as Jennifer Bussell, an assistant professor of public policy at the University of California, Berkeley, points out, technology can only go so far. According to Bussell, technology's greatest significant contribution has been to increase citizens' access to information. "In addition to efforts by groups like the Comptroller and Auditor General, which is exposing corruption at the highest levels of government, some mix of administrative reforms and local-level technology initiatives to help bring corruption to light would be beneficial. You'll require all of these items".<sup>142</sup>

### **Causes of corruption**

#### **Key Factors Encouraging and Promoting Corruption:**

**Lack of Transparency:** The degree of secrecy and confidentiality, which prevails in various aspects of decision-making among officials in India, particularly at higher levels, immensely exceeds. It has become a tradition that a file or any paper to be kept 'secret or confidential'. Many of these scams taking place every day become possible only because of a lack of transparency in these official dealings. People are kept in the dark.

**Lack Of Accountability:** Public officials can get away with bribes because there is no law, rule, or convention compelling or encouraging public officials to lay open their income and assets to the people. It is generally

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<sup>142</sup> Ibid

found that many officials and ministers have unaccounted assets and incomes disproportionate to their legal sources of income. Many officials and politicians do not file their income tax returns, nor are they held accountable, which helps get away. If this information is available to the public, there will be many people exposed by their possession of illegal assets and income. It would be a very salutary effect on curbing the menace of corruption in public life.

Lack Of Institutional Machinery: The Introduction of a system of Lokpal at the Center level has not been implemented so far. There is no institution to which victimized members of the public can lodge complaints about the corrupt and unethical acts of public officials. Unless there is institutional machinery that is not under the influence and control of these public officials and is independent of them, and has the power to investigate and punish these officials, they will not be accountable. To have Lokpal at the center, state, and districts.

Lack Of Information: A general legend is that every official document or file is an official secret. So many deals are kept in the dark from the public. Therefore, critical reforms or changes in the law are needed to make public offices and public officials much more transparent than they are present. There must be a system by which any public member can access the information to tackle corruption, i.e., the Right To Information Act 2005.

Through my research, I understood that it is a complex mixture of social, political, legal, economic factors that account for corruption in our society and administration.

#### 1. Political factors-

At present, the Indian democracy is more or less controlled by a few people in the country who are either directly or indirectly linked or related or even involved in some kind of crime. Politicians are thriving today based on muscle power provided by criminals rather than the people's faith. Many a time, politicians sought muscle and money power to buy votes. The election for being an MLA or MP is a costly affair, which is the root cause of political corruption in India. It has also been observed that often a candidate has to spend lakhs to buy a party ticket and spend crores of rupees to ensure a win in the election. Along with this, politicians use goons or criminals for illegitimate purposes like ensuring votes, thereby linking them in their respective constituencies and developing political crime. The voters, political parties, and the law and order machinery of the state are all equally responsible for this. The criminalization of Indian politics is a root cause for weak legislation and even weaker investigating agencies in India.

## 2.Social factors-

We, the people, are compelled to participate in corrupt behavior by our natural desire to gain an unfair edge over others. Corruption can assist dishonest people to get ahead while the public pays the price through bribery, extortion, embezzlement, nepotism, and other methods. Another sociological factor for developing corruption in our society is a lack of proper education among the masses. People frequently are unaware of their rights and where to seek redress.

## 3.Economic factors-

In the fundamental part of theoretical arguments, it is assumed that there is a relationship between economic growth or economic development and the level of corruption. Lack of economic resources can emerge as a fundamental factor that leads to corruption. Corruption is a phenomenon that is existing in all countries. However, it can emerge more rapidly in low-income countries than in high-income countries. In high-income countries, some countervailing dynamics prevent the outspread of corruption:

- (a) secular increase in wages, educations, and urbanization,
- (b) improvements in transportation and communications technologies,
- (c) the growth of mass media,
- (d) improvements in managerial and accounting skills,
- (e) the rise of the capitalist class, urban middle class, and urban labor force,
- (f) the increasing pressure on government expenditures.

Thus the higher the level of economic development, the lower the level of corruption in a country. The higher the level of economic growth, the lower will be the level of corruption in a country, and the higher the inequality in the distribution of income, the higher will be the level of corruption in a country.

## 4.Legal factors-

Another chief cause of sustenance of corruption in our society has been the poorly equipped legislations and cumbersome implementation procedures coupled with inefficient or sometimes ill-motivated investigation

and lack of accountability and lack of teething legislations in the hands of the law courts to interfere into the investigation procedure. Lengthy justice delivery system has only added to the owes. In the state of Haryana, according to information furnished by the state vigilance bureau through a petition under the Right to Information Act, out of 899 corruption cases (in the period between April 1, 2000, to November 30, 2010) in which government officials were booked in Ambala, Hisar and Rohtak divisions, 473 were acquitted in courts leading to their reinstatement, while the rest have either been convicted or are facing trial.

Those convicted in corruption cases have mostly been low-rung officials and non-influential commoners, while just a handful are politicians, senior bureaucrats, high-profile businessmen, and police officials.<sup>8</sup> Conviction rates are low for various reasons, such as flawed investigation, sluggish judicial system, and ineffective law enforcement. The Whistle Blower's Protection Bill and Public Procurement Bill pending in the parliament should be passed immediately to rectify and strengthen anti-corruption laws, said Ashutosh Kumar Mishra, Director (IP) Transparency International India. "The supply chain of corruption is yet to be addressed in this country. Besides, shoddy investigations result in acquittal of most of the people booked under anti-corruption laws," said Mishra.<sup>143</sup>

Dispensing MP and MLA funds at the sweet will of the politicians is a common phenomenon in India. In cities and villages throughout India, the Municipal and Panchayat officials, elected politicians, judicial officers, real estate developers, and law enforcement officials acquire, develop and sell land in illegal ways. Many state-funded construction activities in India, such as road building, are dominated by construction mafias, usually groups of corrupt public works officials, materials suppliers, construction contractors, and politicians. Corruption is linked to the non-availability of drugs, duplicating medicines, bribing for hospital beds, consultation with doctors, and diagnostic services in government hospitals. The public distribution system is also rife with corruption. The judiciary is not immune, as we frequently hear lower court judges accepting bribes and amassing enormous fortunes. The higher Judiciary also has not been transparent in its appointment procedure and disclosure of Assets and liabilities. The police atrocities also are a common aspect of corruption where innocent people are often tortured to save influential and wealthy offenders. The significant economic repercussions of corruption include revenue loss, an unfavorable investment climate, and a rise in the cost of government-subsidized goods.

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<sup>143</sup> Mr. Hakeem Irfan - Too many corruption cases, too few convictions Monday, 28 October 2013....  
<http://www.dnaindia.com/india/report-too-many-corruption-cases-too-few-convictions-1910308>

The other leading causes of corruption are many and complex. Following is some of the causes of corruption:

\* Surfacing of a political class whose interest is more self-oriented rather than nation-oriented programs and policies.

\* Artificial scarcity created by the people with mala fide intentions damages the fabric of the economy.

\* Corruption is caused and increased because of the change in the value system and ethical qualities of men who administer. The old ideals of morality, service, and honesty are regarded as anachronistic

. \* People's tolerance for corruption, the lack of a strong public outcry against it, and a robust public forum to combat it allow corruption to rule over them. Corruption in public life is endemic because of the large population, extensive illiteracy, and inadequate economic infrastructure. Low remuneration for government employees in a high inflationary economy forces them to take the path of corruption. Government secretaries do not earn nearly as much as private-sector software professionals or IIM grads.

\* Complex laws and procedures alienate ordinary people and make them hesitant to ask for any help from the government.

- Scarcity of goods and services

- Red tape and delay

- Cushions of safety, which have been created by the legal system on the principle that everybody is innocent till proved guilty. The legal provisions and procedures are effectively exploited by the corrupt to escape punishment.

- Tribalism or the tendency of the corrupt to defend each other in organizations.<sup>144</sup>

### **Impact of Corruption**

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<sup>144</sup> The Commentary on Prevention of Corruption Act, 1988 (Along with allied and relevant laws) by Dr. G.B. Reddy at page 7



Globally, there is a consensus amongst most academics and policymakers that the debilitating effects of corruption permeate all aspects of public life. According to several studies, corruption stifles progress and perpetuates disparities, deepens poverty, causes human suffering, dilutes the battle against terrorism and organized crime, and tarnishes India's international image. Corruption has a wide range of consequences, including political, economic, social, and environmental costs and national security concerns.<sup>145</sup>

a. Political costs: According to the 2009 Global Corruption Barometer, Indians consider political parties to be the most corrupt entities. Corruption diminishes political interest by increasing political costs. Politicians are viewed with less trust. It has an impact on the democratic system's legitimacy.

b. Economic costs: Corruption impacts the country's growth because it raises the cost of public transactions, which works as an additional tax on business, limiting investment, reducing legitimate business, and harming public life.

b. Social costs: Corruption has a more significant impact on society than other issues. All citizens of the society have lost faith in the political system and, in particular, the leaders associated with it. People were uninterested in participating in government choices. There's a chance that bribery will become the standard in the future.

d. Environmental costs: Another indirect problem caused by corruption is environmental deterioration. Because of the conversion of public funds into private funds, initiatives that harm the environment are given higher priority. b. National security concerns: In terms of security agencies, corruption raises the risk of national security. Smuggling of weapons may be easily imported and exported, making it easier for terrorists to enter the country. Corruption has the potential to contribute to the country's underdevelopment.

With corruption scandals engulfing India's government and dominating headlines in recent years, 71-year-old Gandhian and well-known activist Anna Hazare's five-day fast unto death highlighted India's growing concern over serial corruption scandals in government and public life. He exposed the government's weak effort to pass the ineffectual anti-corruption Lokpal Bill by insisting on a powerful, unimpeachable, and independent anti-corruption authority. It brought the administration into the limelight in the face of a massive backlash against India's ubiquitous corruption, which has become everyday fodder for the media. The claims of widespread corruption in the government's flagship project for the rural poor were the most alarming. A

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<sup>145</sup> <http://cvc.nic.in/NationalAntiCorruptionStrategydraft.pdf>

proposed Lokpal or Ombudsman bill, which civil society has widely condemned, has sparked a lot of discussion around the parliament. At the best of times, tackling the problem of corruption is a fruitless endeavor. The fast was an opportunity for Hazare to propose a counter-proposal to the Lokpal-bill, Jan-Lokpal-bill, which civil society activists drafted in the hopes of creating an impartial body to examine corruption allegations. Seven attempts in parliament, the most recent in 2008, to pass an anti-corruption act in India have failed. Establishing a dedicated Committee will include civil society representatives, and then implementing and enforcing the rule in a country as large and diverse as India will create additional challenges. In India, corruption is deeply established, and citizens are concerned about corruption at the highest levels of government. It has an indirect impact on the country's economy as well as all aspects of citizen development. All illegal actions are included in this category. According to an Asian Pacific area Survey conducted by a Hong Kong-based company, India was ranked as the fourth most corrupt country among 16 countries, with a score of 8.67.<sup>146</sup>

### **Legislative measures in India**

Indian anti-corruption legislation has progressed. The Indian Penal Code (IPC) of 1860 was the only law in effect, and Sections 161 to 165 dealt with public worker offenses. Sections 169 and 409 of the IPC deal with other crimes committed by governmental employees. The PCA (Prevention of Corruption Act) of 1947 followed. The 1947 PCA added a new crime to the IPC: criminal misconduct in the discharge of official responsibilities. More modifications came with the Criminal Law Amendment Acts of 1952 and 1964 and significant amendments to the IPC in 1964. Post-Bofors case, the 1947 PCA, the Criminal Law Amendment Acts, and the IPC provisions were merged into the PCA of 1988. The Prevention of Money Laundering Act (1988) and the Benami Transactions Prevention Act (1988) should not be overlooked (2002)<sup>147</sup>

The Prevention of Corruption Act of 1988 (PCA) is India's primary anti-corruption legislation. Its principal goal is to prevent public workers from taking or soliciting illicit rewards while performing their official duties. Additionally, bribe-givers and middlemen may be held accountable for corrupting public officials under the PCA. To ensure a profitable and successful battle against corruption, India has adopted several

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<sup>146</sup> Supra note 130

<sup>147</sup> Shilpa, Right to Information Act: A tool to strengthen good governance and to tackle corruption; 2[2], International Journal of Humanity and Social Science Invention [2013]

laws and legal measures. On the other hand, prosecution under the PCA requires the approval of top authorities in advance, significantly restricting its utility, mainly where collusive action prevails within government branches.

### **Lokpal and Jan Lokpal in India and its Role in Fight against Corruption**

Corruption, with its cancerous growth, has been corroding the national fiber. This problem has been agitating the minds of the people. To have an institution based on the Ombudsman where corruption charges against Ministers and high officials could be dealt with is necessary. A short discussion is made hereunder regarding the Lokpal, Jan Lokpal, its history, features, and other important matters to understand its relevance and importance in its fight against corruption. The Administrative Reforms Commission (ARC), set up in 1966, recommended the constitution of two-tier machinery - of a Lokpal at the Centre and Lok Ayukta (s) in the states.

#### **Lokpal**

The Administrative Reforms Commission, in its interim report, has recommended the appointment of Lokpal. The President will appoint him on the prime minister's advice, who shall tender such advice after consultation with the Chief Justice of India and the Leader of the opposition in Lok Sabha. He will be independent of the executive and will be insulated against any political or administrative pressure. He will not be removable from office except in the manner prescribed in the Constitution for the removal from office of a judge of the Supreme Court. The institution of Lokpal will go a long way in eradicating corruption. After investigating this Act, the Lokpal finds that the person who has been harmed by maladministration has been treated unfairly. In that case, he shall inform the Minister, or Secretary concerned, as the case may be, and require that it be remedied within such period as he may in his discretion and having regard to the circumstances of the case deem sufficient. If the injustice is not remedied or the Lokpal considers that it may not be remedied, he may bring the matter to the notice of the Prime minister or the Chief Minister of the state, as the case may be, who will intimate to the Lokpal the action taken in the matter within two months. If the Lokpal is satisfied with the action taken, he will close the case. However, where he is not so satisfied and considers that the case so deserves, he may make a special report upon the case to the Lok Sabha or to the legislative Assembly of the State concerned as the case may be. Suppose as a result of his investigation, and the Lokpal concludes that the administrative action of a minister or secretary has resulted in a favor being unduly shown to any person or in the accrual of a personal benefit or gain to the minister or the secretary, as the case may be. In

that case, he shall communicate his conclusion and the material based on which he has concluded the Prime Minister or the Chief Minister concerned. The prime Minister or the Chief Minister concerned shall take such action as is considered necessary on the report and inform the Lokpal within two months of the action taken or proposed to be taken thereon. The Lokpal shall lay before the parliament or the legislature of the State concerned, annual reports on the performance of his functions under this Act.

The impetus for the current demand for a Lokpal Bill came from a series of recent high-profile scandals such as the 2G scam, Adarsh society scam, and the CWG scam. At the same time, the government merely watched the events unfold helplessly. Anna Hazare's recent "fast" and its extensive media coverage converted it into a mass movement. The Bill aims to give power to ordinary citizens to sue corrupt officials at all levels. The idea of an ombudsman first came up in parliament during a discussion on budget allocation for the law Ministry in 1963. The first administrative reforms committee in 1966 recommended the setting of two independent authorities at the central and state level to look into complaints against public functionaries- Lokpal and Lok Ayukta. After ten failed attempts and forty-five years after its first introduction, the Lokpal bill was finally enacted in India on 18 December 2013. The Lokpal will include a chairperson and a maximum of eight members, fifty percent of whom will be judges. SC, ST, OBCs, minorities, and women will make up half of the Lokpal members. (Section 3) In an earlier version, the chairperson was required to be the Chief Justice of India, a current or retired Supreme Court judge, or a non-judicial member with specific qualifications (chief justice or a judge of a high court)

The current chairperson of Lokpal is Pinaki Chandra Ghose. The Lokpal's eight members took charge on March 27,2019.

Jan Lokpal Bill:<sup>148</sup> Jan Lokpal Bill is a draft anti-corruption bill drawn up by prominent civil society activists seeking the appointment of Jan Lokpal which would be an independent body that would investigate corruption cases. This body would have the power to prosecute the government officials, politicians, and bureaucrats involved in any wrongdoing without any government permission. This bill was initially drafted by prominent civil society activists Justice Santosh Hegde (Former Supreme Court Judge and Lok Ayukta of Karnataka), Prashant Bhushan (Supreme Court Lawyer), Arvind Kejriwal (RTI activist

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<sup>148</sup> Rahul Sharma, Anshul Shrivastava, Combating Against Corruption, 1[6], International Journal of Social Sciences & Interdisciplinary Research, [2012]

## ***Investigating Agencies Constituted for Implementing Anti-Corruption Laws***

Following are the chief Institutions and agencies in India that fight corruption in society and endeavor to make our country a corruption-free society: a. Supreme Court and High courts, (SC & HCs) b. Central Vigilance Commission (CVC) c. Central Bureau of Investigation (CBI) d. Comptroller and Auditor General (GAG) e. Chief Information Commission (CIC) f. Public Accounts Committee (PAC) g. Enforcement Directorate (ED) h. Anti-Corruption Bureau (ACB) i. Financial Intelligence Unit (FIU) j. Serious Fraud Investigation Office (SFIO)

## ***The Functions of some of the Prominent Anti-Corruption Agencies in India are Discussed in Brief hereunder***

a. *Central Vigilance Commission [CVC]*- Central Vigilance Commission is an apex Indian governmental watchdog body created in 1964 to address governmental corruption constituted under the Central Vigilance Commission Act, 2002. It has the status of an autonomous body, i.e., free from executive control. The Government of India sets up the Central Vigilance Commission to advise and guide central government agencies. It also has a unique power to analyze complaints of corruption, professional misconduct, and misuse of power by administrative bodies.

b. *Central Bureau of Investigation [CBI]* -The Central Bureau of Investigation is an investigating agency set up by the Government of India to investigate crime, especially corruption cases in Union Territories, which the Government of India directly administers. It has evolved into the country's central corruption investigating agency throughout time. It has a high level of trustworthiness among Indians. As a result, states now refer sensitive and large-scale corruption cases to the CIA for examination.

c. *Comptroller and Auditor General [CAG]* -Comptroller and Auditor General is India's supreme constitutional audit authority. Comptroller and Auditor General is the 'watchdog' on every financial transaction of the Central or State department, such as railway, telecom, public sector organizations, etc.

d. *Chief Information Commission [CIC]*- The CIC delivers decisions instructing the government, courts, universities, police, development NGO's and Ministries on how to share information.

e. *Committee on Public Accounts [PAC]*- The Public Accounts Committee (PAC) is a select committee of members of Parliament appointed by the Indian Parliament to audit the country's expenses. Every year,

the Public Accounts Committee is created with a maximum of 22 members, 15 from the Lok Sabha and seven from the Rajya Sabha, the lower house of Parliament.

f. Enforcement Directorate [ED]- The Directorate of Enforcement was established in the year 1956 with its Headquarters in New Delhi. The Directorate General of Economic Enforcement is a law enforcement agency and economic intelligence agency responsible for enforcing economic laws and fighting economic crime in India. The Enforcement Directorate's primary goal is to enforce two critical laws passed by the Indian government: the Foreign Exchange Management Act 1999 (FEMA) and the Prevention of Money Laundering Act 2002. (PMLA).

g. Anti-Corruption Bureau [ACB]- These police agencies of the States are meant mainly for investigating corruption cases within the States under the Corruption Act. They are responsible for the prevention, detection, and investigation of corruption crime only. They are not engaged in conducting other police duties, such as handling conventional crimes and law and order.

