

## A STEP TOWARDS GOOD GOVERNANCE: ANALYSING THE NEED AND IMPORTANCE OF THE RIGHT TO INFORMATION IN TODAY'S TIME

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### ABSTRACT

*Gone are the days when public dealings were strictly kept confidential. The generation and dissemination of information has taken the forefront in today's information society as the most important economic, political, and cultural activity. Freedom of speech, accountability, and transparency are considered the strong pillars of a democracy. As stated by Justice Bhagwati "No democratic can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the Government". The Right to Information is one of the basic human rights of every person. In a democratic society, the free flow of information is a need of the hour as it helps in promoting accountability, transparency, and good governance which forms a sine qua non of participatory democracy. Freedom of information ensures openness in the administration which in turn helps to overcome corruption. If unrestricted access to information and the participation of people in governance is taken into account there will be a transformation from governance to good governance, this is where the concept of good governance comes to light. The Enactment of the Right to Information Act, 2005 has revolutionized the way how citizens can have access to information from the government. As the Right to Information continues to play a vital role in empowering citizens and promoting openness and integrity in public administration there are several issues persistent which need to be swiftly addressed. This Research article will highlight and analyse the importance of the Right to information and the need for it.*

**Keywords:** Right to Information, Democracy, Good Governance, Corruption, Transparency, Accountability.

*"The great democratising power of information has given us all the chance to effect change and alleviate poverty in ways we cannot even imagine today. Our task, your task...is to make that change real for those in need, wherever they may be. With information on our side, with knowledge potential for all, the path to poverty can be reversed ~ Kofi Annan "*

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## INTRODUCTION

Information<sup>1</sup> forms an indispensable part of every human life and it is said to be one of the most basic, natural, and inalienable rights which plays a key role in a democracy. As quoted by Abraham Lincoln “Democracy is the government of the people by the people and for the people”. India is said to be one of the largest democracies and the passing of the Right to Information Act, of 2005 has ensured a participatory, accountable, and responsible democracy. Citizens need to be aware of the issues, current affairs, developments and all other areas governing the social, economic, political, and environmental aspects. The availability of appropriate information helps citizens to live a dignified life in a civilized society.<sup>2</sup>

The first landmark case relating to the Right to information, wherein it mentioned that the right to information is implicit in the right to freedom of speech and expression explicitly guaranteed in Article 19 of the Constitution of India was the *State of Uttar Pradesh v. Raj Narain*<sup>3</sup> Justice Mathew stated, “*In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries*”. In the case of *L.K. Koolwal v. State of Rajasthan and ors*<sup>4</sup> the Supreme Court held that “*Citizens have a right to know about the activities of the State, the instrumentalities, the departments and the agencies of the State*”. Similarly in the case of *Union of India v. Association for Democratic Reforms*<sup>5</sup> it was held that “all the electorates have the fundamental right under Article 19(1) (a) to know about the education, assets, liabilities and criminal antecedents of the candidate contesting any election”.

Right to Information has the widest scope covering the Central Government, State Government, Panchayati Raj Institutions, Local Bodies, and other authorities receiving government grants<sup>6</sup>. For people to be empowered to realise their rights and to increase chances for improving their quality of life, the democratization of information and knowledge resources

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<sup>1</sup> Section 2(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

<sup>2</sup> Borah, S. K. (2013) Right to Information Act: A Key to Good Governance. International Journal of Humanities and Social Science: VOL -2, Issue- 2 p.11.

<sup>3</sup> AIR 1975 SC 865.

<sup>4</sup> AIR 1988 Raj 2.

<sup>5</sup> AIR 2002 SC 2112.

