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RIGHT TO INFORMATION AND HUMAN RIGHTS A LEGAL THOUGHT

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ABSTRACT

The goal of this article is to provide light on the theoretical underpinnings of the Right to Information Act, as well as its contribution to better governance and the resulting issues. Attempts are also made to explore the many limits and constraints of the right to information in governance. An accurate and beneficial policy for the right to information and its application in economic, social, and political analyses will be framed because of the conclusions of this article. It is a fundamental right that people of India are guaranteed under the Constitution of India, which includes, the Fundamental Rights. It was in 2005 that the Right to Information Act came into being, after a series of high court and Supreme Court decisions and the haunting need for a special enactment that would provide guidelines for both public information officers and information seekers on how to get information.

Keywords: right to information, human right, constitution, legal etc.

1. INTRODUCTION

For civil society to thrive, it must have access to information. Almost all of us read the newspaper, tune in to various news channels, and browse the internet daily in order to be informed about what's going on in our immediate environment, if not the whole world. In our everyday lives, the importance of being aware of our surroundings grows, allowing us to connect with the society we live in and the people we share our lives and destiny with. Several media outlets, including as newspaper agencies, television channels, and websites, have sprung up in recent years to satisfy the public's need to learn and stay up to speed on the newest news. People's need for knowledge is driving the growth of this kind of company. Information about the quality, purity, standard, and pricing of a product or service is important for us to make an educated choice or decision when purchasing anything from the market. The information's principal function is to empower the customer to make an educated decision. Good governance, transparency, accountability, involvement, and the elimination of the idea of corruption are all built on the right to information, which is a fundamental cornerstone of every democracy.

1.1 RIGHT TO INFORMATION

All information kept by or under the control of any public entity may be subject to the Act's Right to Information.

- Work, records, and documentation are all subject to review.
- Making notes, extracts, or certified copies of records or documents. •
- Obtain a certified sample of the substance and do so.

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Saarth

E-Journal of Research

ISSN NO: 2395-339X

Obtain information saved on diskettes, floppies, cassettes, video, or any other electronic medium or via printouts from a computer or other gadgets.

People sometimes believe that the right to information merely refers to the ability to request information, but the Right to Information Act, 2005 aims to correct this misunderstanding by offering a detailed definition that spells out exactly what the term implies and what it does not:

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

1.2 NATURE OF RIGHT TO INFORMATION

For the proper and normal performance of their obligations, government agencies must make information they have available to the public. This information should not be hidden from the people. The primary goal of the RTI is to make government agencies' operations more transparent and accountable while also limiting the spread of corruption, both of which are essential for effective government and sustainable development. For the interest of the general public, the right to knowledge has been legislated as social law. It is seen as a fundamental human right and the bedrock of a healthy democracy. Our thoughts become clearer as we have additional information to work with. The absence of transparency in administration was one of the fundamental foundations for all pervasive corruption, says Soli Sorabjee, who stresses the necessity for the right to information meant to provide transparency and openness in administration and public life.

People's well-being and progress are influenced by the free flow of information and ideas in an information-driven era. As a result, the passage of the RTI Act is a significant step toward our goal of creating a society that is both informed and successful. As a result, the right to information cannot be a luxury that only a few people have access to. This includes the right to access records of the proceedings of public bodies such as the right to have access to the records of the meetings and decisions of public bodies such as the right to have access to the notification entries in the government registers and files, account books and notices, rules of the government, maps, data and drawing or work sits, and so on. This right is granted to everyone, not just citizens, including individuals, corporations, and other legal bodies. This privilege does not stop at national borders, but extends to every country and every company, big or small. A few aspects of the Right to Information are listed below:

- Information and freedom of press.
- Right of general people to know.
- Information to rivals/interested parties.
- Insights into the workings of government that might assist limit or prevent corruption by increasing openness, accountability, and transparency.

Saarth

E-Journal of Research

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- Other information held by public authority.
- data held or managed by any public body and available to them for inspection under any currently applicable legal framework.