The Government of India set Financial Intelligence Unit on 18th November 2004. The Financial Intelligence Unit is a central national agency responsible for receiving, processing, analyzing, and disseminating information relating to suspicious financial transactions

### **Significant Corruption Scandals in Independent India:**

In post-Independence India, the history of political corruption began with the Jeep scandal in 1948, involving V. K. Krishna Menon, the then High Commissioner for India in London.

Corruption charges were also labeled in cases like:-

(i) Mudgal case (1951): In this case, it was alleged that H.G. Mudgal, a member of Parliament from Bombay, had received monetary benefits (bribe) in connection with his dealings with the Bullion Merchants Association. The then Prime Minister Jawaharlal Nehru wanted a thorough inquiry by Parliament. On September 24, 1951, while moving the resolution for expelling Mudgal from the House, Jawaharlal Nehru said: This situation is as awful as it gets. Consider even a marginal case or one in which certain laxity may be demonstrated. I believe it will be unfortunate from a variety of perspectives, mainly because, as this is the first case of its kind before the House, if the House does not express its will in such matters in clear, unambiguous, and forceful terms, public doubts about the House's commitment to such matters may arise.

As a result, being precise, exact, and distinct has become a duty and an obligation. The facts are unmistakable, accurate, and plain. The House's decision should also be clear, specific, and unambiguous. After participating in the discussion, Mudgal submitted his resignation before the House could vote on expulsion resolution.

(ii) **Mundra deals (1957-58) Life Insurance Corporation Of India Vs. Hari Das Mundhra And Ors**<sup>149</sup>, In 1957, Mundra got the government-owned Life Insurance Corporation (LIC) to invest Rs. 1.24 crores (about USD 3.2 million at the time) in the shares of six troubled companies belonging to Mundhra: Richardson Cruddas, Jessops & Company, Smith Stanistreet, Osler Lamps, Angelo Brothers, and British India Corporation. The transaction was made under duress and without the knowledge of the LIC's investment committee, which was only informed after the deal was completed. In the end, LIC lost the majority of its money. Feroze Gandhi of the Indian National Congress party called attention to the discrepancy in 1958. M.C. Chagla, a retired Bombay High Court judge, was constituted as a one-person committee to investigate the subject. Despite his disavowal of his secretary's acts, Justice Chagla found that the Minister is lawfully liable for them. Krishnamachari eventually had to quit. Haridas Mundhra was apprehended and imprisoned. [ Malaviya – Sirajuddin scandal (1963) and Pratap Singh Kairon case (1963) were leveled against the Congress ministers and Chief Ministers. Congress as a party had suffered a crisis of credibility, but no Prime Minister resigned.

*The 1980s brought a spate of cases; the major ones were:*

**Antulay Trust scandal (1981):** A R Antulay had amassed Rs 30 crore from industries that rely on state resources, such as cement, and had placed the funds in a private trust. On January 13, 1982, the Bombay High Court found him guilty of extortion and ordered him to resign as Maharashtra's Chief Minister. Antulay had illegally obliged Bombay area builders to give to the Indira Gandhi Prasthan trust, one of the numerous trust funds he had founded and controlled, in exchange for obtaining more cement than the Government had allocated to the court. [ R.S. Nayak – Vs. – A.R. Antulay, AIR 1984 SC 68 ]

**Lakhubhai Pathak cheating scandal (1983):** The case involved a crime that was allegedly committed in 1983. On September 25, 1987, Lakhubhai Pathak, a London-based Non-Resident Indian (NRI), filed a complaint with the CBI. In December 1983, Mr. Rao, Chandraswami, and K.N. Agarwal (also known as Mamaji') defrauded him of \$100,000. Mr. Pathak was allegedly assured that the trio would acquire him a

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<sup>149</sup> All. H.C. on 14 February 1962

paper pulp supply contract in India, and the money was seized to fulfill that promise. Even though the C.B.I. brought charges against the defendants, all of the defendants were acquitted on December 23, 2003, with Special Judge Dinesh Dayal declaring, "I conclude that Lakhubhai Pathak's testimony is not reliable and has not been confirmed." His testimony has been inconsistent, and there have been inconsistencies on crucial issues in the case. The prosecution has not explained the lengthy delay in filing the case.

**Bofors Pay-Off (1986):** Then, after winning a proposal to deliver India's 155 mm field howitzer, Prime Minister Rajiv Gandhi and numerous others were suspected of receiving payments from Bofors AB. Mr. Win Chadha acted as the Swedish Gun Manufacturer's agent and middleman in the transaction. The scope of the corruption was beyond anything India had ever seen. It was directly responsible for Gandhi's ruling Indian National Congress party's defeat in the national elections of November 1989.

**W.N. Chadha vs. Union of India and Others**<sup>150</sup>, The scope of the scam had been estimated to be in the region of Rs. 40 crore. The Delhi High Court dropped bribery charges against Rajiv Gandhi and others on February 5, 2004. The court dismissed the claims against the British business brothers Shrichand, Gopichand, and Prakash Hinduja in the Bofors case on May 31, 2005. On March 4, 2011, a Delhi court acquitted Ottavio Quattrocchi, who was accused of being the intermediary in the case because of his ties to Rajiv and his Italian-born wife Sonia Gandhi, because there was insufficient evidence against him. Things were a little different in the 1990s. Exposures increased the number of counts.

**Airbus Scandal (1990):** Indian Airlines (IA) signed the Rs.2,000 Crore deal with AIRBUS instead of BOEING, causing a furor following the crash of an Airbus A-320. New planes were grounded, causing an IA weekly loss of Rs.2.5 Crore.

**Securities Scam (1992):** Harshad Mehta, a broker on the Bombay stock exchange, had gained the moniker "Big Bull" for allegedly starting the bull run in the second half of 1991. On April 23, 1992, journalist Sucheta Dalal exposed Mehta's illicit methods in an editorial for The Times of India. Mehta was illegally funding his purchases through the financial system. The game continued as long as the stock prices rose, and no one knew what Mehta's strategy was. When the scam was discovered, the financial sector had been defrauded of Rs 4,000 crore. Vijaya Bank's Chairman committed himself by jumping from the roof of his office. He was

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<sup>150</sup> SC 1082 1414 AIR 1993



well aware that if word got out about his involvement in sending checks to Mehta, he would be blamed. Harshad Mehta had been convicted in only one of the many cases brought against him by the time he died.

**Hawala scandal (1993):** Payments of cash reportedly received by politicians through hawala brokers, the Jain brothers, were at the center of the Hawala affair. It was a bribery scam for Rs 70 crore that involved some of the country's most powerful leaders. There were also allegations of ties to payments made to Hizbul Mujahideen militants in Kashmir. L K Advani, V C Shukla, Sharad Yadav, P Shiv Shankar, Balram Jakhar, and Madan Lal Khurana were among those charged. In 1997 and 1998, many were acquitted partially because the hawala records (including diaries) were deemed insufficient as significant evidence in court. The Central Bureau of Investigation's failure to prosecute has been heavily criticized.

**JMM Bribes (1995):** In 1995, Atal Bihari Vajpayee, the then leader of Opposition, had dropped a bombshell. Accompanied by Ram Jethmalani, Vajpayee had introduced Shailendra Mahato, MP, who made a startling revelation about a bribery case. Mahato confessed that his three Jharkhand Mukti Morcha colleagues - Shibu Soren, Suraj Mandal, and Anadi Charan Das - had taken Rs 50 lakh to vote against the no-confidence motion moved by the BJP in July 1993 against the P V Narsimha Rao government.<sup>16</sup> For the first time, a former Prime Minister, PV Narasimha Rao, was found guilty of corruption, bribery, and criminal conspiracy. As the CBI started an investigation, sleuths found clinching evidence to prove that the Rao government had bought the support of four JMM and five MPs of the Ajit Singh group in 1993 to vote against the no-confidence motion.

**The Fodder Scam (1996)** concerned the suspected misappropriation of around Rs 950 crore from the Bihar government coffers. The alleged theft spanned many years, involved the fabrication of "vast herds of fictitious livestock" for which fodder, medicines, and animal husbandry equipment was allegedly purchased and perpetrated by many Bihar state government administrators and elected officials across multiple administrations (run by opposing political parties). Even though the scandal erupted in 1996, the theft had been going on for more than two decades and was growing in size. On July 25, 1997, Lalu Yadav resigned from his position. So far, about 200 people had been punished with jail terms of between 2 and 7 years. Recently the trial court has convicted former C.M. of Bihar, Lalu Prasad Yadab, and sentenced him to imprisonment for five years. Due to this, Lalu Prasad has also lost his membership in the Parliament.

**Telcom Scam (1996):** In 2009, former telecom minister Sukh Ram was convicted by a Delhi court of accepting bribes to grant licenses and purchase equipment from companies during his 1993-96 tenure at the

Centre. In 1996, raids at Sukh Ram's properties in Delhi and Himachal had unearthed 3.6 crore cash and jewelry stuffed in bags and suitcases. He was convicted of amassing over Rs 4 crore disproportionate assets during his tenure in the Narasimha Rao government. In the second case, in which he was accused of causing a loss of Rs 1.68 crore by favoring ARM Pvt Ltd in a contract to purchase telecom equipment, Sukh Ram was convicted and handed a jail term July 5, 2002, by a sessions court.

**Urea Deal (1996):** A Rs. 133-crore deal was signed with a fly-by-night Turkish company, which was supposed to deliver two lakh tones of urea to India. In a trice, the entire sum disappeared from Indian shores to various accounts around the globe. The Turkish firm, in turn, disappeared from Turkey. Not an ounce of urea reached India. Seven months later, as the scam broke, the key suspects—the former prime minister's son, Prabhakar Rao, and former fertilizer minister Ram Lakhan Singh Yadav's son Prakash Chandra Yadav—issued pat denials to all charges, despite overwhelming evidence. After weeks of frenetic investigations, the CBI has caught only the scent of the money in flight.

**Coffingate (1999):** The Central Bureau of Investigation (CBI) laid bare the 'Coffingate' conspiracy the purchase of over-priced, sub-standard coffins and body bags for Indian soldiers who died on the battlefield. The CBI charged three Indian army officials: retired Major General Arun Roye, then Indian military attaché in Washington; retired Colonel S K Malik, then with the Master General of Ordnance (MGO); and Colonel FB Singh, then with MGO and US national Victor Baiza, who supplied the Indian army with aluminum caskets and body bags.

The Ministry of Defense (MOD) imported substandard caskets and body bags from several Baiza regions in 1999-2000 at an exorbitant charge of over Rs.1,25,000/- each casket and Rs.4,250/- per body bag. Excessive payments cost the Indian government Rs. 89.76 lakh, according to the CBI. The CBI named other aluminum casket manufacturers, but Col SK Malik and FB Singh ignored them. Furthermore, US officials acknowledged in 2007 that Baiza was not a producer of metal coffins. "Baiza was a mortician, according to the evidence, and the aluminium caskets he supplied were acquired from Ronald Connelly, the general manager of Dayton Manufacturing. He bought these caskets for \$1,559 each and sold them to the Indian army for \$2,500 each, making a \$1,000 profit per piece "According to the CBI's charge sheet.

*The notable cases during the first decade of the new millennium included*

**Tehelka Sting (2001):** Tehelka (one of India's English-language weekly publications) has initiated Operation West End, a sting operation to expose the corruption behind India's huge defense contracts. Tehelka's first investigation in 2001 focused on numerous members of the then-ruling coalition, the NDA, which the BJP's Atal Behari Vajpayee led. It revealed that various politicians and army generals conspired to accept bribes of up to 4% of orders worth hundreds of crores to approve defense contracts. Tehelka also accused MoD personnel of receiving booze and prostitute services, even though the publication had been chastised for procuring prostitutes. Indeed, Tarun Tejpal, Tehelka's editor-in-chief, was charged with "immoral trafficking" in September 2001 for allegedly giving prostitutes to MoD officials during the sting operation. 13 The then Defence Minister, George Fernandes, resigned after the tapes were made public, but he was reinstated later. Part of the tapes shows his party's treasurer talking about accepting bribes of 1 crore or more from arms dealer ex-Naval officer Lt-Comdr Suresh Nanda, son of ex-Chief of Naval Staff Admiral S. M. Nanda. Rather than acting on the evidence, the authorities initially accused Tehelka of inventing claims. Five years later, in October 2006, the CBI filed charges in the Barak missile case against George Fernandes, former Chief of Naval Staff Admiral Sushil Kumar, and others, stating there was a reasonable basis to infer corruption and criminal conspiracy. The Nandas were apprehended in March 2008. In May 2008, Fernandes was questioned.

**Stock Market Scam (2001):** A chartered accountant by training, Ketan Parekh came from a family of brokers, which helped him create a trading ring of his own. The stock market in India sprung to life between 1999 and 2001 when the technological bubble engulfed the rest of the world. In February 2001, Parekh's party abruptly ended a day after the Union Budget was presented. A bear cartel began disrupting Parekh's party by slashing K-10 stock prices, resulting in a payment problem in Kolkata. When SEBI looked into it, it became clear that bank and promoter monies were being utilized to rig the markets. The chaos in March 2011 wiped out about Rs. 1,15,000 crore from the markets. In March of that year, Parekh was arrested and held for 53 days. Until 2017, he is forbidden from trading on Indian stock exchanges. Many glaring flaws in the industry were fixed as a result of the scam. The trading cycle was cut in half, from a week to just one day. Badla was outlawed, and operators were unable to continue trading in its original form. To ensure a well-regulated futures market, forward trading was formally implemented in the form of exchange-traded derivatives. Control of stock exchanges by brokers has been dismantled.

**Stamp Paper Scam (2003):** In 2003, Abdul Karim Telgi started making bogus stamp papers. He hired 300 employees to act as agents, selling the counterfeits to large-scale buyers such as banks, financial institutions,

insurance companies, and stockbroking organizations. His monthly earnings were believed to be in the region of Rs. 202 crore. The fraud was believed to be worth more than Rs. 43,000 crores. The Telgi case exposed police corruption in Karnataka, resulting in a national scandal in India. In September 2006, a recording of Abdul Karim Telgi taking a Narco Analysis test surfaced. Telgi reportedly blurted out the names of NCP leaders Sharad Pawar and Chaggan Bhujbal while under the influence of the alleged truth serum. Pawar was never publicly linked to the case before being forced to provide a denial. In one of the most high-profile scam cases, Telgi was convicted to 13 years in prison and fined Rs 202 crore on multiple counts on June 28, 2007.

**Cash for Query (2005):** The sting operation known as Operation Duryodhana (2005) was the code name for a sting operation. Eleven members of the Indian Parliament were caught on video collecting money in exchange for asking questions on the floor of the Parliament. This was the first sting operation in the Republic of India's history, and all Parliament members were dismissed. Ten of them were members of the 14th Lok Sabha, while one was a member of the Rajya Sabha. Chhatrapal Singh Lodha, a BJP MP from Orrisa, was expelled from the Rajya Sabha, while ten others were dismissed from the Lok Sabha. Annasahed M K Patil, Y G Mahajan, Suresh Chandel, Pradeep Gandhi, and Chandra Pratap Singh (both BJP), Narendra Kumar Kushwaha, Lal Chandra Kol, and Rajaram Pal (all BSP), Manoj Kumar (RJD), and Ramsevak Singh (all RJD) were among the ten members (Cong). They were caught on tape taking money in exchange for asking questions in the House of Representatives. The motion, proposed by House Leader Pranab Mukherjee, was approved by voice vote.

**MPLADS Scam (2005):** The latest sting operation nicknamed "Operation Chakravayuh" exposed MPs asking for cuts ranging from 5% to 45% for sanctioning funds under the MP Local Area Development Scheme (MPLADS) — a kitty of Rs 8,000 crore — to be spent at the discretion of members of both Houses. Outrage was instant. Lok Sabha Speaker Somnath Chatterjee, who incidentally had launched a solid campaign to whittle down the discretion of MPs in implementing MPLADS, said he was ashamed. MPLADS funds provide Rs 2 crore (now five crores) annually to each MP. The money is required to be spent on the development of the MP's constituency. Though the funds are not directly handed to MPs, they have a decisive say in the identification and execution of the schemes, in many cases handed over to contractors of choice. While there are many examples where the fund went for genuine schemes—such as the development of the Biotechnology Centre at IIT Kanpur from Arun Shourie's corpus, there had been allegations of MPs collecting hefty cuts from contractors.