<sup>6</sup> M. Laxminath, Public Administration, Tata McGraw-Hill Education Pvt. Ltd., New Delhi, 2011, p. 234.

is essential. In order to advance democratic government and the right to development, it is essential that the information regime be strengthened. The Right to Information Act is a meticulously drafted legislation. The Act's foundation is the idea that democracy necessitates information transparency and a well-informed population. The Right to Information Bill, 2005 was passed by the Lok Sabha on May 11, 2005, and by the Rajya Sabha on May 12, 2005, and received the assent of the President of India on June 15, 2005, and came to force on October 12, 2005.

## **RIGHT TO INFORMATION AND INTERNATIONAL LAW**

The Right to information being a fundamental right, the scope and importance have been well recognised internationally. Several international conventions, laws, and national regulations have been passed with time. By acquiring universal recognition, the Right to information has aided in improving governance in many countries by ensuring transparency and accountability.

**Article 19 of The Universal Declaration of Human Rights, 1948**, states that "*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers*". **Article 19 of The International Covenant on Civil and Political Rights, 1968**, states "*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers*". Also, Clause 1 of Article 10 of **The European Convention on Human Rights** states that "*everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and irrespective of frontiers.*"

## **RIGHT TO INFORMATION AND CONSTITUTION**

In India, a formal right to RTI was acknowledged more than 20 years before any legislation was eventually passed. Article 19 (1) (a) of the Constitution guarantees "the fundamental rights to free speech and expression, which, by implication, includes within it the right of access to information". The right to information also flows from Article 21 of the Constitution on the right to life and liberty, which includes the right to know about things that affect our lives. The ambit and scope of Article 21 are much wider as compared to Article 19 (1) (a). In the case of

*Essar Oil Ltd v. Halar Utkarsha Samiti*,<sup>7</sup> the Supreme Court held that “the right to information emerges from the right to personal liberty guaranteed by Article 21 of the Indian constitution”. In the case of *Bennett Coleman Co. & Ors v. Union Of India & Ors*, “the right to information was held to be included within the right to freedom of speech and expression guaranteed by Article 19(1)(a)”. In the case of *Prabhu Dutt v. Union of India*<sup>8</sup>, “the Supreme Court held that the right to know news and information regarding the affairs of administration of the government is included in the freedom of the press which is an integral part of freedom of speech and expression under Article 19(1) (a) of the Indian Constitution”. In the case of *Secretary, Ministry of I & B, Government of India v Cricket Association of Bengal*<sup>9</sup>, the Supreme Court held that “the right to impart and receive information from electronic media was included in the freedom of speech.”

### CONCEPT OF GOOD GOVERNANCE

The concept of governance is not a new one but is as old as human civilization. The act and process by which a government governs its citizens is called governance. Recently the terms "governance" and "good governance" have been increasingly used in development literature. Bad governance is being increasingly regarded as one of the root causes of all evil within our societies. "Good governance" refers to the administration of a democratic system that is effective and efficient. The right to information and good governance go hand in hand. Transparency, accountability, responsibility, participation, and responsiveness to the needs of citizens are considered to be the fundamental components of effective governance, according to the United Nations Commission on Human Rights.<sup>10</sup>

In the case of *Dinesh Trivedi v. Union of India*,<sup>11</sup> it was observed that “In modern constitutional democracies, it is axiomatic that citizens have a right to know about the affairs of the Government which, having been elected by them, seeks to formulate sound policies of governance aimed at their welfare, it went on to observe that democracy expects openness and openness is concomitant of a free society and the sunlight is a disinfectant”. In the case of *SP Gupta v. Union of India*<sup>12</sup> it was stated that “Open Government is the new democratic culture

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<sup>7</sup> AIR 2004 SC 1834.

<sup>8</sup> AIR 1982 SC 6.

<sup>9</sup> 1995 AIR 1236.

<sup>10</sup> About good governance. (n.d.). OHCHR. <https://www.ohchr.org/en/good-governance/about-good-governance> (Last Accessed on 23rd February 2024).

<sup>11</sup> 1997 4 SCCC 306.

