

A CRITICAL ANALYSIS OF ISSUES AND CHALLENGES IN THE RIGHT TO INFORMATION IN INDIA: CONTEMPORARY PERSPECTIVES AND REFORM

AUTHOR – N.C. POORNAMATHI & S. GOWSALYA

LLM STUDENTS AT LABOUR LAW AND ADMINISTRATIVE LAW, THE TAMIL NADU DR.AMBEDKAR LAW UNIVERSITY

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ABSTRACT

The Right to Information Act, 2005 (RTI Act) marked a watershed moment in India's democratic journey. It aimed to empower citizens by providing them access to information held by public authorities, thereby enhancing transparency, accountability, and good governance. This article critically analyzes the issues and challenges in the implementation of the RTI Act, highlighting its evolution, judicial interpretation, and role in promoting participatory democracy. Landmark judgments of the Supreme Court and Central Information Commission are reviewed to demonstrate the scope of RTI as a facet of the fundamental right to free speech. Challenges such as poor awareness, bureaucratic resistance, misuse of provisions, and lack of protection for whistleblowers are evaluated.

The article also examines the RTI Amendment Bill, 2019 and its implications on the independence of information commissions. Comparative insights from global information laws are also briefly presented. The study concludes that while RTI has empowered citizens and exposed corruption, significant reforms are required to strengthen its implementation, safeguard applicants, and ensure its effectiveness as a tool for good governance.

KEYWORDS: Right to Information, Judicial Control, Transparency, Good Governance, Constitutional Law

1. INTRODUCTION

Democracy is meaningful only when citizens have access to information regarding the functioning of the government. Information is power, and the ability to access it enables individuals to hold institutions accountable. The Right to Information (RTI) Act, enacted in 2005[1], represents one of the most significant democratic reforms in India since independence. It dismantled decades of bureaucratic secrecy entrenched under the colonial Official Secrets Act, 1923[2], and replaced it with a statutory framework mandating transparency and openness.

The jurisprudential roots of RTI can be traced to Article 19(1)(a) of the Indian

Constitution, which guarantees freedom of speech and expression. The Supreme Court, through progressive interpretations, recognized that the right to information is intrinsic to freedom of expression. In *State of Uttar Pradesh v. Raj Narain* [3], Justice Mathew observed that the people of this country have a right to know every public act. Later, in *S.P. Gupta v. Union of India* [4], Justice Bhagwati reinforced that open government is the new democratic culture.

The enactment of the RTI Act was not an isolated legislative development; it was the result of prolonged grassroots activism. Civil society movements, particularly the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan, highlighted rampant corruption in rural

development programs and demanded transparency in governance. This movement laid the foundation for a nationwide demand for a legal right to information, culminating in the RTI Act of 2005.

This article aims to provide an expanded analysis of the RTI Act's doctrinal underpinnings, its legal framework, judicial interpretation, and challenges in implementation. It also situates the Indian RTI law in comparative perspective with other jurisdictions and concludes with recommendations to strengthen its enforcement. The scope is thus both doctrinal and policy-oriented, intended to contribute to academic discourse and practical reform.

2. BACKGROUND AND LITERATURE REVIEW

The history of the right to information in India is closely tied to the democratization of governance and the struggle of marginalized groups. The MKSS, in the 1990s, demanded access to records relating to village-level works, wages, and expenditures. Their movement for 'Jan Sunwais' (public hearings) created social pressure that eventually translated into legislative reform. The RTI Act of 2005, thus, was not a gift from the state, but an achievement wrested by citizen activism.

Doctrinal literature has explored RTI from multiple perspectives. S.P. Sathe (2006) emphasized its constitutional basis, situating it within the framework of freedom of speech and expression [5]. P.K. Das (2006) approached it from a practical standpoint, preparing handbooks to guide citizens in its usage [6]. R.K. Verma (2008) analyzed its procedural intricacies, examining duties of Public Information Officers and appellate mechanisms. Together, these works established a foundational understanding of the Act's scope and potential [7].