**Human Trafficking Forged Passport Scam (2007):** An Air India security staffer near the aerobridge at Indira Gandhi International Airport leading to Air India flight 187 to Toronto scanned passports of the blue-eyed passengers boarding into the aircraft on Wednesday morning. The faces on two passports of Shardaben Katara, wife of Babubhai Katara, the BJP MP from Dahod, and son Rajesh didn't match the passengers. When asked for her name, the lady, in a grey Gujarati sari, hesitantly replied, "Paramjeet." She was not lying. Her reply blew the lid on one of the most sordid capers by a sitting Member of Parliament.

Katara was ferrying two illegal migrants from Punjab-Paramjeet Kaur, 26, and Amarjeet, 17-into Canada, having accepted a sum of Rs.30 lakh for the job. Charged with impersonation, forgery, and cheating, he after that joined a burgeoning gallery of rogue MPs who had been netted for abuse of privilege, ranging from cash for questions to misusing government funds, in the past years. Since suspended by the BJP, Katara arrived at the airport just a half-hour before the scheduled departure with the two wannabe emigrants. His flunkey Rajendra Kumar Gampa led the way, wielding three passports, including two red diplomatic passports belonging to the MP and his wife, and got the visas stamped. The MP had made two previous successful trips to the UK and Canada in the past years, ostensibly using the same modus operandi and ferrying an unspecified number of emigrants. While the police were not ruling out the complicity of immigration officials, they said that the MP's VIP-in-a-hurry ploy was part of an elaborate game plan to hoodwink emigration. Raids at Katara's South Avenue residence yielded 12 passports to send people out of the country illegally. After dropping off his human cargo, Katara would return alone with his wife's and son's passports, on which arrival stamps would be forged. Rajesh's passport had a forged immigration stamp dated December 18, 2006, to show he had returned from the UK.

**Satyam Computers (2008):** Satyam Computers was created in 1987 by Ramalinga Raju. Satyam's stock price hit an all-time low in December 2008. Raju started in January 2009 that Satyam's accounts had been faked for several years. He admitted to an accounting dupery to the tune of Rs 7,000 crore rupees and resigned from the Satyam board on January 7, 2009. Raju and his brother, B Rama Raju, were then arrested by the Andhra Pradesh police. Raju was convicted of cheating six million shareholders and was sent to Hyderabad's Chanchalguda jail on charges including embezzlement, insider trading, breach of trust, conspiracy, cheating, and falsification of records.

**CWG Scam (2010):** Much uproar was made about the mishandling of affairs during the last Commonwealth games in India. The Central Vigilance Commission issued a report on July 28, 2010, revealing anomalies in

up to 14 CWG projects. Following suspicions that his son's firm had received a contract to install synthetic courts at a tennis stadium, Organizing Committee treasurer Anil Khanna resigned from the position. According to allegations of corruption, toilet paper rolls for \$2 were costed at \$80, \$2 soap dispensers at \$60, \$98 mirrors at \$220, and altitude training simulators at \$250,190, cheating the game's budget. CWG Organizing Committee Chief Suresh Kalmadi's conduct also came under scrutiny, with the CVC asking the CBI to probe certain aspects of the games' organization. After questioning about alleged irregularities, the CBI detained Kalmadi on April 25, 2011, in the Commonwealth Games Time Scoring Equipment fraud under Sections 120B and 420 (criminal conspiracy and cheating) of the Indian Penal Code.

**2G SCAM:** One of the latest and so far the biggest one is the 2G scam. This scam is unfathomable. No one knows the extent of the rot. CAG report has come out with specific findings, but indeed not the last word. The 2G spectrum scam involved allegations of underpricing of 2G spectrum by the Telecom Ministry of India, resulting in loss to the exchequer and illegal manipulation of the spectrum allocation process to favor a few select companies. According to a Comptroller and Auditor General report, the loss to the exchequer due to underpricing of 2G spectrum was Rs 1,76,379 crore, according to a report by the Comptroller and Auditor General, based on money acquired through 3G licenses.

The preceding controversies were only the tip of the iceberg in independent India. The entire story would have consumed the entirety of my research work, which is not my current goal. Nonetheless, this would demonstrate how deeply established and prevalent the problem is in our country. Sometimes one may be compelled to think that there had been complete lawlessness that allowed breeding this menace. From the topmost ministers down to the ordinary public servant, it has been a saga of anarchy. Its high-time Something must be done to taken care of this.

### **Problems and Challenges of Indian Anti-Corruption Laws and Agencies in Preventing and Controlling Corruption**

The private sector in India has proliferated since the economy was liberalized in the early 1990s. With the growth of the private sector, the problem of corruption is becoming more prevalent. It has now grown to epic proportions. It has emerged as the single greatest threat to Indian society. In India, there is a significant disconnect between anti-corruption policies and reality. The most considerable significant deficiency has been observed in the field of whistleblower protection. The law enforcement in matters of corruption in India is significantly weakened, and there is a massive lack of political will to effectively address corruption

challenges in the country. Prosecution under PCA requires prior approval of higher authorities, severely limiting its usefulness, mainly where collusive activity exists within the government branches. India is obligated to match its legislative framework with international standards and give implementing agencies more teeth and freedom as a signatory to some international treaties, including the United Nations Convention Against Corruption (UNCAC). Our national legislation and efforts, however, are far from satisfactory at the moment. Anti-corruption investigating agencies are akin to "toothless tigers," with minimal authority. Unless they are forced and pressed by the judiciary to take decisive action in situations connected to corruption, they serve as a puppet in the hands of the ruling party. They are only 'barking dogs, but they are supposed to be 'blood-hound.' CVC needs prior sanctions to prosecute; CBI cannot probe or frame charges independently. It has been like a 'caged parrot' of the government by the Supreme Court of India.

C&AG cannot probe corruption matters, and they can only recommend it. The Right to Information (RTI) is yet to reach the common masses in its most total capacity, and there is a lack of among common masses as to how to get information through RTI. The pending Anti-Corruption Legislations show the very mindset of the political rulers towards fighting corruption. Our fight against corruption is in 'Pending Status.' Regardless of rising tendencies, the institutional anti-corruption system is plagued by a lack of coordination and overlapping and conflicting mandates across anti-corruption authorities. Key institutions frequently lack the manpower and resources needed to effectively carry out their mandates and thus struggle to insulate themselves against political meddling. Frequently, they place a greater emphasis on investigating alleged cases of corruption than on preventive actions. Influential politicians and senior officials are rarely convicted of corruption, weakening public trust in the government's ability to combat corruption successfully. Some of the weaknesses of the present anti-corruption enactments are weak e-governance, weak procurement laws in the public sector, weak asset recovery, political patronage to offenders of grand corruption. Accountability and transparency are two great antidotes to corruption. If the Legal system is quick, fair, and uncomplicated, it makes fighting corruption easier. The free and robust press is the third facilitating factor. Therefore, laws fixing accountability and encouraging transparency combined with the efficient judiciary and free press provide the ideal atmosphere to tackle the menace of corruption.

Swami Vivekananda once quoted, "take up one idea. Make that one idea your life-think of it, the dream of it, and live on the idea." Fight against corruption is an idea whose time has come. The need of the hour is to nurture it, mainstream it and take it to the logical end.<sup>151</sup>

### **RECOMMENDATIONS TO COMBAT CORRUPTION**

Corruption is cancer that all Indians must work to eradicate. Many new leaders declare their intention to eliminate corruption when they first take office, but they soon turn corrupt and amassing vast sums of money. There are numerous myths about corruption that must be debunked if we are to confront it. "Corruption is a way of life, and nothing can be done about it" is one of these misconceptions. Corruption affects only citizens from undeveloped or emerging countries." While devising anti-corruption measures, we must be wary of all of these blatant misconceptions. Suppose we genuinely want to fight to eradicate corruption in society effectively. In that situation, it will be required to select high-quality, well-thought-out steps that are primarily long-term. Because the fight against corruption cannot be won with sound bites, populist declarations, and grand gestures. The answer rests in putting in long hours on competent legislative and executive actions. The state's systematic measures aimed at the most effective possible prevention of corruption will be positively reflected in the future not only in society but also in a reduction in the public budget deficit, strengthening of economic growth, and increased competitiveness with international leaders. . The goal of eradicating corruption has been set with great care. Subsequently, it is envisaged that the government's statement of policy, particularly the Government Anti-Corruption Strategy document, will serve as a legally binding list of the anti-corruption measures that must be implemented, including timeframes. Its accomplishment will also need to be properly monitored on a regular basis.

- The prescribed punishments under different statutes provided for corrupt persons should be enhanced to deter society. The provisions should be made for the private sector corruption, foreign public officials, and grand corruption cases.
- There is an immediate need for Fast Track courts to try corruption cases with specialized trained investigation officers.

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<sup>151</sup>Dr. Shashi Nath Mandal, Control of Corruption in India: A Socio-Legal Challenge, 1[5], International Journal of Advanced Study and Research Work, [2018]



- Consolidation of all anti-corruption laws into one single legislation should be made, and effective implementation of the Jan Lokpal Bill should be ensured.

- Investigation agencies should be made free from controlling political whims, and protection should be ensured to whistleblowers.

- Different corruption investigating agencies should work in close coordination with each other.

- Particular emphasis should be given to audits in different spheres of administration and public funds.

Right to Information should be effectively used to fight corruption.

- Strict procurement laws should be ensured, and e-governance through proper use of Information and Communication Technology should be enforced.

- Anti-corruption ethics should be developed among the students from elementary to university level, and NGOs, civil societies, etc., should be invited to participate in the anti-corruption drive to ensure a corruption-free society.

- Speedy disposal of corruption cases should be ensured. Public exposure of corrupt persons of grand corruption should be made through 'naming and shaming, which would deter society.

- Finally, in our fight against corruption, "Yes we can and we will win the battle" because of truth alone triumphs, i.e., Satyameva Jayate.

All public procurement information must be made available on the internet. All information relevant to individual tenders must be published on the internet, according to legislation. However, in India and other developing countries around the world, it is progressively becoming a reality. And also to combat corruption successfully, people's cooperation must be secured. People should be able to recall elected officials if they become unresponsive to the needs of the electorate. Election funding is at the heart of political corruption. In this context, electoral changes are critical. Several reforms should be implemented, including state funding of election expenses for candidates; strict enforcement of statutory requirements such as holding in-party elections, requiring political parties to have their accounts regularly audited, filing income-tax returns; and barring people with criminal records from running for office.

## **CHAPTER 5**

### **RIGHT TO INFORMATION AND CORRUPTION**

#### **INTRODUCTION**

The colonial legacy of secrecy in India has inspired the government officials to keep the public away from the affairs of the government, restricting the progress of the nation. However, it was soon realized that corruption could be reduced greatly if there is greater transparency and accountability in governance. This can be effectively done if people know the information that concerns them and resists corruption ingrained in the system. Therefore, an opportunity for the public to have access to information became the need of the hour. Subsequently, this initiative was taken up by the judiciary, civil society, and the media that came forward and fought against corruption existing in the public administration. The efforts led by these institutions led to the enactment of the historic Right to Information Act, 2005. The Act has achieved tremendous support from all sections of society since then.<sup>152</sup> This chapter highlights the role of the Right to Information Act in preventing the menace of corruption, ensuring transparency and accountability in the administration, and suggests measures to tackle corrupt practices existing in India.

#### **RIGHT TO KNOW: THE ROOT OF DEMOCRACY**

Corruption has reached such an alarming proportion in India that it has undermined the foundation of democratic governance. Despite the several legislations to combat corruption, this menace has outnumbered other crimes. It was felt that with the enactment of the Right to Information Act, corruption could be wiped out from the country. However, the reality is that corruption may have reduced in the lower levels of administration to a certain extent, but it primarily exists at the higher level. It is true that, after the passage of the Act, many citizens got that was long overdue, but merely giving the right to the public to secure information would not bring the change in combating corruption. A citizen, by making an application accompanied by a nominal payment in the concerned department, secures the right to get the required information. It is only the information that he can expect and nothing beyond that. The information if denied can be taken to his senior official within the department in the form of an appeal. Most of the time, an ordinary person is ignorant about this provision and the officer takes advantage of his ignorance. If dissatisfied with

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<sup>152</sup>Supra note 83

the decision, those who approach the First Appellate Authority can file a second appeal with the Information Commission at the Central or State level. Due to lack of awareness, the citizens often do not approach the Appellate authorities when the information is not disclosed within the time frame. This ignorance encourages the erring official to indulge in corrupt activities without any fear of being caught. The government must raise awareness about the legislation and ensure that all of its affairs are conducted to promote transparency, accountability, and integrity in public administration. Criminal law and public policy approaches to the problem dealing with corruption have been met with mixed results. The government often turns deaf ears to RTI applications that have unearthed incidences related to corruption. The right to information in India needs to be integrated with transparency and the right to corruption-free governance. This approach integrated into handling corruption will ensure that India's political and bureaucratic machinery is accountable to its people. The Central Information Commission needs to assume a leadership role so that, intending to promote transparency, whatever information is available with governmental bodies is obtained and made public. Empowerment of the citizens, active involvement of the media in exposing the corrupt actions of politicians and bureaucrats can make a huge difference. The judiciary should be vigilant and punish acts of corruption within a stipulated timeframe. Also, the accountability mechanism has to be extended to promote good governance with the active support and cooperation from the government, civil society, and media accountability.<sup>153</sup> It is the initial step in combating governmental corruption and can be expanded upon to build the right to corruption-free governance. The law has been in effect for more than a decade. As a result, concerted efforts by citizens and the government can undoubtedly aid in the elimination of corruption in India.<sup>154</sup>

### **RTI ACT-TOOL TO CURB CORRUPTION**

#### **A tool against Corruption or Just an Illusion**

Many actions and legislation have been created and enacted during the last few decades to combat corruption, which is the most prevalent sickness in the administrative world. Right to information has also been adopted

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<sup>153</sup>Rajiv S.Dhaka, 'Right to information Act and Good Governance: Operational Problems and Road ahead', 55[3], Indian Journal of Public Administration [2009]

<sup>154</sup> Supra note 83

to eradicate corruption from the country; however, is it true that the right to information may be used to combat corruption? Citizens' right to know what governments, international organizations, and private enterprises are up to and how public funds are spent reflects anticorruption issues directly. Because corruption thrives in the shadows, any move toward exposing governments and international organizations to public scrutiny is likely to have a positive impact on advancing anti-corruption works .so this statement, one thing is clear that the right to information is active by its nature and yes of course corruption requires transparency to get eradicated and for that matter, nothing is better than the right to information.<sup>155</sup>

The right to information, likely to reduce corruption and increase administrative efficiency in so far as it provides every citizen of the country an enforceable right to question, examine, audit, review, and assess government acts and decisions to ensure that these are consistent with the principles of public interest, integrity. Different aspects of the importance of the right to information are discussed in a different way as Abraham Lincoln, the very first President of the USA, understood the importance of the right to information, when he rightly said, Government is of the people by the people and for the people. The first part of the people includes participative management. The second by the people include openness and transparency for the people. The third part for the people includes accountability, which means participation, minimizing corruption, and good governance by sensitization of bureaucracy and bringing efficiency to the system.<sup>156</sup>

- Greater and superior Transparency in the working of public authorities.
- Enhancement in the accountability and performance of the Indian government.
- Decision-making procedure: and
- Reduction or decrease in the corruption of the government departments.

In India, there are high expectations for the RTI Act. It is regularly mentioned in official speeches as a landmark piece of legislation that demonstrates the government's commitment to transparency and accountability as a means of supporting good governance and democracy. The law, it is argued, gives citizens

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<sup>155</sup> Sri Keshabananda Borah, Right to Information Act: a key to good governance,2[2] International Journal of Humanities and Social Science Invention, 11-12 [2013]

<sup>156</sup> Right to Information Act, 2005 was accepted with the objectives of Ansari MM. " Impact of Right to Information on Development: A Perspective on India's Recent Experiences" paper presented at the UNESCO Lecture, Paris, May 15, 2008.

for the first time a legal right to demand information and clarity from government officials, challenging long-standing power and patronage relationships. Before the RTI Act, citizens had few opportunities to hold the government accountable for its policies and actions; the law has given citizens a legal channel for doing this. The enactment of the RTI Act is perceived as a symbolic shift from a culture of secrecy to transparency and openness.

### **SOME EXAMPLES**

There is strong evidence that residents across the country are using the RTI Act: the statute is cited in over a million requests for information each year. According to studies, the law has been applied most frequently in sectors where citizens have traditionally struggled to exercise their rights. For example, a study of over 1,500 RTI applications filed by individuals in five villages as part of a village-level RTI campaign in 2006–07 discovered that most requests were made to departments that provided critical social services (such as ration cards, pensions, and other benefits). Several civil society groups and people's movements have also been actively using and promoting the law. Since 2005, several case studies have documented and highlighted the use of the law in helping citizens access their basic entitlements, redress grievances related to the non-provision of essential services, and even expose corruption in public services. In many instances, the very act of filing an RTI application has served as a deterrent, prompting government action to resolve citizens' grievances.

Historically, India's social welfare and development programs have been associated with reports of corruption, pilferage, and mismanagement. Rural employment initiatives, in particular, have been hit hard by this, since collaboration between private contractors and local politicians has resulted in inflated procurement bids and budget embezzlement.<sup>157</sup> False muster rolls, ghost entries on muster registers, and significant differences in the payment of minimum wages to workers were discovered in a 2006 assessment by the National Food for Work Program, which was undertaken in six states.<sup>158</sup> Citizens were essentially unable to detect and monitor corrupt practices due to a lack of knowledge regarding how schemes were conducted and how monies were allocated and spent.