It is true that the information revolution will lead to more freedom, democracy, and fraternity throughout the world. According to who has access to information, both the developed and developing nations' economic policies, as well as international economic order, are highly influenced by information that is accessed by the ruling classes. This day and age is characterised by two opposing trends: inclusion and exclusion of information. India's bureaucracy is still particularly concerned with excluding information from the public's awareness to the greatest degree feasible, despite claims that information technology has made it easier for individuals to access information. Freedom of information, communication, and expression are all part of the Human Rights jurisprudence. Curtains have been flung open and concepts of a more open society, a restructured bureaucracy, and unfettered dialogues have become the norm of the day in favour of greater knowledge.

2. PROTECTION OF 'RIGHTS TO KNOW' UNDER INDIAN CONSTITUTION

To begin, it must be made clear that the movement in India is not aimed at establishing a right to knowledge. Rather, it aims to provide favourable circumstances for the right to be exercised. Despite the absence of an explicit right to information or freedom of the press in the Indian Constitution, the right to information has been included into the Constitutional guarantees that are part of the Chapter on Fundamental Rights. Chapter III of the Indian Constitution contains a wide range of fundamental and inalienable rights. Article 14 guarantees equal protection of the law and equal treatment before the law, whereas Article 19(1)(a) guarantees freedom of speech and expression (Article 21). This is supported by Article 32, which states that if any of these rights are violated, you have the right to take your case to the Supreme Court, which is the highest court in the nation. The Supreme Court's understanding of these rights has evolved through time, and they may really be regarded as the foundation of the rule of law in India. HM Seervai¹⁸ argues that "corruption, nepotism, and favouritism have led to the flagrant abuse of authority by the Executive, which misuse has increasingly come to light, in part, via investigative media and in part, through litigation in the Courts".

According to a number of Supreme Court rulings, the legal position on the right to information has evolved through time, particularly in the context of the right to freedom of speech and expression, which is referred to as "the opposite side" of the right to know. Given the cultural developments in the politics and culture, it's fascinating to see how the right has expanded over time via these court rulings. It all began with a series of applications by journalists to the Supreme Court, contesting official directives for control of newsprint, limits on distribution of newspapers, and other logistical consequences of their right to freedom of

Saarth

E-Journal of Research

ISSN NO: 2395-339X

speech and expression. The notion of the public's right to know was born out of these instances.

When *Bennett Coleman & Co. vs. Union of India* was decided, the petitioners, a publishing business that produced one of India's most popular daily, argued against a government newsprint policy that imposed limitations on the procurement, sale and consumption of newsprint. According to the petitioner, this violates his or her right to freedom of expression. The court ruled that the Petitioners' freedom to freely publish and distribute their publication was adversely impacted by the newsprint control order. Their right to free speech and expression was infringed upon by this. It is clear that "freedom of the press" means "the right of all citizens to talk, write and express their opinions," as well as "freedom of speech and expression encompasses within its scope the right of all citizens to read and be informed." It was stated in the dissenting opinion of Justice K.K. Mathew that the freedom of expression covers two sorts of interests. It's in everyone's self-interest to find out the truth, as well as the country's, in order to not only embrace the best course of action, but also carry it out in the best manner possible.

It is now clear that "the point of ultimate importance in the manner of political governance is not in words but in the hearts of the hearers." It was in a subsequent decision that the court stated this idea even more clearly: "The primary aim of freedom of speech and expression is that all members should be allowed to establish their opinions and transmit them freely to others. " It all boils down to this: "The public have a basic right to know." On the other hand, a following court ruling said the same thing: if an official medium or channel was made accessible for one party to convey its views or criticisms, the same should be made available for another opposing opinion. Mr. Shah, a director of a non-profit consumer rights organisation, produced a study detailing discriminatory actions by the Life Insurance Corporation, a government-controlled agency. He also worked extensively on the right to information, including writing a model bill. When Mr. Shah replied back to the Corporation's evaluation of this document, the Corporation declined to publish it. The Supreme Court ruled that a governmental agency with monopolistic control over any newspaper could not refuse to publish opinions that conflicted with its own.