Recent scholarship has gone further in evaluating the impact of RTI on governance. Empirical studies reveal mixed outcomes: while RTI has uncovered corruption in welfare programs and public distribution systems,

systemic issues such as bureaucratic reluctance, poor record-keeping, and weak enforcement mechanisms continue to undermine its effectiveness. Further, attacks on RTI activists expose the dangers inherent in demanding accountability.

Internationally, RTI is seen as part of the global 'right-to-know' movement. The United Nations and World Bank have advocated RTI as a tool for good governance and sustainable development, particularly under Sustainable Development Goal 16 (peace, justice, and strong institutions). Comparative literature suggests that while India's RTI Act is robust in terms of coverage, it lags in enforcement and in safeguarding the safety of applicants.

3. LEGAL FRAMEWORK

The RTI Act, 2005 provides a comprehensive framework to ensure transparency in governance. Section 2(h) defines 'public authority' broadly, to include any authority or body established or constituted by the Constitution, by law made by Parliament or a State Legislature, or by a notification of the government. It also includes non-governmental organizations substantially financed directly or indirectly by government funds, thereby extending the reach of the Act beyond traditional state structures.

The Act prescribes clear procedures for seeking information. Section 6 allows any citizen to file an application for information without giving reasons. Section 7 mandates a response within thirty days, or within forty-eight hours if the information concerns the life or liberty of a person. Failure to provide information within the stipulated time invites penalties under Section 20, making the Act enforceable in practice.

Section 8 outlines exemptions, balancing transparency with legitimate state interests. Exemptions cover areas such as national security, trade secrets, and information held in fiduciary capacity. However, the 'public interest override' in Section 8(2) ensures that even exempted information may be disclosed if

public interest outweighs the harm of disclosure.

A unique feature of the Act is its emphasis on proactive disclosure. Section 4 requires public authorities to publish key information suo motu, including details of their organization, functions, decisions, and budgets. This reduces the need for individual applications and builds systemic transparency.

Institutionally, the Act establishes a three-tier mechanism. Public Information Officers (PIOs) are designated in every public authority to receive applications. Appeals lie first with senior officers within the department and subsequently with the Central or State Information Commissions. The Commissions are empowered to impose penalties and recommend disciplinary action, though their enforcement capacity has been questioned in practice.

4. JUDICIAL RESPONSE AND CASE LAWS

Judicial interpretation has played a pivotal role in shaping the contours of the Right to Information in India. While the Act itself provides the statutory framework, its effective operation and expansion of scope have been achieved through judicial decisions at the level of the Supreme Court and various High Courts.

In *People's Union for Civil Liberties v. Union of India* [8], the Supreme Court recognized that the right to information is an inherent part of the freedom of speech and expression guaranteed under Article 19(1)(a). The Court observed that citizens cannot exercise their democratic rights effectively without access to relevant information. This judgment laid the groundwork for recognizing transparency as a constitutional mandate even before the RTI Act was enacted.

In *Central Board of Secondary Education v. Aditya Bandopadhyay* [9], the Supreme Court addressed the limits of disclosure, particularly in the context of examination materials. The Court held that while students are entitled to access their evaluated answer sheets, certain information such as question paper moderation

processes and examiner identities could remain confidential to protect the integrity of the examination system. This judgment reflects the judiciary's nuanced approach in balancing transparency with confidentiality.

Another significant judgment was *Union of India v. Namit Sharma* [10], where the Court examined the appointment process of Information Commissioners. Although it initially mandated that commissions include judicial members, this requirement was later reviewed, underscoring the importance of maintaining a balance between independence and functional flexibility of the commissions.

Recent years (2020–2024) have seen important developments. In *Jitendra Nath Singh v. Supreme Court of India* [11], the petitioner sought disclosure of administrative documents maintained by the Supreme Court Registry. The Court reaffirmed that judicial institutions are not exempt from RTI, though disclosure must be balanced with confidentiality in judicial functioning. Similarly, in *Jaigopal Soni v. Supreme Court of India* [12], issues relating to access to pleadings and caveats were raised, illustrating the judiciary's cautious approach towards transparency within its own administrative processes.