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<sup>157</sup> Aiyar and samji 2009, [www.accountabilityindia.in/article/working---paper/787---transparency---and---accountability---nrega---case---study---andhra---pradesh](http://www.accountabilityindia.in/article/working---paper/787---transparency---and---accountability---nrega---case---study---andhra---pradesh).

<sup>158</sup> <http://timesofindia.indiatimes.com/home/opinion/edit---page/Loot---For---Work-Programme/articleshow/1157838.cms>.

### **The National Rural Employment Guarantee Act (NREGA)**

RTI has been institutionalized for the first time in the country's largest rural employment guarantee scheme, the MGNREGS, which guarantees rural households 100 days of guaranteed employment in public works at a minimum wage and requires compliance with the RTI Act and proactive disclosure of all scheme-related data and information. Work demands must be disclosed, workers must be enrolled, job cards must be issued, monies must be received and spent, wage payments must be made, and work must be sanctioned. The law also requires frequent social audits of the scheme's work and spending and the release of government information and papers. The success of these audits has been aided by the RTI Act. Although there are still leaks in the plan, it is widely accepted that insisting on transparency and access to records...has helped avoid theft. The RTI Act has proven to be a valuable instrument for citizens and civil society organizations seeking legal information on how state-sponsored rural development and welfare projects operate. In 2006, for example, SabarEktaManch, a Gujarat-based NGO, filed an RTI request requesting information on the minimum pay paid to MGNREGS workers. Implementing Right to Information Reforms revealed that these personnel were paid a pittance in comparison to state mandates. As a result, the SabarEktaManch filed an RTI request with the Gujarat High Court, requesting that the wage payment system be investigated for anomalies. The law's institutionalization and the MGNREGA's social audits have focused attention on concerns of openness and accountability in the execution of social sector services.

### **Supporting education of the poor**

The RTI Act has been used by Pardarshita, a Delhi-based NGO, to investigate the admissions process at New Delhi's elite public schools, many of which were given land at subsidized rates by the Delhi government on the condition that they reserve 25% of their seats for children from economically disadvantaged families. In actuality, just a few schools followed this provision.

The Delhi High Court issued a ruling in July 2004 on the petition of the NGO Social Jurist, mandating all schools that had been allocated government land to meet this criterion. Pardarshita, the Satark Nagarik Sangathan (SNS), and other organizations filed several complaints with the Delhi government's Directorate of Education and schools about this issue. The RTI Act was then utilized to track down the status of the complaints. In many cases, simply completing such applications prompted colleges to respond quickly, resulting in several underprivileged students being admitted. The group continues to monitor and pursue the quota's implementation; now, most schools adhere to the quota's original intent.

### **The opening 'Up' Examination' Results**

JOSH has used the RTI Act, a Delhi-based NGO, to push for greater transparency at the university, addressing issues such as the internal assessment system and the running of college canteens, hostels, street lights, and roadways. In 2007, JOSH filed many RTI requests with Delhi University colleges, requesting updates on their compliance with the RTI Act's proactive disclosure provisions. JOSH decided to take the matter to the CIC after receiving no response. The Colleges swiftly released information through guides on their Web sites in response to demand from the CIC and JOSH. Colleges were not following conventional procedures for internal assessment, according to the information obtained through RTIs. However, departments' compliance has been poor following the initial revelation of information by colleges. Departments collaborated at first under pressure from the CIC, but as soon as the pressure relaxed, they returned to the status quo.

### **Public Works**

Parivartan, a Delhi-based NGO, requested public works contracts in two East Delhi neighbourhoods in 2002 under the Delhi Right to Information Act 2001. Parivartan held a public hearing, or jansunwai, to audit the 68 contracts, which showed significant corruption and money laundering in 64 local municipal corporation contracts (Municipal Corporation of Delhi). Investigations found that about Rs. 7 million worth of commodities were missing from a total of Rs. 13 million legally sanctioned for enhancing municipal amenities in these areas. Parivartan petitioned Delhi's chief minister following the public hearing. The Delhi High Court ordered the Delhi police to examine claims of corruption in May 2004, compelling the local municipal councillor to provide total openness in the area's public works programmes. The Delhi Municipal Corporation agreed to a set of corrective actions, including proactively displaying public works projects at worksite, office, and community locations. The court case was less successful: years after the alleged corruption case, the Delhi police failed to collect evidence. Parivartan has also advocated for improved openness and accountability in the administration of Delhi's public distribution system.

### **Ration Shops**

Another Delhi-based NGO, the SNS, runs a New Delhi information centre to educate and encourage residents to use the RTI Act to obtain information about pensions, primary and secondary school education, housing, power, water supply, and sanitation. SNS has demonstrated their achievements in leveraging the law to get fundamental entitlements for slum people, including as ration cards, regular water supplies, and decent

sanitation, among other things. In 2004, the SNS assisted slum residents in filing applications for access to ration shop records under the Delhi Right to Information Act 2001, revealing that shops regularly siphoned rationed wheat, rice, and sugar and sold it to bogus ration card users. The SNS and its volunteers' persistent push has resulted in considerable changes in the administration of the public distribution system. The SNS has recently used the law to gain access to information concerning elected officials' performance. Other organizations, such as the Hazard Centre (a New Delhi-based NGO that focuses on urban poverty issues), have filed RTI requests with public work departments on behalf of residents of resettled and unauthorized colonies, requesting information on the provision of essential services in these areas.

### **'Commonwealth 'Games**

Meanwhile, another Delhi-based organization, the Housing and Land Rights Network (HLRN), used the RTI Act to access government expenditures for the 2010 Commonwealth Games (CWG). The HLRN discovered that social development money designated for the underprivileged had been redirected by the Delhi government towards the CWG, to the tune of Rs. 744 crores, or \$164 million, based on RTI responses from several agencies. Following these revelations, the organization demanded an audit and inquiry into the misappropriation of funds by Delhi and federal government officials. While the Delhi chief minister publicly denied that funds had been diverted, the issue drew the attention of legislators not only in India (where the issue was raised in both the lower and upper houses, but also in the United Kingdom, where a Member of Parliament in the House of Lords raised a question about the diversion of funds. The government authorized an official examination and investigation of the CWG spending after these and other expenditure-related anomalies were revealed.

### **Media**

Journalists have utilized the RTI as a means to gather information in several cases. Shyamlal Yadav, an associate editor at India Today, has filed over 1,800 RTI requests to acquire information for his investigative stories. In 2008, Yadav used the RTI Act to obtain information about foreign trips taken by UPA ministers. After four months and 59 RTI requests, Yadav discovered that 71 of the UPA government's 78 ministers had taken a total of 786 international trips on the taxpayer's dime over a three-and-a-half-year period. The report sparked widespread public interest and received widespread media coverage, forcing the Prime Minister to write to his ministers, requesting that they reduce their international trip expenses. The following year, India Today filed RTI requests with every central government ministry seeking information on bureaucrats' foreign



travel, revealing that 1,576 officials with the rank of director or higher traveled abroad for a total of 24,458 days between January 2005 and April 2008, at the cost of more than Rs.56.38 crores. In 2006, the media house NDTV and several newspapers (including The Hindu, The Telegraph, and Hindustan Times) partnered with CSOs to launch the Drive against Bribes Campaign and combat corruption. The 15 day campaign sought to discourage people from taking bribes, using the RTI Act to access information from the government. Almost 1,500 trained volunteers assisted people at centers in 48 cities about the law. According to journalist Manish Sisodia, the campaign involved over 700 groups from across the country (including NGOs, resident welfare associations, students, and lawyers) and helped generate a buzz about RTI. These examples and other case studies suggest that the RTI Act has been used innovatively by individuals and citizen groups seeking a range of information on government schemes, development projects, benefits, and entitlements. Audits of the MGNREGS have helped expose corruption in wage payments and construction projects. Groups such as Parivartan and SNS have used it to redress grievances and as an alternate mechanism for the poor to access their fundamental rights and entitlements to ration cards, pensions, electricity, and water connections, and so on. Meanwhile, organizations like HLRN used the law to expose instances of poor administration (as with the diversion of social sector funds to pay for CWG). However, instances of information obtained through the RTI Act translating into direct action against corrupt and inefficient practices or resulting in punitive action against officials have been few. From the perspective of civil society, this is not as much a reflection of the law and its implementation as of the state's weak mechanism of horizontal accountability, evident in, for example, the unwillingness of judiciary bodies and law enforcement agencies to act on findings unearthed through the RTI Act.

Mr. Pravin h Prakash, senior advocate, sc of India, while delivering a lecture, has mentioned that the right to information is a tool for good governance and against corruption. Individuals and institutions become corrupt only when there is no public scrutiny of their actions. the more they operate in the public gaze, the less corrupt and more efficient they are likely to be .in this respect, the right to information can be utilized as a tool to fight the widespread corruption in India .in India, tax revenue meant for investment in public services is an attractive target for abuse .in addition, Indian citizens, especially the poor ones, frequently face corruption in public service delivery via the solicitation of bribes or speed money.<sup>159</sup>

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<sup>159</sup>Prakash pravin .h[senior advocate, supreme court of india]; keynote address delivered on 'role of right to information for empowerment of Indian democracy' published on March 28 ,2011, by the news desk, INVC, Delhi

Now that 16 years have passed since the introduction of the right to information Act let us examine our position indicated by the corruption perception index, conducted by transparency international. The corruption perceptions index [CPI] of transparency international is the most well-known of our tools. It was initially published in 1995 and is widely recognized for putting corruption on the international policy agenda. The CPI ranks over 180 countries according to their perceived degrees of corruption, as judged by expert assessments and public opinion polls. According to experts and businesspeople, the index utilizes a scale of 0 to 100 to rate 180 nations and territories based on their perceived levels of public sector corruption, with 0 being severely corrupt and 100 being very clean. The country with a higher score will be ranked higher.

**Corruption perceptions index [2000-2020]**

The CPI (Consumer Price Index) is a measure of how well people are. The table of corruption perception index from 2000 to 2020 shows that we did not improve our position despite adopting the RTI Act.<sup>160</sup>

Year	Total Countries	CPI Score [10]	a’s Rank
2000	90	2.8	59 <sup>th</sup>
2001	91	2.7	71 <sup>st</sup>
2002	102	2.7	71 <sup>st</sup>
2003	133	2.8	83 <sup>rd</sup>
2004	146	2.8	90 <sup>th</sup>
2005	159	2.9	88 <sup>th</sup>
2006	163	3.3	70 <sup>th</sup>
2007	180	3.5	72 <sup>nd</sup>
2008	180	3.4	85 <sup>th</sup>
2009	180	3.4	84 <sup>th</sup>
2010	178	3.3	87 <sup>th</sup>
2011	182	3.1	95 <sup>th</sup>

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<sup>160</sup> Transparency International Corruption Perception Index [CPI], <http://www.transparency.org> [2015-2020]

2012	176	3.6	94 <sup>th</sup>
2013	177	3.6	94 <sup>th</sup>
2014	175	3.8	85 <sup>th</sup>
2015	168	3.8	76 <sup>th</sup>
2016	176	4	79 <sup>th</sup>
2017	180	4	81 <sup>st</sup>
2018	180	4.1	78 <sup>th</sup>
2019	180	4.1	80 <sup>th</sup>
2020	180	4	86 <sup>th</sup>

"In the year 2019, India was rated 80th out of 180 countries. In the 2020 corruption perception index (CPI), India has dropped six places to 86th out of 180 countries with a score of 40. However, we did raise our CPI Score from 2.9 in 2005 to 3.8 in 2014, and 4.1 in 2019 which is a promising indicator. Many of us believe that corruption runs in our veins. Yes, when ministers are implicated in corruption, but not all ministers are corrupt. In the case of bureaucrats and so-called subordinates, a similar situation exists. As a result, it is possible to conclude that it is a myth and that corruption is not in our blood.<sup>161</sup>

By removing the unnecessary secrecy surrounding the decision-making process, the Right to Information laws is expected to improve the quality of decision-making by public authorities in both policy and administrative affairs. It also allows organizations and individuals to learn about the criteria used by government entities when making decisions. It is envisaged that this will improve participatory democratic democracy by allowing all citizens to participate in a more comprehensive and informed manner. The country's citizens will understand the government's performance by ensuring access to necessary information and knowledge, and the cumulative impact of such a procedure will be the control of corruption and the arbitrary exercise of authority.<sup>162</sup>

### **Some judicial observations with respect to RTI and corruption**

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<sup>161</sup> [https://economictimes.indiatimes.com/news/economy/indicators/indias-rank-slips-to-86th-in-corruption-perception-index-2020/articleshow/80512814.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/economy/indicators/indias-rank-slips-to-86th-in-corruption-perception-index-2020/articleshow/80512814.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst) May 28, 2021, 09:51 AM

<sup>162</sup> Narayan Vikrant, Right to Information: A paradigm shift from representative to participatory democracy, All India Reporter 2009, August, p.116.

*S Vijayalakshmi v union of India*,<sup>163</sup>As democracy necessitates an informed citizenry and information transparency, both of which are essential to its functioning and to containing corruption in order to hold the government and its instrumentalities accountable to the governed; and as disclosure of information in practice is likely to conflict with other public interests, such as efficient government operations, to reconcile these conflicting interdependencies. Long ago, in 1973, the Supreme Court stated that "as long as there is a perception that corruption exists and that unless one pays to someone, things do not get done," there will always be those who feel compelled to offer bribes." A bribe would be paid in exchange for an unwarranted favor, avoid unnecessary pestering, and ensure that the most legitimate task is completed as quickly as possible. To prevent crimes like the one for which the appellant was found guilty, it is vital to instill in the general public the belief that things are done promptly, free of outside influences.<sup>164</sup> Corruption looks to have spread throughout the country, according to the Supreme Court. The stagnant stench of corruption has infiltrated every aspect of government. The term "corruption" refers to corrupted and degraded behavior. Dishonesty is the actual color; it has a profound and extensive corrosive effect; it spreads like lymph nodes, cancerous cells in the human body spread like wildfire, eating away at essential veins in the efficacy of public activities. Corruption has its origins and ramifications throughout society as a whole, which is a sad fact. In its broadest sense, corruption refers to the improper or self-serving exercise of authority and influence associated with a public office. The basis of corruption is nepotism and apathy in command, which often offers passive support to corrupt personnel based on narrow concerns.<sup>165</sup>

In another case,<sup>166</sup> It has been noted that corruption is corroding, lie malignant lymph nodes, the vital veins of the body politics, social fibers of efficiency in the public services, and demoralizing honest officers. Only when a public servant focuses his real attention and does his duty diligently, indeed, and honestly, and devotes himself assiduously to the performance of his post's obligations, will the efficiency of the public service improvement. The officers' behavior would be shrouded in thick, impenetrable clouds of corruption, gaining infamy far greater than the smoke.

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<sup>163</sup>IR 2011 Mad 275,2011[5] CTC 376,[2011] 8 MLJ 173],

<sup>164</sup>Mohandas Lalwani v state of Madhya Pradesh, AIR 1973 SC 2679 at p .2684

<sup>165</sup>High court Bombay v. Shirish Kumar Rangrao Patil, AIR 1997 SC 2631, para 16.

<sup>166</sup>Swatantar Singh v. state of Haryana, AIR 1997 SC 2105 at p.2106

Mr. M Veerappa Moily, the then chairman of the Administrative Reforms Commission, stated at the outset of the RTI Act [October 2006] that the access to information act is an essential weapon in the battle against corruption. Bureaucrats should not be concerned about this behavior and should openly conduct themselves. He further stated that if individuals properly use the RTI Act, no lokayukta or other institution is required. The administrative reform commission's second report to the centre outlines how to streamline administration at the state and district levels. The bureaucracy must favorably respond to the public's expectations. Ordinary citizens must feel at ease at government offices. If not, they will have the impression that the government is not theirs.<sup>167</sup>The RTI Act was enacted by the parliament while repealing the Freedom of Information Act, 2002, to create an environment of transparency and sharing of information and provide every Indian citizen with the fundamental constitutional and democratic right to gain access to certain information, according to the Calcutta High Court in the Pritam raj case. Its main goal is to promote and improve openness and accountability while also preventing corruption. Corruption thrives on concealment, which is well known. Transparency may lead to its abolition, and RTI, in its purest form, would be a crucial tool in the fight against corruption.<sup>168</sup>In **CBSE V. Aditya Bandopadhyaya**,<sup>169</sup> According to the CBSE case, information and right to information are designed to be robust tools in the hands of responsible citizens to fight corruption and bring about transparency and accountability. The right to information act's requirements should be vigorously implemented. Every effort should be made to light the essential information under clause [b] of section 4 [1], which ensures transparency and accountability in government operations and discourages corruption.

### **THE RIGHT TO INFORMATION ACT 2005: A NEW ATTEMPT TO PREVENT CORRUPTION**

A purposeful denial of transparency, accessibility, and accountability, complex and confusing procedures, the proliferation of mindless controls, and insufficient commitment at all levels to accurate results of public welfare are all critical drivers of corruption. The executive branch, at all levels, tries to suppress information to expand its control, patronage, and arbitrary, corrupt, and unaccountable power. As a result, deciphering rules and procedures, ensuring perfect openness, and proactively disseminating pertinent information to the public could be an effective deterrent to corruption most effective systemic check on corruption would be if citizens had the freedom to demand information from the government on their initiative, thereby enforcing

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<sup>167</sup>speaking in a workshop;source-<https://www.deccanherald.com>

<sup>168</sup> University of Calcutta v.pritam rooj ,AIR 2009 Cal AIR 2009 cal 97 ;[2009] ILR 2 Cal 97[para 44]

<sup>169</sup>2011 [8] SCALE 645 ;[2011 ]8 SC C 497[Para 37]

transparency and accountability. Regarding the future of the Act, so far as the prevention of corruption in public services in India by operation of this law is concerned, it has been estimated in the concluding chapter.