3. CONSTITUTIONAL PROVISIONS FOR RIGHT TO INFORMATION

The right to access information is guaranteed by certain states' constitutions, whereas it is not in the constitutions of other states. A sovereign democratic republic is described in the preamble of the constitutions. This means that the interpretation of the constitutional rights granted by the constitution must reflect the democratic republican nature of our nation. In order to ensure the country's administration as a democratic republic, the constitution's rights must be given a direction and meaning that facilitates and implements this core principle. In this context, it refers to the ability and capability of any person to freely disseminate ideas and information, including freedom to publish in the form of writing (as well as speaking),

Saarth

E-Journal of Research

ISSN NO: 2395-339X

printing (as well as broadcasting), and so on. There are several fundamental rights mentioned in section III of the Indian constitution that are not negotiable or revocable. There are a number of fundamental rights that all citizens have, including the right to equal protection of law, the right to free speech and the right to life and liberty. Article 32 and article 226 of the Constitution provide for recourse to the Supreme Court and the High Court in the event of a violation of a person's basic rights. As well as protecting people's basic rights, the state must also guarantee that they may be exercised in accordance with those rights. Right to Information Act is designed to safeguard these fundamental rights.

4. RIGHT TO INFORMATION: TRANSPARENCY, ACCOUNTABILITY & OPENNESS

4.1 Transparency and Openness

Every time the word "transparency" is bandied around, it refers to the availability of information to everybody who could be impacted by a decision or the enforcement of it. A key facilitator of openness and the right to information for all people is the ability to easily get any information. Transparency enhances quality, ethics, and decision-making authority for those in charge. Information is seen as the lifeblood of this process. Openness and transparency are terms used in governance to describe the availability of information to the general public and the clarity with which all government organisations operate. When it comes to holding public sector institutions to account, there is a lack of openness and transparency that is unimpeded access to timely and accurate information about their choices and performance that is a key concern in the legal system of the developing countries. Transparency and openness would be worthless without the principle of accountability. Effective, competent, and fair administration in public institutions requires accountability and openness..

4.2 Accountability

Having ultimate authority corrupts utterly. It is the goal of the Right to Information Act to dismantle the power structure of those organisations that control the transmission, collection, processing, dissemination, and storage of information systems. They may be held responsible for their actions since democracy states that government is for everyone, not just a small number of those who have been elected to represent them. An accountability idea that goes beyond the conventional, well-established premise of responsibility between executive and legislative branches is embraced by modern democracy. Only when the public has access to information about the government's operations can accountability be achieved. It is thus imperative that commercial and civic organisations as well as the government be held to account and responsible for their stakeholders, including the public. One of the preconditions for any democratic system or successful governance is accountability. There are four major categories to which it may be broken down:

Saarth

E-Journal of Research

ISSN NO: 2395-339X

- (a) Individuals' identities are based on their position in a structured relationship, and accountability is based on the principle that an individual's identity is determined by their position in a structured relationship.
- (b) Liability, which is a second form of accountability, realises individual identity based on rules, contracts, legislation, and parallel relationships based on the legalistic standing.
- (c) As a result of this, accountability is accompanied with role-based expectations, and these roles serve as a source of blameworthiness for moulding one's actions.
- (d) A person's self-perceived place in society is a major factor in how they are held accountable for their actions.

4.3 Public Accountability

The release of any information acts as a tool for citizen supervision and is an aspect of administrative efficiency that requires public accountability. Corruption is fought with the use of information, which is why the government that provides or produces information that is trustworthy promotes more openness, transparency, and accountability. Corruption has been reduced and administrative effectiveness has risen significantly in nations that enable people access to government information, as shown by international experience. Government is made up of public servants who are held responsible to the people for the work they do. As a result, the government's role as both principle and agency, and as such, its influence on the people, is inextricably linked. A government agency's translation of a government policy into a programme is highly reliant on a clear grasp of the desired result and its ability to achieve that purpose. Historically, public accountability and governance have moved away from measuring inputs and matching outputs to determine outcomes, which is not unexpected. Only a lack of knowledge about any topic compromises government or public sector accountability or effectiveness.