<sup>12</sup> AIR 1982 SC 149.

of an open society towards which every liberal democracy is moving and our country should be no exception and in a country like India which is committed to socialistic pattern of society, right to know becomes a necessity for the poor, ignorant and illiterate masses". In the case of *Peoples Union for Civil Liberties v. Union of India* the Supreme Court observed that "the Right to information is a facet of the freedom of 'speech and expression' as contained in Article 19(1)(a) of the Constitution of India"<sup>13</sup>. By ensuring good governance the government can build trust among its citizens which will constitute the cornerstone of every democracy.

### **OBJECTIVE<sup>14</sup> AND NEED OF THE RIGHT TO INFORMATION ACT 2005**

The main goal or objective of the Right to Information Act is to empower citizens, encourage accountability, foster transparency and openness, increase citizens' participation in government operations, combat corruption, and ensure that our democracy truly serves the needs of the people. The Right to Information Act seeks to make government actions and decisions more visible, contributing to efficient and effective governance, promoting citizen participation in democratic activities, ensuring inclusivity, upholding the rule of law, and ultimately fostering a culture of openness and ethical standards in public administration. Apart from transparency, accountability, and inclusivity, the main reason why the Right to information is needed is to curb corruption. Citizens need to be aware of how where and for what purposes the public funds are being utilized. This will help to expose government officials engaging in corrupt practices. Right to information also helps in preventing abuse of power by government officials by ensuring a transparent working system.

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<sup>13</sup> AIR 1997 SC 568.

<sup>14</sup> An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

NOW, THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it.

## IMPORTANCE OF THE RIGHT TO INFORMATION

For the purpose of protecting our human rights free flow of information plays an important role. Right to information is a unique legislation that brings to light the secrecy of the administration. It is an important and essential legislation that helps in promoting good governance thereby ensuring transparency and accountability of the government. It acts as a deterrent against arbitrary policies, decisions and actions of public authorities. In the case of *Reliance Petrochemicals Ltd. Vs. Proprietors Indian Express Newspapers Ltd Bombay*,<sup>15</sup> “It was observed that the Right to information is an essential ingredient of a participatory democracy”. Its importance is highlighted below:

### 1) TRANSPARENCY

Transparency refers to unfettered access by the public to timely and reliable information on decisions and performance in the public sector, as well as on governmental political and economic activities, procedures, and decisions<sup>16</sup>. Transparency is only achievable when the general public has access to information. It can be said that transparency is the foundation of good governance. It refers to the following of laws and regulations in the making and execution of decisions. It also implies that individuals who will be impacted by these decisions and their implementation have unrestricted access to information. Transparency helps hold public officials accountable for their actions and ensures that they are acting in the public interest. The plans, policies, programmes, and communication should be opened and disclosed to the public. Section 2(j)<sup>17</sup> of the RTI Act 2005 defines the right to information and gives a picture of how transparency can be ensured.

### 2) ACCOUNTABILITY

Accountability is an essential tenet of good governance. Any development failure cannot be tracked down to its source in the absence of accountability. In order to ensure accountability, the Right to Information gives people access to information that they can use to hold the government responsible or to ask questions about who made decisions, why they were made,

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<sup>15</sup> AIR 1989 SC 190.

<sup>16</sup> Dr. Marri Chana Reddy, The Right to Information Act 2005, A Handbook for Public Authorities.

<sup>17</sup> "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 the right to— (i) inspection of work, documents, records; (ii) taking notes, extracts or certified copies of documents or records; (iii) taking certified samples of material; (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

and what the results were. In short, the citizens can scrutinize the actions of the government with regard to any plans, programmes, or policies and hold them accountable for the same.

### **3) ACCESSIBILITY**

Accessibility will ensure that information is available to all the citizens of the country. Right to Information will ensure that citizens have access to information from government departments, documents, records, services, finances, and policies in all sectors of the community.