India Corruption Survey shows the "Ranking of States" on corruption. According to the poll, Rajasthan and Bihar performed the worst in the country, with 78 percent and 75 percent of respondents admitting to taking bribes, respectively, according to the India Corruption Survey 2019. Telangana topped the list in south India. The study was performed by Local Circles, a social media firm, and Transparency International India between October 2018 and November 2019. It received roughly 81,000 individual responses from 1.9 lakh people in 248 districts across 20 Indian states. The Uttar Pradesh came in third place on the list. In Uttar Pradesh, 74% of citizens admitted to paying a bribe to have their work completed. Jharkhand is tied for third place with Uttar Pradesh, with 74 percent of residents admitting to paying a bribe to get their work done. The state of Telangana completes the top five list of India's "Most Corrupt States," with roughly 67 percent of citizens admitting to paying bribes to complete various unfinished projects. Tamil Nadu is the fifth most corrupt state in the country. Approximately 62 percent of citizens admitted to paying bribes in order to complete their tasks. The Punjab is ranked sixth on the list, with 63 percent of citizens agreeing to pay bribes to complete their tasks.

According to the ranking, Kerala is one of the least corrupt states, with only 10% of people admitting to paying a bribe to have their work done. All of them admit to giving bribes multiple times (directly/indirectly). Apart from Kerala, Goa, Gujarat, Odisha, West Bengal, Haryana, and Delhi are the least corrupt states.<sup>170</sup> The RTI Act's primary goal is to reform India's monolithic and opaque bureaucracy's culture of secrecy, red tape, and aloofness. MKSS (Mazdoor Kisan shakti Sangathan) was the first to take action against corruption at the grassroots level. The RTI Act is rapidly gaining traction as a powerful anti-corruption weapon. RTI laws, sometimes known as "sunshine laws," give citizens legal rights to access information stored by their governments, bringing much-needed transparency to government operations. This law has been implemented in over 80 nations. The RTI Act of India is widely regarded as a sound and effective piece of legislation. Over the previous six years, ordinary Indian individuals have used RTI to demand a wide range of information from their government. Over the previous three years, 3 million RTI requests have been filed and used to

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<sup>170</sup> Indian Corruption Study 2005 to Improve Governance, Volume -I, Study designed and conducted by Center for Media Studies (CMS. New Delhi - 110017 - Issued by Transparency International India, "Ranking of States", pages 11-14

resolve individual issues. Filing an RTI application empowers India's poor and disadvantaged, and it frequently results in significant reforms. Some significant examples are

1. The ponds scam in rural Orissa, where the community is part of the National Wage Employment Scheme. He learned that ponds were never built but that money had been allotted and squandered. 2. Slum residents in Delhi were divided into four groups, none of which followed the rules. The first group applied and did not receive a response. The second group included a letter of recommendation from an NGO with their application. The third group paid a bribe. The bribe-paying group was successful, and the fourth group's RTI request was handled quickly. To put it another way, access to knowledge appears to empower the poor to the point that they are treated virtually identically to middle-class individuals by civil servants. This is something that a bribe cannot achieve. It is a powerful weapon in the fight against corruption and power abuse. It's an essential instrument for effective governance, and it's been used to combat high-profile corruption. The Right to Information Act (RTI) spread across the country, reducing corruption in India. There have been numerous occasions where the right to information has been utilized to expose corruption in some form or another.

India's RTI Act, according to social activist Aruna Roy, is "the most basic law this country has seen" because it can be utilized "from the local panchayat (a unit of local government) to parliament, from a nondescript village to fashionable Delhi, and from ration stores to the 2G scandal." The access to information (RTI) Act is a fantastic tool to improve the government's functioning, according to the Times of India in January 2013. At an interaction-themed 'Role of PIOs and RTI activists in good governance,' Leena Mehendale, a retired IAS officer, made this statement. The RTI Statute, according to the former Maharashtra additional chief secretary, is an essential act drafted and implemented after the country's constitution. Mehendale believes that the RTI can make it easier for people to participate in development. She added that the average citizen often has no say in how the government operates. RTI is being utilized to resolve individual grievances, gain access to entitlements such as ration cards and pensions, scrutinize government policies and choices, and expose corruption and misuse of government resources, according to case studies and media reports. Thus right to information has a immense power to make government accountable and transparent. We as individuals have the power and the responsibility of bringing good governance by using and spreading the use of Right to Information. Going beyond stopping corruption and getting the Citizens their rightful due, Right to Information also lends itself to being used by Citizens to address governance issues and a rational

basis for public policy. Indian Citizens have an opportunity to realize Swaraj and turn it into Su-raj – a true and enlightened self-governance and good governance.<sup>171</sup>

### **Role of Right to Information act in reducing the Corruption in India**

Furthermore, the right to information and good governance are inextricably linked. Good governance can only be achieved when society is very open and corruption is easily accessible.<sup>172</sup> The parts that follow describe how RTI has devised a plan for reducing corruption and ensuring smooth governance. On the one hand, sensible and practical use of RTI improves administrative efficiency, while it is likely to prevent corruption on the other side. Insofar as it gives every citizen of the country an enforceable right to question, examine, audit, review, and assess government acts and decisions to ensure that they are consistent with the principles of public interest and integrity, the right to information is likely to reduce corruption and increase administrative efficiency.

**Promotes transparency-** Citizens can see how governments work in public offices thanks to the right to information. Any good government's cornerstone is transparency. The RTI Act can be used to combat systemic corruption at its source and in the high and mighty's power corridors. Following the enactment of this act, numerous incidents of corruption surfaced. RTI requests have been the starting point of disclosure in several recent access to corruption cases, ranging from the Common Wealth Games to the 2G scam. It is the most potent weapon in ordinary people's hands against the administrative system's secret fortress.<sup>173</sup> There is an assumption that whatever the government does is for the public good and is done honestly to get the most out of the finances available. However, as we all know, this presumption has been severely eroded in recent years due to widespread misuse, embezzlement, and reckless use of public monies. To counteract this, complete transparency in all public interactions is required. Right to Information is a principle that binds the concern officials' careful use and administration of finances. People will be able to hold politicians accountable for misusing public time and money if there is more transparency.<sup>174</sup>

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<sup>171</sup> JEEVAN SINGH RAJAK RIGHT TO INFORMATION ACT: A VITAL TOOL TO FIGHT AGAINST CORRUPTION IN INDIA, 2[5], International Journal of Political Science and Development, 68-77, 2014

<sup>172</sup> Borah, S. K, Right to Information Act: A Key to Good Governance, 2[2], International Journal of Humanities and Social Science, 2013

<sup>173</sup> Hazra, N, RTI- A right to Good Governance. Yojana Journal, 56 2013

<sup>174</sup> P.S. Bawa, IPS (the Retd.), Right to Information Act: A Tool of Management and Good Governance, 60[4] Indian Police Journal (Prev, Police R & D Journal) 65 [2013]



**Promotes public Accountability**-Another necessity for minimizing corruption is accountability. The Right to Information Act gives people a way to get information from the government, which they can use to hold the government accountable or explain why choices were made, who made them, and the implications or outcomes. When citizens are informed about government decisions. When public officials and ordinary citizens are connected, the chances of corruption are reduced. In any democratic system of government, the government operates for the benefit of the general public, not for one or a few individuals. As a result, the government must be accountable to the people at all levels, from the village to the national level, and the people should have the right to know what their government is up to. People will be able to hold public authorities accountable regularly if they have a right to information, rather than putting the entire weight on their elected representatives, who are often unable to obtain the information they need despite having all the resources at their disposal. The right to information is the foundation of a culture of accountability because it makes information about the finances, procedures, and decisions of all social actors whose actions influence the public available. Mismanagement, misuse of discretion, bribery, and other forms of corruption and malpractice can all be prevented. The procedure will become more regular as a result of this.<sup>175</sup>

**Promotes Accessibility**- Citizens who have access to information on service delivery and other government functions understand what they are entitled to and how and where to demand those services and other advantages.<sup>176</sup> By allowing easy access to information, the Right to Information Act bridges the gap between individuals and government, assisting in the nation-building process. People can better grasp the limitations of government at various levels by exercising their right to know and having simple access to government information. Information has a direct impact on the elimination of corruption.

**Promotes participation**- The RTI Act facilitated and encouraged ordinary people to participate in governance, reducing power imbalances, providing a weapon to combat injustice, and allowing collective spirit to make democracy work for everyone. Citizens' access to information makes it easier for them to make political and economic decisions, which improves democracy. As bribery becomes a societal norm in society, the process of paying bribes in everyday life declines and seeks to be controlled. In a democracy, effective citizen engagement is required for the governing process. Every people in the country must have access to the data they require to make educated decisions. The RTI assists in removing unnecessary secrecy from decision-making and facilitating the policy-making process on issues of their concern. As in any democratic society, meaningful engagement of the people in the government's process is required for effective

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<sup>175</sup> Ibid

<sup>176</sup> Chaubey M. K, Right to information Various Dimensions. Regal Publications: New Delhi. p.24, 2012

governance. On the other hand, citizens must have access to the information they need to understand how things are done, participate in planning processes, and assess if specific plans and schemes are beneficial to them. The notion of Right to Information not only aids in enhancing the quality of decision-making by removing superfluous secrecy requirements, but it also aids in the creation of policy on subjects of importance to them.<sup>177</sup>

**Promotes empowerment-** Participation in political and economic processes and the opportunity to make informed decisions were limited to India before the Right to Information Act. As a result, commoners are unaware of numerous plans and are powerless to protest when their rights are violated. At the same time, people are unaware of how and where they can legally get their legal rights from the relevant departments. The RTI Act decentralized authority and democratized information. Power is no longer confined to a chosen few but is instead available to all inhabitants equally. RTI is, without a question, an excellent instrument for empowering the general public.

**Democratization of Governance-** Access to information is considered one of the primary prerequisites in the democratization of governance to avoid the misuse of any administrative authority for personal benefit and promote justice, equity, and fair play. That is why, as L.D. White has noted, "Power in a democracy necessitates control, and the higher the power, the greater the control." The requirement for the democratization of governance is access to information. It aids in various ways to prevent the abuse of administrative authority for personal advantage and the process of promoting justice, equity, and fair play. That is why L.D. White made the observation. "Power in a democracy necessitates control; the higher the power, the greater the control." The right to knowledge is one of the tools that can be used to keep power in check and ensure better accountability.<sup>178</sup>

**Fosters the Rule of Law-** Access to information is one facet that helps to lessen the likelihood of resource mismanagement and corruption. This right also helps the government work more effectively by holding service providers accountable for their activities, fostering a participative and transparent atmosphere in which ordinary citizens can participate in policy development, and establishing the rule of law. When used correctly, information has the power to bring about the necessary changes in the administrative system, as well as the duty to do some things that are often overlooked.<sup>179</sup>

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<sup>177</sup> Chaubey, M. K. Right to information Various Dimensions. Regal Publications: New Delhi. p.24

<sup>178</sup> Rajvir S Dhaka, Right to Information and Good Governance, 4[3], Indian Journal of Public Administration,536 [2009]

<sup>179</sup> Supra note 174

**Prevention of the Misuse of Discretionary Powers**-Because practically all officers are granted discretionary authority to fulfill and carry out their tasks efficiently, this could lead to them abusing their discretionary authority to bring a lawsuit on behalf of various political or vested interests or misappropriate funds. In such cases, the right to information is seen as a powerful tool for preventing administrative discretion and ensuring fairness. Officers are given discretionary powers to carry out their duties successfully, but they can utilize that discretion to favor various political and vested interests or misappropriate funds. They tend to keep material hidden from disclosure in the absence of any legislation on the right to information, even if it is achievable with the intervention of the courts. In practice, poor people and villagers cannot do so due to costs, distances, and delays. The Another issue is the lack of openness regarding the criteria used to pick candidates for public positions. The hiring of improper individuals exacerbates the government's inefficiencies and problems. Access to Information is regarded as a powerful weapon or instrument for preventing the abuse of administrative discretion and ensuring fairness in administration by encouraging openness, transparency, and accountability.<sup>180</sup>

**Effective and proper Execution of Government Schemes**-India is a country of villages, and growth passes from those villages, even though many facilities are not available. To add those villages in the mainstream, numerous schemes to provide food, housing, employment, and education are run not only by the Central government but also by the state governments. Most schemes are specially made for the poorest of the poor in the rural areas, routed through the network of government agencies. There is always widespread criticism about the funds of such schemes that such funds are being routinely misappropriated or misused on a large scale. Providing the complete information of such schemes to the common public and access to records concerning their proper utilization would undoubtedly improve the schemes' accomplishment.

The central and state governments provide various rural areas, including food, shelter, employment, and education. These programs are designed to help the poorest of the poor in rural areas, and there has been widespread criticism that this money has been plundered or misused on a considerable scale. Most people are unaware of such programs, even if they know they do not receive their rights under the program or accept less than their allotment.<sup>181</sup> 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

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<sup>180</sup> Sapna Chadha, Good Governance Practices relating to RTI Implementation in India, Transparent Governance in South Asia, Indian Institute of Public Administration, 2011, p. 261.

<sup>181</sup> Mulage, Bheemabai S, Impact of Right to Information Act on ordinary people, 5[4], Karnataka Law Journal 23 [2011]

working of the public bodies. The disclosure of vital information thus results in checking corrupt practices in delivering services, ensuring the reach of entitlements to the poor, and making the administration more accountable.<sup>182</sup>

**Improves Media Effectiveness**-There are three pillars of any democracy as Legislature, Executive and Judiciary and now a day's media is considered as the fourth one and plays its role in any of its form like newspaper, radio, television, etc. and provides services by becoming an essential link between the citizens and the government. So it is very much crucial for any democracy that the media should have access to information. Balanced reporting on any matter always becomes a complicated task, especially when primary sources of information are denied. In such cases, the media generally provides biased news, suppresses, or distorts information. The right to information empowers both media and the citizens of the country together to make the government more accountable and transparent in its functioning.

**Executive Competence** -This Act is intended to bring the concept of openness, transparency, and accountability and to ensure that all the public authorities discharge their duties properly, efficiently, and proficiently without any unnecessary delays. Simultaneously required the information relating to the pendency of the applications, reason as to why these have not been disposed of, or the reasons behind their rejection ought to be provided, as this is to be expected to improve the effectiveness of different departments. In government machinery, any executive decision can be blocked at any time, including any investigation, anti-corruption, etc. The executives are so protected from being responsible that they rarely fall in the net. Nevertheless, this Act has proved that it can considerably help to improve governance.

**Instrument of Socio-Economic Change**-There is always a requirement of free flow of information to identify any problem and its solution. The concept of access to information is totally against the secretive government culture, which only fosters suspicion and doubts and is always opposed to some changes. Information is considered one of the key and potent weapons in the hands of ordinary people to bring about any significant and far-reaching socio-economic change.

**Administrative Efficiency** -In any Government comprises conducting the administration without any unnecessary delays and any hidden or corrupt motives. If people do not know what is happening in their

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<sup>182</sup> J.P. Rai, The Right to Information Act, 2005: Retrospect and Prospects, 42[2], The Banaras Law Journal 7 [2013]

society, and if those who rule them are hidden, they cannot make a meaningful part.<sup>183</sup> It is seen that any citizen's grievances 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, and this is likely to improve the efficiency of various departments.

**Creating a More Democratic and Open Society** -For better democratic governance, participation in the decision-making process is impossible without maintaining the transparency and sharing of the information, so the free flow of information is essential for identifying and resolving the problems. Though openness is essential to the functioning of a democratic society, yet secrecy also bears the same quality on specific genuine grounds like privacy, defense 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 secrecy requirements. However, this balance must be tilted favor of openness.<sup>184</sup>

**Protection of Civil Liberties**-The right to information is critical for citizens' liberties because it makes it simpler for civil society organizations to monitor wrongdoings such as wrongful deaths in custody and the abuse of preventative detention legislation. Civil society must be able to assess the performance of elected representatives, bureaucrats, and other state workers in order for democracy to be meaningful. People must be appropriately informed on the government's policies, activities, and failures in order to be able to audit its performance. As a result, a well-informed public is a prerequisite for democracy.

**Reducing Poverty**-The right to information legislation is critical to the effective development of society and the eradication of poverty. Information can help poor communities fight the situations in which they find themselves needy and powerless and maintain the balance of unequal dynamic power between the poor and the government. No development worth its name is based on the impoverishment of many people and exploiting the poor, and no democracy is worth its name if authorities can operate in secret. Because people

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<sup>183</sup> Sapna Chadha, Good Governance Practices Relating to RTI Implementation in India, *Transparent Governance in South Asia*, Indian Institute of Public Administration, 2011, p. 261.

<sup>184</sup> M. Sarojanamma, Right to Information for a Transparent and Democratic Government, 3[11], *Andhra Law Times* 19 [2013]

are uninformed, they may be controlled. The rising human rights of right to know, right to health, right to work, and right to shelter are the emerging human rights of the twenty-first century.<sup>185</sup>

**Ensure the Strengthening of Public Opinion**-Access to knowledge is critical to the health of democracy because, without it, peace and harmony cannot flourish.<sup>186</sup>Even if the government guarantees citizens the right to information, citizens rely on media such as newspapers, radio, and television to keep up with government actions daily. The media serves as a conduit between citizens and the government. The media contributes to creating a "free market place of ideas" that promotes free thought. As a result, the media must have access to information. The media's right to information is a facet of the public's right to know, not a special entitlement. The media has numerous challenges as a result of their lack of access to government information. When primary sources of information are suppressed, balanced reporting becomes difficult. They deliver biased news in the absence of precise information, concealing or distorting information. The media and citizenry would work together to make the government more accountable if they had access to information.