4.4 Responsibility of Public Authority

If practicable, public officials are obligated to keep their records on a computer, and they are expected to do so. The following information must be published within four months of the RTI Act's enactment:

- Details about the organization's roles and responsibilities.
- The authority of its officials and workers, as well as their responsibilities.
- Supervision and accountability are key components of the decision-making process.

Some officials will be designated by public authorities to serve as sources of information for the general public. Hindi, English, or any other official language spoken in the region may be used to request information. This is accompanied by the statutory fee, and no cost is to be levied by anybody who falls below the poverty level. You don't have to explain why you're looking for information when contacting the Central or State office. If the information requested is critical to someone's life or liberty, the person receiving the application must respond within 48 hours of receiving it, otherwise the application may be

Saarth

E-Journal of Research

ISSN NO: 2395-339X

rejected. For the ordinary people of the nation, this is the most comprehensive right and encompasses a wide range of issues.

4.5 Participation

Civil society organisations should be allowed to engage in all aspects of the design and execution of programmes and initiatives that directly touch their communities, in order to ensure that good governance is in place. Even if these projects only have a little impact on the surrounding area or people, a consultation procedure should be implemented to gather input from all stakeholders. Having this kind of governance is vital to secure the support and dedication of the initiatives, as well as improving the quality and perfection of their execution.

5. RIGHT TO INFORMATION AS A HUMAN RIGHT AND DEVELOPMENTS IN INDIA

Case 1: As a result of her husband's death in the wild, Alice now lives in the tribal area of Chaibasa in Jharkhand, where she is surrounded by wild animals. After submitting a copy of her FIR and postmortem report to the forest authorities, she is entitled to compensation under the law. Cops at her town's local police station are refusing to hand her these documents.

Case 2: It's a similar tale from the Bhopal gas leak tragedy: People didn't know exactly how much gas had released. When Union Carbide was requested for the antidote to Methyl-iso-cynate, they argued it was a protected trade secret, and hence could not be revealed..

Case 3: Enron – There was a lack of opportunity for the public to voice their concerns or objections to the Dhabol Power project. The representations may only be formed if the most important aspects of the project, such as the cost of the power generated, the foundation for this calculation, the total expenditure, the area impacted, etc., are supplied. Public announcement from the corporation did not include any information about these aspects of the project, and no one could come up with a relevant argument to provide to the authorizing authority (the Central Electricity Authority).

The lack of access to information is a common thread in all of the above-mentioned examples. Therefore, the Indian Constitution's democratic values have been eroded and the government's policies and development initiatives have failed to improve the lives of the country's most vulnerable citizens. As a result, the political, social and economic marginalization of millions has been maintained; illegal authority has been retained and abused; rampant corruption has been encouraged, and the battle against poverty has been hampered. In the absence of knowledge, individuals are unable to participate in their own growth, even if given the opportunity, since they are ill-equipped to do so. Consequently, decades of progress have been squandered due to decisions being made without taking into account the perspectives of people without a voice.

Saarth

E-Journal of Research

ISSN NO: 2395-339X

Human rights are intrinsically tied to human growth. As part of a rights-based approach, citizens must have access to information in order to participate in government and development. The fact that Alice wasn't given a copy of the FIR and postmortem report meant that she couldn't get the compensation she was entitled to get. The right to life of the people was denied because of the lack of knowledge about the effects of the lethal gas and its antidote. Maharashtrians have no choice but to express their displeasure with Enron. Their participation in governance was not only restricted, but they were kept in the dark while their power was being produced at a much greater rate than usual and the cost was being borne by a public entity, which they were unaware of.

One of the pillars of successful administration and democracy as well as the fight against poverty and realising one's human rights is having access to accurate information. It is not enough to have an efficient administration or even a democratically elected government to accomplish good governance. An active and engaged civil society is necessary to the full realisation of democracy, which is a government that is responsive to the demands of its people, as well as a culture that recognises the importance of human rights and accountability. For this reason, a secured and statutory right to knowledge is essential for these goals to be met.

5.1 Constitutional position

Depending on the country, the court may construe the right to free speech and expression to include the right to information, while other nations officially recognise it. The Indian constitution does not clearly recognise the right to information. As a result of this interpretation by the Supreme Court of India, Article 19(1)(a), the Indian Constitution's right to freedom of speech and expression, includes the right to access information. As a result, the Supreme Court of India has ruled that the right to life cannot be exercised unless one has the right to information, which is an essential component of the right to life.