High Courts have also made important contributions. The Karnataka High Court in 2024 held that the Century Club, a private institution receiving substantial aid and enjoying public land grants, falls within the ambit of RTI. This judgment is significant as it reinforces the expansive interpretation of 'public authority' under Section 2(h) of the Act [13]. Similarly, the Orissa High Court in 2023 upheld administrative measures by the CIC to close long-pending RTI cases, provided applicants were duly notified, reflecting judicial pragmatism in tackling case backlog [14].

Collectively, these judicial pronouncements highlight the judiciary's proactive role in upholding transparency while simultaneously acknowledging the need for confidentiality in specific contexts. They demonstrate a

consistent balancing exercise between citizens' right to know and competing interests of privacy, security, and institutional integrity.

5. CHALLENGES IN IMPLEMENTATION

Despite the transformative promise of the RTI Act, its implementation faces several systemic hurdles. These challenges can be categorized into demand-side constraints, supply-side barriers, and institutional limitations.

On the demand side, public awareness of the Act remains uneven. While urban citizens and civil society organizations have effectively utilized RTI to uncover corruption and inefficiency, large sections of rural and marginalized populations remain unaware of their rights. Even when aware, the process of filing applications and pursuing appeals is often perceived as intimidating and complex.

Safety concerns further deter applicants. India has witnessed several instances of harassment, threats, and even murders of RTI activists. The killing of Amit Jethwa in 2010 remains a stark reminder of the risks faced by those who use RTI to expose entrenched corruption. The lack of adequate whistleblower protection laws compounds this issue, leaving activists vulnerable to reprisals.

Supply-side challenges are equally formidable. Bureaucratic reluctance, a legacy of the culture of secrecy entrenched during the colonial era, continues to obstruct the flow of information. Poor record-keeping practices and inadequate infrastructure for digitization often result in delays and incomplete responses. Additionally, PIOs are frequently overburdened with responsibilities, leading to compromised efficiency.

Information Commissions, tasked with adjudicating disputes and ensuring compliance, face chronic backlogs. Vacancies in the posts of commissioners and insufficient staff exacerbate delays. Reports indicate that appeals often take years to be resolved, undermining the efficacy of the Act [14].

The RTI (Amendment) Act, 2019, has further raised concerns about institutional independence. By altering the terms and conditions of service for Information Commissioners, including their tenure and salaries, the amendments have been criticized as tools for executive influence. This development risks eroding public trust in the impartiality and effectiveness of the Commissions.

Thus, while the RTI Act remains a powerful legal instrument, its potential is significantly undermined by systemic challenges. Overcoming these hurdles requires comprehensive reforms addressing both demand and supply-side barriers, as well as safeguarding the institutional autonomy of oversight bodies.

6. RTI AND GOOD GOVERNANCE

The Right to Information Act has been widely acknowledged as a cornerstone of good governance in India. By mandating transparency and accountability, it strengthens democratic institutions and empowers citizens to become active participants in governance. The Act operationalizes the principle that the government is a trustee of the people's resources and decisions, and therefore must be open to scrutiny.

RTI has been instrumental in exposing corruption and inefficiencies in multiple sectors. Applications filed under the Act have revealed irregularities in the Public Distribution System, diversion of development funds, and misuse of authority in local governance structures. These disclosures not only ensure accountability of officials but also lead to corrective actions that improve governance outcomes.

The role of RTI in promoting participatory democracy cannot be overstated. Social audits, often facilitated by access to official records obtained through RTI, empower communities to question authorities and demand better services. In rural areas, RTI has been used to verify employment records under the Mahatma

Gandhi National Rural Employment Guarantee Act (MGNREGA), ensuring that wages reach the intended beneficiaries.