**Other Rights Protection**- Many other economic and political rights can be better enforced with the help of freedom of information laws. In India, the Freedom of Information Act is even being used to enforce ration distribution by showing that food merchants are not supplying government-subsidized food to the poor. As a result, significant improvements have been made to the food distribution system to ensure that citizens and vendors receive their food and are compensated appropriately.

### **INTERNATIONAL PRINCIPLES OF RIGHT TO INFORMATION WHICH HELPS IN CURBING CORRUPTION**

Even though legislation in different countries varies significantly, some common themes can be identified as the very regular features of a freedom of information regime. Furthermore, specific mechanisms or standards in national legislation can be identified as best practice approaches justified by the principle of maximum disclosure, which should be promoted in other countries. It is generally argued that freedom of information and predominantly the right to access information detained by any public body is a fundamental right and considered as part of the right to freedom of expression. Some established principles also light on

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<sup>185</sup>S.P. Sathe, The Right to Know: Proposed Constitutional and Legislative Strategies, 24[1 and 2], Indian Bar Review, 96 [1997]

<sup>186</sup> Shashi Bala Kashyap, The Right to Information and the Role of the Media, 39[162], Indian Socio-Legal Journal, 29-30

the established jurisprudence regarding the right to freedom of expression, including information. Though the implementation of the right to freedom of expression carries with it special duties and responsibilities and is subject to specific restriction, these shall only be such as are provided by law and are necessary:

The concept of maximal disclosure sets a presumption that all information maintained by public authorities should be made public, with the provision that this presumption may be disregarded only if a legitimate interest is jeopardized. It also means establishing a system and process to ensure that members of the public have access to information in practice. There are about nine headings based on the fundamental themes described in *The Public's Right to Know*.<sup>187</sup>

### *Maximum Disclosure*

The concept of maximal disclosure sets a presumption that all information maintained by public authorities should be made public, with the provision that this presumption may be disregarded only if a legitimate interest is jeopardized. It also means establishing a system and process to ensure that members of the public have access to information in practice. This principle should guide the Freedom of Information Legislation. The idea of full disclosure encapsulates the primary rationale underpinning freedom of information legislation, and it is expressly specified as a goal in various national laws. One of the most prominent constituents of this principle is that the person wishing to prevent access to information must prove that the information can be withheld legally. Another part of this idea is that the law should have a broad scope. The knowledge should benefit everyone, not just citizens. Anyone requesting access should not be required to justify themselves or demonstrate a strong interest in the information. Anyone requesting access should not be obliged to explain anything or show any particular interest in the information. Every justifiable secrecy interest can be addressed through an appropriate exception scheme, and no public bodies should be excluded from the purview of the law. Public corporations should also be covered. Many argued that even all private bodies that are substantially publicly funded or carry out public functions should be included within the ambit of the law. This principle encapsulates the primary rationale underlying the very concept of freedom of information. Ideally, it should be included in the Constitution to clarify that access to official information is a fundamental right. The primary purpose of legislation should be to ensure that full disclosure is implemented in practice. Public bodies are required to provide information, and every member of the public

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<sup>187</sup> Pankaj K P Shreyaskar, *RTI Act in India Future and Implications*, McGraw Hill Education (India) Private Limited 2015 p., 17.

has a right to obtain it. This right should be available to everyone in the country's territory. In other words, the public authority must demonstrate that the material it intends to withhold falls under the limited exceptions regime.

### **Obligation to Publish**

Public bodies should be required to make critical information public. It is not enough for the law to oblige public bodies to respond to requests for information; many individuals rely on these public agencies actively publishing and spreading essential categories of information even when no one has made a request. Though the scope of such an obligation is determined by the resources available, the amount of information covered should grow over time, primarily as new technologies make publishing and disseminating information more straightforward and cheaper, and what information should be published is determined by the public body in question. All the Public bodies are obligated to automatically publish the following categories of information as operational information about how the public body functions, costs, objectives, audited accounts, standards, and achievements, mainly where the body provides direct services to the public.<sup>188</sup>

### **Promotion of Open Government**

Public Bodies Must Actively Promote Open Government. In most countries, especially those that have not yet or have just received the freedom of information, laws have a deep-rooted culture of secrecy within government based on long-standing practices and attitudes. Ultimately, the success of such a law is based on altering these traditions since it is practically impossible to force civil servants to be open, even with the most progressive legislation. Rather, longer term success depends on convincing public officials that openness is an (unwelcome) obligation and a fundamental human right and central to adequate and appropriate governance. A range of promotional measures may be needed to address the culture of secrecy and ensure that the public is aware of the right to information and its implications. Several other means of promoting openness within the government have been tried in different countries to provide incentives for good performers, expose poor performers, and ensure legislative oversight through annual reports. The law should at least allocate the responsibilities for ensuring that this need is actively addressed. Another valuable means

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<sup>188</sup> Toby Mendel, "Freedom of Information: A Comparative Legal Survey"; Second Edition, New Delhi: UNESCO, 2004



or tool to tackle the culture of secrecy is to provide the penalties for all those who willfully obstruct access to information in any manner, including by destroying records or inhibiting the work of the administrative oversight body. The general public should also be well informed about the rights available under the new legislation and exercise them. Some campaigns for public education are needed, including through the media. The broadcast media can play an essential role in countries where the newspaper's distribution is low or illiteracy widespread. Another helpful tool for such a purpose is the publication of a straightforward and accessible guide on lodging an information request. The information law should allocate such responsibility to an oversight body. Another aspect of promoting open government is promoting better record maintenance by public bodies. One of the most significant obstacles to access information in many nations is the poor state in which records are kept. Officials are notorious for doing so. They don't know what information they have or, if they do, they can't find the records they need in the same department. Good maintenance of the records is essential not only for the freedom of information but it helps for handling the critical functions of modern government.<sup>189</sup>

### **Limited Scope of Exceptions**

Exceptions should be defined clearly and narrowly, and strict "harm" and "public interest" tests should be applied. The regime of exception is one of the most challenging difficulties for that drafting freedom of information legislation. It is also one of the most problematic aspects of many existing laws. Under the law, all valid hidden interests must be fully served; otherwise, public agencies will be legally compelled to release information, even if it causes unjustified harm. The presumption in the esteem of disclosure means that the burden of proof for a public organization wanting to withhold information should be on the entity seeking to withhold it to show that it may be withheld appropriately based on the test of the three-part exemption:

The information must be related to a legal goal. The disclosure must threaten to inflict substantial harm to that goal, and the harm to the goal must outweigh the public interest in obtaining the information.<sup>190</sup> Different right to information laws recognizes different legitimate aims subject to some of the exceptions. In Principle IV, titled "Conceivable limitations to access to official records," the Council of Europe Recommendation also provides a complete and exhaustive list of the possible grounds for restricting the right to information.

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<sup>189</sup> Pankaj K P Shreyaskar, RTI Act in India Future and Implications, McGraw Hill Education (India) Private Limited 2015 p., 18-19

<sup>190</sup> Article 19 of the International Covenant on Civil and Political Rights (ICCPR), 1966.

Member states may restrict access to government documents. Limitations should be spelled out in the law, be required in a democratic society, and be reasonable to the goal of safeguarding: National security, defense and international relations, public safety, criminal activity prevention, investigation, and prosecution, privacy and other legitimate private interests; commercial and other economic interests, whether private or public; equality of parties in court proceedings; nature; inspection, control, and supervision by public authorities.

### **Processes to Facilitate**

Requests for access to information should be handled quickly and fairly, with an independent review of any refusals available. A law that provides precise methods for deciding on requests by public agencies and a system for an independent review of their decisions are required for adequate access to information. The procedures for acquiring information are complicated, and they frequently consume a large chunk of the existing freedom of information laws. Requests for access to information should be handled quickly and fairly, with an independent review of any refusals available. The law should provide timelines for responding to the request, which should reasonably be short. The reply to a request should be made in the form of a written notice stating the fee, the form in which access will be provided, where access to all or part of any information is denied, reasons for that denial, and information about any right of appeal. Many national laws provide an internal appeal to an officer higher in rank to the person to whom the request was made in the same department. However, requesters must have a right to appeal to an independent organization to review the decisions made by the public authorities, which is reflected in most international standards. The appeals should go first to an independent administrative body either by establishing a new independent body for such purpose or allocates this task.<sup>191</sup> to an existing body such as the human rights commission or an ombudsman as already exercised by most of the more progressive national laws. Finally, the law should establish a right of appeal to the courts from such an administrative body. The courts have the jurisdiction to establish disclosure criteria in a contentious matter and assure the possibility of a comprehensive, well-thought-out response to complex disclosure issues.<sup>192</sup>

### **Costs**

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<sup>191</sup> The Public's Right to Know, Principles on Freedom of Information Legislation Published by international Standards Series.

<sup>192</sup> Pankaj K P Shreyaskar, RTI Act in India Future and Implications, Mcgraw Hill Education (India) Private Limited 2015 p., 21-22

High costs should not deter people from making requests for information. The question of collecting fees for access is a tricky one. It is widely agreed that fees for obtaining access to information kept by public entities should not be so exorbitant as to deter potential applicants. The purpose of freedom of information laws is to promote open access to information. Almost every law, however, allows for some form of the access fee. Many charges might conceivably be levied, including searching for documents, preparing them, determining if they are covered by an exception, and the actual cost of giving access, such as through duplication. Varied laws have taken different approaches to the payment of fees. Some charge only the cost of duplication, while others categorize charges by offering lower fees for public interest or personal requests. Others demand a supplementary fee after allowing requesters to use a set amount of public time, such as the first two hours. In actuality, different countries take different approaches to the issue of access to information costs.<sup>193</sup>

### **Open Meetings**

The public should be able to attend meetings of public bodies. The right to know what the government is doing on its behalf and to participate in decision-making processes is included in the concept of freedom of information. As a result, freedom of information legislation should establish a presumption that all meetings of governing bodies, including those of elected bodies and their committees, planning and zoning boards, public boards, educational authorities, and public industrial development agencies, are open to the public, even though this is rarely addressed in a freedom of information request.<sup>194</sup> The reason was that the underlying rationale for freedom of information applies not only to information in democracy form but also to meetings of public bodies.

### **Disclosure Takes Precedence**

Laws that violate the principle of maximum transparency should be amended or repealed. Most countries have various secrecy laws on the books, many of which are unconstitutional or contain incompatible elements with the freedom of information act. If the secrecy culture is to be addressed, the freedom of information act must take precedence over these laws. Wherever possible, this should be accomplished by interpreting these laws in a way that is consistent with the legislation on freedom of information. Where possible conflicts

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<sup>193</sup> Pankaj K P Shreyaskar, RTI Act in India Future and Implications, Mcgraw Hill Education (India) Private Limited 2015 p., 22-23.

<sup>194</sup> The Public's Right to Know; Principles on Freedom of Information Legislation Published by International Standards Series

cannot be resolved through interpretation, the freedom of information law's provisions shall take precedence over competing secrecy laws.<sup>195</sup>

### **Protection for Whistle-blowers**

Whistle-blowers who release information about wrongdoing must be protected. The freedom of information law should shield everyone from legal, administrative, and employment-related consequences for disclosing information about misconduct. Even the most exemplary exception system will not be able to meet every case where disclosure is required, and those wishing to reveal information in the public interest should not be compelled to balance several public interests. Even if disclosure would otherwise violate a legal or employment requirement, such protection should apply. In this sense, wrongdoing covers any criminal offense, failure to meet a legal requirement, any miscarriage of justice, corruption, fairness, or dishonesty, as well as any severe maladministration involving a public body. A substantial threat to health, safety, or the environment, whether or not linked to human misbehavior, is also included. Whistleblowers should be protected as long as they act in good faith and have a reasonable belief that the informations they provided was truthful and revealed proof of wrongdoing. Even if disclosure would otherwise violate a legal or employment requirement, such protection should apply. Several countries have adopted this protection as a separate statute rather than including it in their freedom of information laws. In the exercise of any power or responsibility under freedom of information legislation, individuals who release information in a reasonable and good faith manner should be protected from liability. This effectively protects civil servants who have released material inadvertently but in good faith. This protection is critical for changing the culture of secrecy, and civil officials no longer need to be afraid of sharing information.<sup>196</sup>

### **Tips for the Design of Access to Information Laws for efficiently combating corruption**

The lessons of implementation in transitional democracies lead to the need for additional provisions in addition to the legal aspects of the right to information that must be included in access to information law.

- *Anticipate administrative reforms*: Parties involved in drafting the law need to consider the public administration's capacity for the new legislation. Otherwise, a law may be created that is excellent for citizens

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<sup>195</sup> Pankaj K P Shreyaskar, RTI Act in India Future and Implications, Mcgraw Hill Education (India) Private Limited 2015 p., 23-24

<sup>196</sup> Ibid

but leaves the administration incapable of providing good services and with a considerably reduced capacity to deliver. A few provisions in the law requiring, for example, standardizing the classification of internal documents and the proactive publication of certain classes of information such as budgets and annual reports, can significantly help prepare the administration for answering the most common information requests.

- Sanctions for secretive institutions: Sanctions should penalize the institutions that have failed to respond to requests for information, along with the heads of these agencies, to avoid the possibility of an individual, lower rank civil servants being penalized – the burden of responsibility should rest with those with the power to make a change.

- Retrospective action: Any new access to information legislation and policies should include a clause that entitles requestors to obtain access to copies of information contained in official documents that originated before adopting access to information law.

- Specify which private bodies are covered: Some freedom of in-: Some freedom of information laws also oblige private entities to provide information, mainly where these private bodies receive public funds and/or perform a public function and/or hold information that is necessary for the defense of other rights, such as the right to education or health or participation in public life. To ensure clarity on which bodies are bound to respond to requests for information, they should either be named within the law or the law should specify the criteria to be applied when determining when a public body must respond and which of the information it holds must be made public.

- Fair fees: Access to information regimes usually establish fees for obtaining copies of the information requested. International standards such as the Council of Europe Recommendation on Access to Official Documents and many national laws establish that the fees charged may only be for the actual costs incurred by the public authority, such as the cost-price of photocopying the document requested. ATI laws should establish that information may be viewed free of charge; it is also the norm that where information is delivered electronically, such as by e-mail, it be free of charge. Where IFIs charge fees for providing information, they should also adhere to these standards.

- Proactive transparency: It is increasingly common to find that access to information laws contain provisions requiring public bodies – and private bodies to the extent that the law covers them – to make certain types of information available proactively, such as by posting the information on websites and/or have

printed reports available in the reception of the institution. Such proactive transparency can be a source of crucial information for anti-corruption activists. For example, activities of the state regarding public procurement can be made available automatically (on the Internet and in the national gazette or similar publication), which means that everyone has an equal opportunity to know about upcoming tenders and about contracts that have been awarded. Such measures are needed to overcome traditions of keeping business-related information secret, even where the so-called "business secrecy" relates to spending the taxpayer's money as part of public-private partnerships and service contracts.

- *Independent oversight is essential:* Experience has shown that where Information Commissioners or Ombudspersons are responsible for implementing access to information laws, they can contribute to building a new culture of openness within government. Such officials should have independence of mandate and budget. Those appointed to the post should have relevant experience and be selected by a public process, with an opportunity for civil society organizations to make submissions related to the qualifications of the candidates.

### **CONCLUSION**

On Transparency International's Corruption Perceptions Index, India was ranked 85th out of 175 nations in 2014, and it would be ranked 86th in 2020. As a result, India's primary source of underdevelopment is corruption. The RTI Act has provided a once-in-a-generation opportunity to root out corruption and a culture of secrecy from Indian government activities, paving the path for governance change, increased accountability, and openness. RTI applications are being used by an increasing number of people across the country to fight corruption and seek their rights. The RTI is enabling people to say no to bribes. It is an all-encompassing act with consequences that have prompted some to say that it is the most critical legislation since independence.

To conclude, we can rightly say that the RTI ACT,2005 is an agent of good governance by ensuring transparency and accountability in public administration. This, in turn to a particular extent help, to have a check on corruption or any other malpractices which affect the efficiency of the entire system. The Act helps to make the administration more accountable to the people. It makes people aware of administration and allows them to take part in the decision-making process. It promoted democratic ideology by encouraging openness and transparency in the administration. Thereby it reduces the chances of corruption and abuse of authority by public servants. Since the Act is prepared for people's interest, its success also depends on how

they exercise the Act. Moreover, there is a need for active participation from the people, NGOs, civil society groups, coordination among RTI officials, integrity among government departments, and political will from government and elected leaders.

While public awareness of the necessity of openness has grown significantly [in government], infrastructure must be developed around it in order for it to function correctly. The failure of public entities to plan ahead of time to identify and address limits in giving information to citizens. 203 Furthermore, bringing about attitude changes within the government at various levels is critical to strengthening public authority accountability. Civil society organizations have pushed for more effective and more stringent implementation of the RTI Act since its passage, maintaining alert against any attempts to change or curtail it. Civil society's continued engagement with the RTI campaign, India did not face the problem seen in other countries where RTI laws were passed but rarely used. The Indian media were early supporters of RTI, with senior journalists lending strong support to the movement. They have also served as watchdogs. In 2006, when rumors of a possible government amendment to the law opposed by the media began to circulate, the media opposed it. Since its passage, national newspapers have regularly featured articles relevant to the RTI Act. Backed by civil rights groups, citizens are often using the law to demand a range of information from the government used as the basis of campaigns demanding fundamental rights and entitlements, especially for the poor. Nevertheless, the systemic change needed is yet to be seen. For example, departments lack sufficient budgets, workforce, and infrastructure, hampered by poor records management practices.