5.2 Why a specific legislation?

Furthermore, it is important to create an enabling statute that would implement this basic right, in addition to recognising it as such. There is a pressing need for legislation that would allow the public to have access to government information in a secure and efficient manner.

5.3 Developments in India

RTI legislation have been more popular over time. Even while tremendous progress has occurred at the state level, the federal government has been slow to act. There began a grassroots effort for access to information in Rajasthan in 1994 by the Mazdoor Kisan Shakti Sangathan (MKSS). While fighting for minimum wages and land rights, this movement saw a connection between the denial of rights to the citizens, corruption in government, and a lack of access to the news media. As the campaign progressed, the government of Rajasthan passed a Right to Information Act in 2000 as a response to the movement. Tamil Nadu and

Saarth

E-Journal of Research

ISSN NO: 2395-339X

Goa were the first states to establish legislation on Right to Information before the Rajasthan Act was passed. In the year 2000, both Maharashtra and Karnataka passed RTI laws. The Delhi RTI Act was enacted in 2001 by the National Capital Territory of Delhi, the most recent participant in this league. Madhya Pradesh's government passed a Right to Information legislation in 1998 but it was never implemented since the Presidential assent was refused to it by the state legislature. More than 50 government agencies have now received directives from the executive branch to make public information available. On a trial basis, the government of Uttar Pradesh has also issued similar instructions, although only for a few ministries.

5.4 What should the Law say?

There's a lot of disputes over the law's substance. Civil society is pushing for a legislation that is favourable to the public and ensures that a large amount of information is made available to the general public. Laws created in India do not meet the needs of the country's civil society, which is a shame. The following characteristics must be present in order for a legislation protecting the right to information to be considered strong:

1. Iron-clad responsibilities are placed on the government and public agencies to provide information to anybody who asks for it.
2. Secondly, the inclusion of private organisations: In addition to the government and public entities, there are significant justifications for include private organisations. Public life is influenced and affected by private entities in many ways nowadays. When considering the privatisation of public enterprises and the expanding participation of private companies in infrastructure and public services, such as electricity and telecommunications services, this is more relevant than ever. It is clear from the Bhopal Gas Tragedy that a private company's operations may have a devastating effect on the life of the average citizen. Because of this, private organisations must make information related to public health, safety, and the environment available to the broader public. It is the only Indian RTI Act that includes private entities in the requirement to furnish information to the public.
3. Accessibility as a general rule: Refusal of information is an exception, not the norm, in a democratic society where access to information is a fundamental right that cannot be refused solely on the basis of administrative discretion.. As a result, the government will be obligated to disclose/provide information to citizens as a matter of course, and only withhold information in limited cases.
4. The list of information that cannot be released to the public (usually known as 'exemptions') must be small, precise, and carefully defined. 'Exemptions' As a general rule, the list covers categories such as defense-related data, information that might jeopardise public safety, and trade secrets. The basic right to freedom of speech and expression in India is protected by the country's constitution, which allows for only

Saarth

E-Journal of Research

ISSN NO: 2395-339X

justifiable limitations to be placed on it. As an element of the freedom of speech and expression itself, information is a fundamental right, and the courts have interpreted these prohibitions very narrowly. There should not be a broad list of exceptions in the legislation that may be used to deny any sort of information with the aid of the law itself. Tamil Nadu's Right to Material Act provides 22 exceptions, but the Shourie draught bill has an all-pervasive provision that information may be withheld, viz. "If its disclosure does not serve any public purpose". You don't need a particular reason to exercise your right to information. Every time a request for information is made, the public body has the authority to deny it since the individual making the request must demonstrate a public purpose..