At the macro level, RTI enhances policy accountability. Ministries and departments, aware of the possibility of scrutiny, are encouraged to maintain better records and adopt transparent decision-making practices. International institutions such as the World Bank and the United Nations Development Programme (UNDP) have recognized India's RTI law as a model for other countries, linking transparency with sustainable development under Sustainable Development Goal 16.

Despite these achievements, the contribution of RTI to good governance is not automatic. It depends on the proactive role of citizens, the responsiveness of public authorities, and the robustness of institutional mechanisms for enforcement. Where these elements align, RTI has demonstrated transformative potential in reshaping the relationship between state and citizen.

7. COMPARATIVE PERSPECTIVES (GLOBAL RTI LAWS)

The Indian RTI Act is often hailed as one of the most progressive access-to-information laws globally, primarily because of its broad definition of 'public authority' and minimal restrictions on eligibility for applicants. However, comparing it with laws in other jurisdictions provides valuable insights into its strengths and weaknesses.

In the United States, the Freedom of Information Act (FOIA), enacted in 1966, grants citizens the right to access federal agency records. One of its key features is the provision for judicial review, allowing applicants to challenge agency denials in courts. While FOIA has been a powerful tool for journalists and watchdog organizations, delays and extensive use of exemptions remain pressing concerns [15].

The United Kingdom's Freedom of Information Act, 2000 [16], provides access to

information held by public authorities but includes broader exemptions than the Indian RTI Act. However, the UK system benefits from a strong Information Commissioner's Office (ICO), which has wide enforcement powers. This institutional strength ensures compliance even in the face of bureaucratic resistance.

Mexico's transparency framework, particularly through its autonomous body—the National Institute for Transparency, Access to Information and Personal Data Protection (INAI)—is considered one of the most robust globally. The INAI has binding powers to order disclosure, providing a model of institutional independence that India could emulate [17].

South Africa's Promotion of Access to Information Act (PAIA) stands out because it is directly rooted in the country's Constitution, explicitly recognizing access to information as a fundamental right. This constitutional foundation strengthens its enforceability and elevates it beyond ordinary legislation [18].

A comparative analysis reveals that while India's RTI law is expansive in scope, it suffers from weak enforcement and inadequate institutional independence. Learning from international models, India could strengthen its Information Commissions, provide greater protection for whistleblowers, and streamline processes to minimize delays. These reforms would ensure that India not only has one of the most comprehensive RTI frameworks but also one of the most effective.

8. RECOMMENDATIONS

While the RTI Act has undeniably advanced transparency in India, persistent challenges highlight the need for reforms to safeguard its effectiveness. The following recommendations emerge from this analysis:

1. **Strengthen Institutional Independence:** The independence of the Central and State Information Commissions must be ensured. The RTI (Amendment) Act, 2019, which diluted the security of tenure and conditions of service of commissioners, should be revisited.

2. Digitization and Proactive Disclosure: Government departments should invest in robust digital platforms for record management. Proactive disclosure under Section 4 should be enforced more rigorously to reduce reliance on individual applications.

3. Whistleblower Protections: A comprehensive legal framework protecting RTI activists and whistleblowers is urgently required. The existing Whistleblowers Protection Act, 2014, remains weak and poorly implemented.

4. Capacity Building: Regular training for Public Information Officers and awareness campaigns for citizens, particularly in rural areas, would bridge the gap between law and practice.

5. Addressing Backlogs: Adequate staffing, timely appointments, and infrastructural support for Information Commissions would significantly reduce pendency, ensuring timely access to information.

9. CONCLUSION

The RTI Act of 2005 represents a watershed in India's democratic journey, empowering citizens and reshaping governance. Yet, its transformative promise remains contingent on effective implementation, institutional safeguards, and continuous reforms. By addressing current shortcomings and drawing lessons from global best practices, India can strengthen the RTI regime, ensuring it continues to serve as a vital instrument of accountability, transparency, and participatory democracy.

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