Furthermore, the organizations established to protect and promote the RTI regime, such as information commissioners, have underperformed, as seen by the rising number of appeals and complaints and the low rates of sanctions. The Right to Information Act of 2005 is a ground-breaking piece of legislation that binds the Indian government to unparalleled transparency. Nonetheless, there have been flaws in the government's efforts to put the law into effect, particularly in making systemic changes to the rules and procedures controlling information sharing. Discretionary practices and a bureaucratic emphasis on processes over outcomes persist. Nonetheless, the law's impact on society is unavoidable. It is anticipated that around 1 million individuals per year, on average, exercise their right to information, thanks to the ongoing and active presence of civil society organizations that continue to press the government for more effective implementation of the legislation.

Corruption is one of the most major roadblocks to the efficient flow of development funds to poor developing countries. People's quality of life has also been impacted by corruption. The time has come for the people to take responsibility for solving this problem. Civil society organizations play a critical role in instilling the necessary awareness, motivation, and desire to expose corruption's ills and improve government operations. To break free from the current phase and unite our principles in a final push to end the rampant corruption that has held Our people hostage for ages. The Right to Information Act has done just that, giving citizens the power to question their government. This is not a trivial matter. As a result, from 2005 to 2008, Bihar's corruption fell by 62 percent, making it the least corrupt state in the country. It keeps corrupt public officials from exploiting this data to further their agendas. As a result, RTI wields enormous power in holding the government responsible and transparent. We have the ability and responsibility to promote good governance by utilizing RTI and raising awareness about its use. The Right to Information Act,2005 and the rules framed thereunder are being proved to be a significant weapon in the hands of the mass population of India to have a piece of first-hand knowledge about the affairs of the public authorities. Since the promulgation of the statute, it has helped to unearth many discrepancies, scams, and irregularities in the public offices and officials.



## ***CHAPTER 6***

### ***CONCLUSIONS AND SUGGESTIONS***

#### **INTRODUCTION**

The corruption that prevails in the public services is a matter of grief and shame for all Indians. Corruption in public services is anti-poor, antidevelopment, anti-growth, anti-investment, and inequitable. The nation pays a heavy price for it. Corruption was indeed in the shape of bribery, nepotism, and different types of illegal gratification in pre-independent India, both during the British regime and even before that but in those days, it did not become as great a problem as it is now. The various "Anti-corruption Measures" adopted so far are found to be inadequate and defective, and on the question of how it is to be controlled, the answer is simple. Corruption cannot be eliminated or even significantly reduced unless preventive and remedial measures are planned and implemented in a sustained and effective manner. After going through the whole research, I conclude that the RTI Act came into existence in 2005 after a long journey by repealing the freedom of information Act, 2002 to remove corruption and malpractices and promote transparency in the decision-making process Govt. Different favorable provisions make this Act a potent instrument for good governance. However, despite claiming the positive features contended, the Act still suffers from many weak points that obstruct its uniform and effective implementation. Such weaknesses are called grey areas of the Act. The purpose of mentioning these grey areas over here is to get the suggestions for making changes in the present Act.

#### **FINDINGS OF THE HYPOTHESIS AS WELL AS TOPIC**

The right to information act is path-making legislation that brings to light public administration's secrecy. The right to information act is a game-changing piece of legislation that exposes government secrecy. It is a powerful tool for promoting democratic philosophy. The act is a potent weapon in the fight against corruption. The Second Administrative Reform Commission had created a detailed design for reforming the public administrative system after appreciating its importance. The government of India's second Administrative Reform Commission has released its first report, entitled "Right to Information: Master Key to Good Governance." As stated in this study, access to information can empower the poor and weaker elements of society to seek and receive government information about public policies and actions, resulting in everyone's wellbeing. Good governance and the freedom to knowledge are mutually beneficial. Whatever system of

governance a country chooses, it must meet the needs of ordinary people. Good governance is the only way to ensure that people's lives are protected. Political accountability, freedom, bureaucratic accountability, information availability, efficacy, efficiency, law-abiding citizens, and government cooperation are all characteristics of good governance. As a result, effective governance is a natural corollary of the right to information. The RTI Act of 2005 established an open and transparent government by granting every individual the freedom to seek and receive information, thereby making administration more accountable and transparent, synonymous with good governance.

In this research work, I have humbly tried to search how much the right to information Act helped minimize corruption in our country vis- a vis the existing laws. We have to realize that the rule of law, like human life, is very dynamic and has to be like that. In the ever-changing human civilization, one cannot expect to enact any law/Act that will hold suitable or sufficient for the generations to come. Modernization of public life, the rapid globalization of the economy, and the frequently changing demand-supply ratio always make it challenging for particular legislation to fit every aspect of a given problem. As such, we need to change our viewpoints, amend our existing laws regularly and explore newer avenues to combat the social problem of corruption in our country. Throughout the world around us, the economic and political equations have been changing in a rapid space. If we fail to match this speed adequately, we will not be able to fight the problem down to the bottom of it. I humbly feel that in our country, we seriously lack this required space of legislation and implementation. During my whole exercise of this research work, I have seriously felt that 'lack of will' is the leading cause of ever-increasing corruption in our country. This lack of will is sometimes due to narrow political causes, huge population burden, economic disparity amongst the masses, adverse demand-supply ratio, and lack of initiation amongst the ever-deprived ordinary people. There are several other causes also which acts as catalysts. On the other hand, like other countries, India also has two primary sources of supreme legislation: the Indian Parliament and State Legislative Assemblies and the Judicial Precedents. During my research, I have felt that it is somewhat due to the ever-sustaining incompatibility between the legislatures and the Judiciary of our country, which slows down the dynamism of the legal framework of our country. When the judiciary declares any statute or provision as unconstitutional and/or ultra vires, the legislatures promptly get into the act of bypassing the judgment by enacting a new law or, for that matter, by amending the existing one. Combating corruption is never too harsh if there is a concerted effort, which in my perception is next to impossible in the present socio-economic/ Political- legal framework of our country. We have to realize that the moment an act is codified, brainstorming starts as to how to avoid the code or the rules thereunder, and sometimes it is noticed that the accused comes out smarter. So at every

point of cognizance and prosecution, the legal framework must match the more brilliant brain. This constant and relentless effort to develop, amend, and restructure our legal regime is a sine qua non. Last but not least, the prosecution agencies must take serious note that the conviction rate in Corruption cases in our country is still alarmingly low and incomparable with the world average. Unless a high conviction rate is achieved, there will not be any effective deterrent for minimizing the cause. Both the investigating agencies and prosecution have to work hand in hand and a very rapid space while leaving no loose corner. The collection of evidence must always be done by experienced inspectors so that the accused may not take advantage of any loopholes. Above all, the legal formalities must be made very simple and comprehensive. Taking prior sanction while prosecuting a public servant should also be eased out with alternative methods. It is now up to us to make it happen, get our country back on track, and transform it into a global superpower and make our homeland a corruption-free state. In this vast democracy, only a handful are corrupt, and the honest people are many; we can easily outnumber them if we wish to and do not sit idle. I hope that this humble effort of mine, despite its inherent shortcomings, will be effective and helpful in curbing the menace of corruption in our country through the effective implementation of the RTI Act.

## **FINDINGS AND SUGGESTIONS**

### **CHALLENGES FOR EFFECTIVE IMPLEMENTATION OF RTI ACT**

- Level of Awareness is shallow: Through section 26, the Act itself states that the proper government may create and coordinate educational programs to promote public awareness, particularly the vulnerable population, to exercise the right contemplated under the Act. Nevertheless, only small percent of the respondents were aware of the RTI Act, according to the different surveys. The lack of public awareness is the most significant obstacle to the proper implementation of the Right to Information Act. People in distant locations, in particular, are unconcerned with the Right to Information Act. Newspapers, television, journals, magazines, and other forms of mass media are important sources of information along with Word-of-mouth publicity. The nodal agency, in this case, the state government, are not - taken serious efforts to promote the Right to Information Act.

- Another key obstacle to the successful implementation of the Right to Information Act is illiteracy and poverty. The Right to Information Act has no value for individuals who do not have enough money to live, are not educated, and do not have freedom. Their first demand is for the right to live (food, job, and shelter), followed by the right to information. Most people, including those educated, are unaware of public

information officers, the system for paying fees, and how to obtain information. Another key stumbling block to the RTI Act's proper implementation is the lack of a user guide. Information seekers find it difficult to submit an RTI request due to the lack of a user guide.

- The inability of state and federal government instructions to commit to efficient record management is a roadblock to the RTI Act's successful implementation. The failure of the RTI Act to be implemented successfully in India is impeded even more by a lack of monitoring and review systems.

- Public Information Officers have a tough time acquiring accurate and easy access to information from the respective department to deliver to information seekers due to a lack of an efficient record management system. The lack of effective coordination and cooperation among state information commissioners and departmental non-cooperation with the public information officer obstructs the seamless execution of the RTI Act.

- Bureaucracy also withholds facts in order to avoid criticism and present a positive picture to the public. The bureaucracy's unwillingness to cooperate is another critical roadblock to the RTI Act's implementation in India. They have the right to use information because of the colonial attitude. Bureaucrats sometimes refuse to reveal vital information to citizens for vested interests or to demonstrate their superiority.

- The limited use of technology has hampered the RTI Act's effective execution. Except in a few states, there is no efficient IT system to track and report on how government agencies handle applications.

- Lack of Uniformity- The RTI Act is applied in a non-uniform manner. It is not being applied fairly to both countries. As a result, the level of consciousness changes significantly from one condition to the next. The RTI act is well-known in states like Arunachal Pradesh, Uttarakhand, and Punjab. People's awareness in Gujrat, Madhya Pradesh, Jharkhand, and Uttar Pradesh, on the other hand, is low. However, varying state rules on payments and expenses, in particular, render RTI submission ineffectual. As a result, the level of awareness varies from state to state.

- Favoritism- Former bureaucrats are appointed to the highest level of RTI authorities, namely the information commissions at both the federal and state levels. These commissions are government-administered but autonomous. Information advocates feel that these authorities frequently express sympathy for their fellow officers or leaders.

- Another significant impediment to RTI implementation is the lack of basic infrastructure. To ensure the smooth implementation of the RTI Act, Public Information Officers (PIOs) must transmit information to applicants via photocopies, soft copies, and other means. Although these amenities are readily available at the district level, obtaining information at the block/panchayat level is difficult. According to the PIO, RTI implementation at the block level is hampered by a lack of infrastructure.

- Creating problems for honest public officers-Through my research, I have observed, and this is a convenient thing we can say because of the Right of Information Act many government officers think before writing or stating some points in the paper undersigned because we can say that they will think before stating the point that if there is any loophole or not by which ordinary public can file RTI against him. This is one of the most common problems faced by the government officers nowadays and even the honest government officers if they have some lousy relation with the SPIO or the CPIO can there be a problem also.

- Inconvenient submission channels for RTI application- In compliance with Section 6(1) of the Act, a person can send a request 'in writing or by electronic means in English or Hindi or the region's official language request is made. Nonetheless, inadequate attempts have been made to submit RTI applications by online means, i.e., on the e-mail/website, which may be accomplished by the relevant government using Section 26(3c).

- No Protection of Whistleblowers- That is one of RTI's most disturbing problems. The latest statistics and polls demonstrate the rising number of RTI activists being attacked and murdered worldwide. The whole object of the Act would be of no benefit until such acts are stopped and stringent sanctions are not enforced on the wrongdoers

- Information Provided may not be Relevant-Quite often, the information provided to the applicants is not to be relevant or very poor. As the maintenance of the information is the prerogative of the public authority, it becomes handy in its decision-making processes. The information seeker might be willing to use the information to benefit, especially for the grievance redressed. This results in a conflict based on the public authorities' maintenance of information and its use by the information seeker. It is also a common criticism that sometimes incomplete or partial information is handed down to the applicant to meet the thirty-day deadline.

- Non-Government Organization as Public Authority-Under the Act, information can be received either from the government body or a non-government body. Many of the people are confused about the difference between private organizations and non-government organizations. Even some private organizations receiving

funds from the government denied providing the information by pretending that the institution is not a subject of the RTI Act. There is no such parameter for defining the amount receiving funds considered as substantially financed directly or indirectly. It is to be believed that unless substantially financed is clearly defined, and this will be interpreted differently by different public authorities.

- **Expensive Appeal Process**-People who belonged to rural areas find that the appeal process is an expensive one. There is only one First Appellate Authority designated for the whole department, and that too is positioned at the capital cities, which may be far from that area or place. As a result, those people find going to such places difficult because of involving an expenditure both in terms of resources and time.

- **PIOs with insufficient training and First Appellate Authorities**-The training provided to the PIOs is restricted to the provisions of the RTI Act only. They are generally trained on how to accept the application or, in case the information sought is denied, how they should be stated. While this is the very minimum, the PIO's are expected to provide assistance to the information seeker and also manage all the official records as per the records management guidelines and more.

- **Frequent Changes in the PIO**-The rotation and transfers of the different officers are the hallmarks of the public governance in India, and the designation of any PIO is also not the exception. It is mainly seen that the PIO and the appellate authority are frequently changed either due to the government's policies or otherwise. Such frequent changes in the nomination of the officers, including the PIOs, raise various challenges, and a delayed response is to be attributed. The problem becomes more acute at the time of the deciding any appeal or complaints before the commissions if due to delayed response, the accountability is to be established for the imposition of penalty.

- **Misuse of RTI Application**-The first essential of the RTI Act is to secure the public interest missing in many of the RTI applications. The requests made for information under RTI are not simply to satisfy one's doubt but also to derive vicarious pleasures. Many of the time, applicants seek information relating to any policy. At times the information is used by the people either to harass their colleagues or to blackmail the authorities. Moreover, there are various instances where applicants were demanding irrelevant or frivolous information. Such a self-interested and unintelligent use of the Act will overcome the high objectives of the Act. It is also being misused by all those interested in gathering the evidence in their litigation cases.

- **Ineffective Implementation of suo moto Disclosure**-As per the Act, one of the primary responsibilities of the Public Authorities is to disseminate some of the information (sec 4) on a suo-moto basis. However, the public authorities have not followed the provision seriously, and they have been failed. Proactively disclosure of the information is not updated regularly, which leads to the obsolescence of information provided.

Websites of different authorities are either nonexistent or rarely updated, which creates many difficulties. The information has to be updated annually. Much information needs to be disseminated, especially the officers' details as the names, phone numbers, and addresses of their PIOs, APIO's and the appellate authorities. The PIOs are also not aware that they can disseminate information on a suo-moto basis. This is mainly because no penal consequence is provided for these public authorities in incomplete or insufficient disclosure. This leads to a higher number of RTI applications. Various departments and ministers of the government of India have in the last year posted the required information on the website. However, the status of the same in the state government departments and websites is significantly inadequate.

- Appointment of Information Commissioners -In the matter of the appointment of the information commissioners, the excessive reliance is on the pliant bureaucrats, and virtually no representation is found of persons with a non-civil service background. The process of such an appointment raises a fear that the RTI regime may also become just another way for bureaucrats to tighten their reigns over the government information. It is relatively surprising that the responsibility of being open has been placed upon those who have themselves lived in a culture of secrecy. This creates doubt on the success of the Act itself.

- Lack of Contempt Provisions-As the Act clarifies that the decision of the information commission shall be final and binding, such a necessary provision is not supported by the provision of the contempt of court to enforce the compliance of its decision by the public authority. Due to the absence of such a vital provision, there have been many instances of the non-compliance of orders passed by the Information Commission. It is necessary to provide the power of the contempt to the information commission to implement their orders and the specific provisions.

### **Recommendations/Suggestions for effective implementation of RTI act in general**

- As previously said, most people are unaware of the RTI Act due to ignorance. To address this issue, the government should set aside a significant amount of money for RTI Act publicity. This money should, however, be used through the Central Information Commission.

- RTI implementation requires much publicity. NGO's and civil society organizations can lead a massive public awareness campaign to educate citizens about the RTI Act. This awareness campaign could take place at the national, state, or block level. Before launching awareness campaigns, non-governmental organizations (NGOs) and civil society organizations (CSOs) must first identify their target groups, including women, farmers, families, and the middle and working classes. In this aspect, the media and newspapers can have a significant impact.

▪ Children are viewed as resources for a country's future health. As a result, the RTI Act should be included in school curricula to pique children's interest in RTI at the grassroots level.

▪ Every deputy commissioner and district collector, as the nodal administrative authority at the district level, must be accountable for monitoring and enforcing the RTI Act by various departmental authorities within the appropriate district.

▪ The State Administrative Training Institute can put together a training program for the various stakeholders.

▪ a practical and scientific record-keeping agency should be established so that applicants can obtain reliable information. Providing information might take many days without modernizing and digitizing information and record management, often exceeding legal deadlines.

▪ Rather than imposing strict procedures, government departments should be tasked with making RTI implementation simple for applicants requesting information.

▪ Political will is required for the effective implementation of the RTI Act. Bureaucrats must step forward to assist the harmed citizens.

▪ It is the government's moral responsibility to safeguard RTI activists and users, as well as to pursue legal action against the assailants.

▪ A robust monitoring and assessment mechanism is also required. It will assist in conducting periodic reviews of the law's implementation and provide input to government entities to remedy any flaws.

▪ To effectively implement the RTI Act, there should be adequate cooperation among state information commissioners and departments.

▪ It is widely acknowledged that the national and state information commissions must improve their technical and IT capabilities to enable and effectively implement the RTI Act.

▪ Immediate action to connect all information commissions' websites via a standard IT gateway or national RTI portal. Ordinary citizens will be grateful as a result of this.

▪ Chief information commissioners should regularly contact all information commissioners so that their approaches to dealing with appeals and complaints are consistent.

▪ According to the statute, the information must be provided within the 30-day time frame. Because the information system is not integrated, it is challenging to supply information promptly. Furthermore, several departments were unable to prepare themselves to respond per the law.



▪ The exemptions granted to security and intelligence agencies under section 24 are unreasonable and contrary to the national interest. This exception should be eliminated not by amending the legislation but by removing the list of notified agencies from the RTI act's second schedule.