6. PROBLEMS WITH THE INDIAN LAW ON RTI

It is clear from the discussion above that the laws passed by the states and the central bill do not include all of the necessary elements of a law on the right to information. The Goa and Tamil Nadu laws, for example, do not include provisions on the need to provide information. There are several exceptions to the Maharashtra and Tamil Nadu regulations that restrict a lot of information from the public domain. The core Freedom of Information Bill is likewise relatively short, and in some ways it does not even compare to its American cousin. The FOI Bill, for instance, does not include any independent appeals procedure or consequences. This further lacks the ability to have an impartial watchdog. A considerable portion of government information is not accessible to the general public due to current legislation imposed by individual states or the proposed Freedom of Information Act being studied by the federal government. Laws issued by different states don't all follow the same rules or guidelines. A legislation that applies universally throughout the nation and lays out clear procedures for obtaining information³ is being pushed for because of this. Additionally, the primary FOI Bill must be a robust statute that sets minimum requirements for the components outlined previously, such as defining an acceptable time limit for administrative response in circumstances of urgent requests for information. Because of this, all information searchers in the nation may be comfortable that the country's minimal criteria will be met, even if the states disagree with the federal government's interpretation. Lawmaking has often been a non-participatory procedure. People's perspectives on the topic have not been taken into account in the passing of the legislation by the government. Thus, laws are unfriendly to ordinary citizens, and they are not aware of legislation intended for their benefit.

7. CONCLUSION

However, despite the above-mentioned flaws, misgivings, and practical limitations, the Right to Information has certainly been one of the crucial milestones and a vital step toward assuring the participation and transparency of the country's growth. A need exists to maintain the momentum of this legislation and should not allow it to go away or become just another piece of legislation that languishes on the back burner. It's in everyone's best advantage to be

Saarth

E-Journal of Research

ISSN NO: 2395-339X

focused and careful so that this Act's goals and purposes aren't thwarted by bureaucratic sleights of hand. Openness and transparency are essential for a healthy democratic government where everyone has the right to know and be heard in an open and transparent manner. This responsibility falls on the shoulders of all citizens. This will likely be one of the most significant contributions to strengthening democracy ever made.

Having access to information and knowledge, as well as the ability to scrutinise and participate in the administration of the community, is critical to ensuring that Human Rights are fully realised in a democratic society. A tool for people to hold their government responsible, engage in governance, and exercise their rights is provided by RTI legislation. It allows citizens the right and the process to receive government information. The fact that a law has been passed does not guarantee that the government will immediately begin enforcing it. NGO's, NGOs, and other civil society organisations have a duty to ensure that implementation is successful. The RTI law's implementation is no different. When it comes to utilising the law to promote the common good and sharing and analysing data as well as sparking discussion about significant problems, civil society organisations play a vital role.

REFERENCES

1. G. Palanithurai, Right to Information Act in India: A Note on Praxis, Soial Action, Vol. 62, July-September 2012, p. 283.
2. Avnish Sharma, Right to Information; A Constitutional Perspective, Civil and Military Law Journal, OctoberDecember 2007, Vol. 43, No. 2, p. 76.
3. Kailash Thakur, The Right to Information Act, 2005: A Movement from Darkness to Light, Civil and Military Law Journal, July-September 2012, Vol. 48, No. 3, p. 166.
4. A.T. Jagadish, Right to Information-A Silver Lining in Democracy, Karnataka Law Journal 2012, April 15; 2(8), p. 57.
5. M. Sarojanamma, Right to Information and the Voters Right to know: An Analysis, Civil and Military Law Journal, April-June 2012, Vol. 48, No. 2, p. 99.
6. H.M. Seervai, Constitutional law of India, Vol.2, 2007, Universal law publishing co.
7. Fenster, 'Seeing the State: Transparency as Metaphor' (2010) 62 Administrative Law Review 617 at 623.
8. Hale, 'Transparency, Accountability and Global Governance' (2008) 14 Global Governance 73.
9. McDonagh, 'The Impact of Freedom of Information on Irish Local Government', in Chapman and Hunt (eds), Freedom of Information: Local Government and Accountability (Farnham, Surrey (UK): Ashgate, 2010) at 812.
10. Hazell, Worthy and Glover, Does FOI work? The Impact of the Freedom of Information Act 2000 upon British Central Government (London: Palgrave Macmillan, 2010) at Appendix II.