### **4) PARTICIPATION**

Participation by both men and women is a key cornerstone of good governance. To ensure good governance, the public must be involved in the formation of laws, policies, and strategies. Public participation is essential in deciding the course of governance. Citizens who understand public affairs and what the government is doing can voice their opinions or issues that affect their lives by participating in the decision-making process of the government. Without people's participation, the Right to Information will remain a non-starter.<sup>18</sup>

### **5) CURB CORRUPTION**

Right to Information Act as a deterrent to corruption by exposing corrupt practices and ensuring greater public scrutiny. It allows citizens to access information about government contracts, public spending, and other relevant matters that may be prone to corruption. By promoting transparency, it helps reduce corrupt practices and enhance good governance.

### **6) EQUITY AND INCLUSIVENESS**

Another important aspect of good governance is equity. Right to Information ensures that everyone participates in governance. One should not feel expelled from the mainstream of society. It empowers citizens by having equal opportunity to participate in the democratic process. The Right to Information Act applies to all Indian citizens and does not discriminate based on financial status.

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<sup>18</sup> <http://infochangeindia.org/right-to-information/features/without-peoples-participation-the-right-to-information-will-remain-a-non-starter.html>, (Last Accessed on 23rd February 2024).

## **7) EFFECTIVENESS AND EFFICIENCY**

Right to information improves the efficiency and effectiveness of public authorities. They promote a culture of openness within government departments, encouraging officials to share information and respond promptly to public inquiries. This can lead to better decision-making, improved service delivery, and a more accountable public sector.

## **8) EMPOWERMENT**

The Right to Information Act empowers people by removing unnecessary secrecy surrounding in decision-making process of the government. It empowers citizens by giving opportunity to participate actively in democratic processes, this will help citizens to make informed decisions.

## **ISSUES AND CHALLENGES**

The Right to Information Act is said to have come with numerous benefits, but there are many issues and challenges that have come with the implementation of the Act. Some of these include as follows: The primary reason is a low level of awareness among the public. Citizens will not be able to exercise their right to information if they are not aware of the same. At times it also happens that citizens are aware of the legislation but they are not familiar with the procedures to file an RTI. Second, is the lack of uniformity in the implementation of the Right to Information Act. Implementation is uneven and not equally implemented in all states. Different states have different rules which leads to ineffectiveness. Third, is the misuse of the Act for personal interest rather than for public interest. It is said that RTI is used as a vindictive tool to harass public authorities. Asking for voluminous or desperate information is also something concerning. Fourth, the issue of an ineffective record management system of public authorities is something that needs to be looked upon. Information not stored and managed properly will lead to a delay in the processing of RTI applications.

## **CONCLUSION AND SUGGESTIONS**

Right to information ensures and promotes good governance by empowering the citizens to participate effectively and efficiently in the governance of a country. It helps in holding the government officials accountable for their decisions, or policies implemented. With access to information, citizens can make informed decisions participate in democracy, and exercise their rights, this will not only promote good governance but will also increase the trust between the



government and the citizens. The importance of the right to information lies in the ability to facilitate participation, promote transparency, ensure accountability, and most important combat corruption all of which are integral to the establishment of good governance. Though there are many issues and challenges with the implementation of the Act, they need to be addressed thoroughly. The main issue is the lack of awareness, to tackle this challenge the government should ensure publicity of the Act by allocating adequate funds for promoting awareness. Awareness should take place on two levels, online and offline, and should have the involvement of NGOs, Civil society groups, etc. to take up awareness campaigns to educate the public. Rural areas, disadvantaged communities, and backward classes should be targeted at first preference as these are the areas where there is a very low level of awareness. Funds allocated by the government should be spent through the CIC. To ensure better facilitation of information to the public, officials representing public authorities must have adequate training so that they are made aware of their duties and obligations as given under the Right to Information Act. It can be concluded that the Right to Information Act is an essential piece of legislation to alter society at large. It is hoped that in the upcoming years, this Act will change the aspect of Indian democracy's constitutionalism.