▪ Officials from all departments and representatives of public authorities must be trained to understand their responsibilities and obligations under the act.

▪ The Government of India should establish a National RTI Council, with members from several states, to monitor difficulties with RTI implementation regularly.

▪ Finally, political influence may cause anomalies in high-level officials' functions, so they must maintain integrity by ignoring vested interests. With the Right to Information (RTI) Act approaching its tenth anniversary in 2005, it is past time for our judicial fraternity to reconsider its previously adopted conservative approach to presenting itself b

▪ It is also vital to incorporate the RTI Act in the school syllabus so that children considered the country's future leaders can quickly understand the Act and be inspired to know more in the future.

▪ Public officers such as district collectors and deputy commissioners responsible for district-level administration must be granted responsibility for overseeing and administering the Act by different departmental agencies within their respective districts.

▪ It is clear from the past few years that whistleblowers' lives in this country are not secure. The number of attacks is increasingly rising, and several even result in the death of these activists. It is the government's moral duty to defend RTI activists and consumers and take legal action against attackers; prosecution of those criminals needs to be increased

▪ Officials of public bodies must be qualified to be made aware of their duties and obligations under the RTI Act. Political control on public authorities can impede the effective functioning of such institutions, such that they must preserve credibility by disregarding the interests at hand.

▪ For proper implementation of the Act, good training sessions should be provided to appointed officers to educate them on the provisions of the RTI Act, 2005, and the latest decisions on appeals. The Government may consider allocating a specific fund for this purpose in the financial budget.

▪ The appropriate Government should issue detailed guidelines for proper implementation of the RTI Act, 2005. These guidelines should contain provisions for the appointment of PIO and APIO, procedures to be followed in disseminating information, and various other rules governing the finer aspects of the RTI Act, 2005.

▪ Public Authority must make proactive disclosure of all the relevant information as per Section 4 of the RTI Act unless the same is exempt under Section 8(1). Nevertheless, the Act does not provide any penalty for violation of Section 4, ensuring effective compliance on the issue and deterring the applicants from approaching Public Information Officer, as the information would be made available to them. As a preventive measure, it is also recommended that, in addition to the penalty for violating Section 4, non-display of the information under Section 4 should be treated as a deficiency in service under the Consumer Protection Act, 1986, and Consumer Forums established under the Consumer Protection Act, 1986, should be empowered to take cognizance of such failure in the event of loss suffered by the applicant.

**SOME RECOMMENDATIONS/SUGGESTIONS THAT CAN BE IMPLEMENTED TO THE RTI ACT FOR BETTER EFFICIENCY**

The Right to Information Act of 2005 is a new endeavor in India to combat corruption in government services. The 2005 Right to Information Act, which went into effect on June 15th, has been successfully implemented in most Indian states. Tamil Nadu (1997), Rajasthan (2000), Delhi (2001), Maharashtra (2002), Karnataka (2002), Assam (2002), Madhya Pradesh (2003), and Jammu & Kashmir (2003) have all passed the legislation (2004). Through my research studies, I could understand that the operation area of the Right to Information act has been facing many severe challenges. In my opinion, corruption can be prevented through the instrument of The Right to Information Act, provided the following defects of the Act are rectified immediately by the suitable legislative amendments in accordance with the suggestions given hereunder.

1. According to Section 3, "all citizens" have the right to information, whereas under Section 6, "a person" who desires to obtain any information under this Act can apply for such information. Strictly speaking, as per the Jurisprudence, both the above terms are not the same. The concept of a person includes "natural person" and "legal person." A citizen is a natural person. Thus according to Section 3, only a natural person has the right to information whereas, as per Section 6, both the natural and legal persons have such right and can apply for that. Such positive legal defect needs to be removed by suitable amendments of Section 3 & 6.

2. Public Interest While analyzing this Act, it felt necessary to appreciate the real meaning of the expression, public interest, used liberally without properly defined anywhere in the Act. Particularly section 8, deals with, on the one hand, the exemption provisions from the disclosure of information. On the other hand, the public authority is fully entitled to provide the required information if the public interest in

disclosure outweighs the harm to the protected interest. All the exemption provisions that require disclosure need to pass through a public interest test. This requires explaining the term public interest in clear-cut wordings and developing the techniques and methods of objectively determining the significance of the public interest. Unless there is any change in the definition, the public information officer may use such public interest arbitrarily in disclosing or withholding the information.

3. First Level Appellate Authority- Section 19(1) of the Act specifies the appellate authority who is an official senior in rank to the public information officer (PIO) in the same department. There is no provision mentioned about the power and functions of the same under the Act. This confuses the role and responsibility, particularly when no responsibility is fixed to change his decision by the information commission. In addition, the Act also does not make the first appeal mandatory by saying that any person aggrieved by the decision of the public information officer may prefer an appeal to such officer who is senior in rank to the PIO in each public authority. An appeal is to file with the information commission only after using all the options available in an ordinary condition. However, the Act does not support this contention as it is not clear whether the information commission can entertain an appeal without filing the first appeal.

4. Nevertheless, another controversy is about the status of the first appellate authority vis-à-vis the information commissioner. Being both the authorities designated as appellate, the information commissioner is not entitled to summon and enforce the presence compulsory of the first appellate authority either to produce any document or for evidence in the court of information commission. Governmental Authority Section 2(h) defined a public authority as an authority, body, or institution of self-government established and constituted, among other things, by any notification issued or order made by the appropriate government, and includes anyone who is owned, controlled, or substantially financed by the funds provided by the government. The Act has used the unclear word 'substantially financed' without qualifying any limit or amount and has not been appropriately defined or expressed anywhere while defining the term 'public authority'. This omission results in different interpretations by different public authorities.

5. Similarly, the same provision used non-government organizations, commonly abbreviated as NGOs, a class or category different from other private sectors. Using the word NGO creates an illusion that only NGOs receiving funds comes under the Act's purview while other private sector receiving government aid does not come.

6. Simultaneously, another problem is identifying and understanding those organizations that indirectly received financial aid from the funds provided by the appropriate government. No such provision or guidance is provided under the Act for recognizing or identifying such organizations. Obligations of Public

Authorities Sec 4 of the Act imposed certain obligations on the public authorities regarding (a) proper maintenance and upkeep of records and (b) publication of certain information relating to the functions of the public authority. These obligations are considered as the mandatory provisions, and for fulfilling such obligations, a time frame has also been fixed by the Act. It is generally observed that such obligations are treated only as an optional ones by those public authorities rather than binding.

7. **Period for Providing Information** On receiving any request for information, the designated public information officer of any public authority is duty-bound to provide the desired information or reject the application as expeditiously as possible, but not later than 30 days from receiving the application. If an application for information is made to an assistant public information officer, the period of 30 days for providing the information is extended to 35 days similarly if the same application is made to any public information officer while the information is kept by any other public information officer the time for providing the information is not fixed. Simultaneously, where the public information officer has decided to provide the required information on making some further fee required for the process, no time limit is fixed for the requester's response regarding making such further fee.

8. **Appeal Procedure** If any appeal is filed with the information commission due to any reason, the commission is to give the notice of its decision, including any right to appeal to the complainant and the concerned public authority. The Act makes no mention of whether the right to appeal can be exercised at the same commission level in the form of a review petition. Finally, the Act expressly states that the information commission's decision is final and binding. It is common knowledge that such provisions are not followed to the letter and spirit of the law.

9. Section 19 prescribes a period of limitation of full forty-five days from the date of receipt of the appeal (first appeal) within which the appeal shall be disposed of. However, no such period of limitation for the disposal of the second appeal has been provided under this Act. Thus, for the speedy disposal of the second appeal within a reasonable time, a period of limitation needs to be prescribed by the statute. As such, the necessary amendments be made at Section 19 of the Act.

10. Section 5 at sub-section (1) provides that Central Public Information Officers or State Public Information Officers are to be designated by every public authority. However, section 18 at sub-section (1) clause (a) mentions that such officers are appointed, and if not appointed, it will be a ground for filing complaints. The terms "designated" and "appointed" are not the same. Such anomaly needs to be immediately removed by suitable legislative amendments.

11. Section 10 at sub-section (2) clause (e) provides that a review can be made under Section 19, whereas section 19 provides for preferring an appeal. Such anomaly also needs to be immediately removed by suitable legislative amendments.

12. Lastly, I must say that the Right to Information Law should be based on *the principle of maximum disclosure*, which calls for all information held by authorities to be available to the public subject only to limited exceptions for protecting legitimate concerns to maintain transparency. Corruption can be adequately prevented in public services in India through the instrument of such law in the future.

The following additional suggestions are forwarded to make the functioning of the RTI Act more effective:

- ❖ Expand the definition of Public Authorities to include private corporations and non-government organizations and differentiation on how their activities affect people's rights;
- ❖ It should be mandatory to provide the information under Section 26(3) on the official website of the appropriate governments. Further, Section 26 (4) should be amended to update the information on the official website every month compulsorily.
- ❖ The details of all the Public Authorities, the Public Information Officers, and Appellate Authorities of a department should be prominently shown on the departmental websites of the concerned department, and it should necessarily be updated within 15 days from the date of any change.
- ❖ An exhaustive campaign through the electronic and print media should be initiated to make people aware of their right to information.
- ❖ If the legislation imposes a price for obtaining information, it must guarantee that the fee is reasonable, does not operate as a barrier to requesting information, and does not prevent disadvantaged groups from receiving information because they cannot afford the fees. Fees must be waived in specific instances, according to the legislation.
- ❖ The law should include establishing specialized systems for keeping and disseminating information and modernizing current systems to provide for easier access. Specific preparations must be made for the computerization of government departments in order of priority.
- ❖ A specific funding allocation should be included in the statute to implement the 2005 Right to Information Act. If this is not done, the law will become a dead letter with no effect.
- ❖ An explicit command for official language simplification should be included in the law. The information provided should be in a format that is simple to comprehend. Traditional methods of disseminating information must be prioritized. The majority of information is now provided in official

gazettes and publications, which are frequently unavailable and of no use to lay citizens due to insufficient literacy levels. The law should ensure that electronic and print media, as well as traditional communication means, are appropriately used as per the target group

❖ The legislation should impose a positive obligation on public authorities to notify the public about specific public programs and activities. This refers to providing information without being questioned. It must be made compulsory to provide certain types of information regularly. This information would contain guidelines, details on prospective projects and schemes, and other pertinent details that must be distributed and updated regularly.

❖ The person who applied for seeking information but could not obtain the required information within the time prescribed by the statute should adequately be compensated by the defaulting government officials responsible for such delay or not supplying the information to the person seeking it.

❖ In order to avoid harassment to citizens at the application-making stage, there should be a window at each of the geographically distinct offices of any Public Authority for accepting RTI applications, accepting the application fee, and accepting RTI appeals for the Public Authority as a whole. There should be a single-window facility, which should be located outside the security pass system, preferably at the reception counter.

❖ It should be made possible for people to submit their applications by mail. To make this simple, print and electronic media should be used to raise knowledge of the name of the bank account into which the demand draught or bankers' check should be deposited. The Central Information Commission should be informed of the details of these bank accounts.

❖ Citizens' Charters should be made effective by stating the service levels to be provided and the consequences if these service levels are not fulfilled.

❖ To promote proactive transparency, officials' mindsets must be changed through various activities. At regular periods, an awareness session should be held to assist officials in becoming more proactive. The degree of literacy must be improved, and the authority must become more technologically friendly. It was also discovered that there is no time limit for third-party information under the section, which must be added to make this Act more effective. In terms of the business sector, the RTI Act of 2005 does not hold them liable for revealing information in the public interest. Hence, it is suggested that a proactive disclosure clause must be inserted in the Act through which they are regulated and controlled to protect the principle of greater public interest. It is also suggested that those private sector companies whose economic and business activities are directly or indirectly concerned with public & social life or safety must be covered

under the umbrella of RTI Act, 2005 for Proactive disclosure. It has also been found from the study that the list of exemptions under section 8 should not be complementary to the official secret Act, 1923 (OSA), which will ultimately promote administrative discretion. Hence emphasis should be given to minimum administrative discretion so that full disclosure may be ensured. Undoubtedly, there is no substitute for this RTI Act, which touches the day-to-day life of an ordinary person. This study concludes that if some hurdles, as identified in the course of the study made, are removed, this will undoubtedly make the Provision of proactive disclosure more influential, ultimately ensuring and proving as an effective tool of RTI act 2005 for Indians. There is no doubt that the day will come shortly when the information will be displayed proactively.

❖ From a variety of sources, recommendations and proposals for maximizing the benefits of RTI have poured in. According to the second Administrative Reforms Commission's study, the Official Secrets Act, 1923, should be repealed, "Right to Information — Master Key to Good Governance." It is incompatible with the regime of transparency in a democratic society. Other significant proposals include a complete reorganization of public records to implement the Right to Information Act effectively. Each state should establish an office to serve as a repository of expertise and keep track of all records. One percent of all government flagship programs' expenditures should be set aside for five years to update records and create infrastructure. The Information Commission (IC) should have at least half of its members come from outside the public sector. As a result, the members will represent a wide range of societal experiences and diversity. True change starts with small groups of people who are willing to take charge. It reaches critical mass at some point. This is when the scales tip in favour of change, which spreads quickly throughout society. The government's and NGOs' catalytic roles in implementing RTI must be recognized and supported by the general public. NGOs, whistleblowers, and the media should all play a more significant role. To protect whistleblowers, we need a strong statute. Eight social auditors were slain in Jharkhand when they inquired about NREGA implementation.

### **CONCLUSION**

The Right to information is undoubtedly one of the most essential and highly needed Act and achievements in the legal history of India. It has already proved its significant role in the cases illustrated above in chapters three and five. It has given a platform to the Citizens for a better understanding of the Indian Constitutional body and the Public Official Working Body. It has also proved its effects in the eradication of Corruption in recent years. The path-breaking right to information act,2005 has been heralded as the most significant reform in public administration in India in the last six and half decades. This far-reaching light of hope can dispel

the darkness of secrecy and storms of corruption and ensure transparency and accountability, which are hallmarks of efficient governance. It can act as a catalyst to facilitate the onset of a new value system rejuvenation of hope to establish a better society.

It is hypothesized that the Right to Information is essential for curbing corruption. Through my Research work, I was able to determine that it achieved its goal to a greater extent. As a result, it is fair to say that the Right to Information Act is an excellent governance agent. It makes the government more responsive to the public. It raises public awareness of administration and allows them to participate in decision-making. It encouraged democratic philosophy by encouraging administration transparency and openness. It lowers the risks of public workers committing corruption and abusing their positions of power. Because the act was written to protect people's interests, how they use it is essential. Furthermore, active participation from citizens, non-governmental organizations, and civil society organizations is required, as is cooperation among RTI personnel, departmental integrity, and political will from government and elected officials.

The RTI Act of 2005 was legislated and passed by the Indian government to provide transparency to an environment plagued with intrigue, secrecy, and corruption. This law has been effectively exploited by Indian citizens to bring about both big and minor improvements. The RTI Act has radically altered the power dynamic between the government and the governed - those who wield state power in any form on the one hand and millions of people affected by the state's decisions and operations on the other. No other law in India's statute book allows citizens to question any public authority in the country in such a straightforward manner. My research revealed that the RTI Act had provided a once-in-a-generation chance to root out corruption and the culture of secrecy from Indian government activities, paving the path for governance change, more accountability, and openness. Many people across the country are using RTI applications to fight corruption and demand their rights. Bribes can no longer be accepted because of the RTI. The RTI has been used to change policies as well as help feed hungry people. It is a comprehensive measure with far-reaching implications, prompting some to call it the most critical legislation passed since independence. However, much needs to be done before the full power of the RTI can be realized. Indian Government should provide better infrastructure and ensure speedy processing of the RTI cases to motivate the demand side, i.e., civil society. Signs of transparency are becoming visible. If the current trend has to continue and comply with the Act in letter and spirit, a fundamental change in the attitude within the bureaucracy is necessary. Therefore, for the Act to be utilized to its full potential, the Indian Government will have to make serious



efforts to inculcate in the bureaucracy respect for citizens' rights and give up its old functioning style characterized by the cloak of secrecy and opaqueness.

Right to Information possesses an excellent potential for transparent and open governance. The need of the hour is only to ensure the proper execution of the said Act by eliminating the constraints mentioned above, which shall ensure social, political, and economic equity. In order to have an effective operationalization of the Act, effective capacity building is required of both the information provider and information seeker. Notwithstanding anything, this Act can only be made effectual through the energetic involvement of the country's ordinary people as much of the success depends upon the seriousness of all the stakeholders only. There is a need, not only in the attitudinal change of the bureaucratic mindset but also to initiate a suitable, efficient information management system and, most important, the frequent use of this right by the media and the citizens. That is why it is of the essence, particularly at this point, that all pains are determined only and only for the elimination of the obstacles which come in the path of the effectual execution of this beneficial legislation. This legislation lays the underpinning upon which the structure of good governance may be built and strengthened. In the coming chapter, the researcher shall discuss and summarize the steps that can be initiated to overcome the constraints that are boiling the RTI Act.

To sum up, the report of the National Commission to Review the Workings of the Constitution [NCRWC], chaired by Justice M N Venkatachaliah, dated March 31, 2002, recognized the right to information as a fundamental right with the power to combat corruption, and stated in paragraph 6.10.1 of the report that the primary assumption behind a new style of governance is based on the right to information. In this regard, the government must take on a key role and mobilize resources to ensure that citizens have access to information. The old insistence on secrecy should be abandoned. In fact, instead of an oath of secrecy, we should have an oath of transparency. People's democratic responsibilities do not stop with voting; they must also help to maintain the democratic system in its day-to-day operations.

Without question, the right to information is a weapon for good governance and putting a stop to corruption by public officials. It will lead us toward transparent governance with accountability and responsibility.

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## APPENDIX

### CERTIFICATE ON PLAGERISM CHECK

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