

## **KNOWLEDGE, POWER, POLICY: TRACING THE RTI ACT'S ROLE IN CATALYZING INDIA'S POLITICAL TRANSFORMATION**

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### **ABSTRACT**

The Right to Information Act is legislation that aims to secure the Right To Information of every Indian citizen and provides for practical measures that are necessary for the actualization of the same. This paper has sought to trace the importance of access to information about government functioning in democracies, especially one as populous and diverse as India. The Right to Information Act has not only made governance more transparent and public officials more accountable but it has enhanced the ability of people to make informed choices and engage in productive political discourse. The power of information at the hands of the people has enforced state officials and departments into action. The Right to Information Act has helped guarantee social justice to the most oppressed communities in India. RTI requests and actions have even forced institutions including the Supreme Court to act in situations where the state machinery has been ignorant or careless. However, a recent amendment to the RTI Act, passed by the Indian Parliament in August 2019 threatens the autonomy of the institutions that are established to enforce it. This paper has also examined the impact that this amendment could have on the systems of checks and balances that ensures governance by the people in Indian democracy.

**Keywords:** RTI Act, Human Rights, Indian Government, Indian Democracy, Political

### **INTRODUCTION**

The Right to Information (RTI) Act is an Act passed by the Parliament of India that seeks to ensure that the 'Right to Information' of every Indian citizen is upheld. The Right to Information is recognized as a fundamental right by the Constitution and Supreme Court of India and is considered to be an extension to the 'Right to Freedom of Speech' (Subrahmaniyam, 2013). This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005. The Right to Information Act ensures that citizens of India have access to information related to the functioning and activities of the Indian Government. 'Indian Government' here includes all the constitutional authorities, including executive, legislature and judiciary; any institution or

body established or constituted by an act of Parliament or a state legislature. It is also defined in the Act that bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government, or non-Government organizations "substantially financed, directly or indirectly by funds" are under the ambit of this Act (Sinha, 2019). However, RTI has certain restrictions. Information disclosure in India is restricted by the Official Secrets Act 1923 and various other special laws. In other cases, however, the request for information must be replied to within 48 hours and the information must be provided within 30 days of the request being submitted (PRS India, 2011). The Act also requires all state agencies and ministries to computerize their records so that they are widely available for dissemination. This level of digitization also ensures that certain categories of information are accessible to people within the shortest time possible (Prasad, 2018).

More than 100 countries around the world have implemented some form of freedom of information legislation. Sweden's Freedom of the Press Act of 1766 is the oldest in the world (Staples, 2007). The emergence of freedom of information legislation was a response to increasing dissatisfaction with the secrecy surrounding government policy development and decision making. Most countries have constitutional guarantees of freedom of information, given that it is viewed to be an extension of the Right to freedom of speech. However, the absence of support legislation prevents the actualization of this right in many countries (Mazhar, 2010). A basic principle applied all over the world is that the 'burden of proof' lies on the agency which is being requested to provide information, and not on the citizens requesting the same.

The Right to Information is imperative for democracies to function efficiently. Democracy implies rule 'by the people'. Given that most democracies in the world including India are representative democracies, governance is handled by those who are elected by the people to positions of power. Elected officials are accountable to the public and the mandate of the people is necessary for a government to be in power in democracies. To ensure the accountability of the government, people need to have access to the information related to the functioning of the government and government policy. This information acts as a scale on which the performance of the government can be judged. It helps people make more informed choices in a democracy and reduces the propensity of rhetoric swaying the general public. The Right To Information Act has made all public officials, from the Prime Minister to District Level Commissioners and supervisors are answerable for their actions and policies, therefore, the Right to Information improves the quality of political discourse, helps people make informed choices, increases transparency in state structures and makes the government more accountable to the people for its actions.

## **BACKGROUND**

The Right To Information Act was passed by Parliament on 15 June 2005 and it became operational from 12 October 2005. The Government of India first set up a working group on the Right to Information and promotion of open and transparent governance in 1997. This was done to consolidate the 'Right to Freedom of Speech', which is a fundamental right guaranteed by the Indian Constitution. A people's organization in Rajasthan, Majdoor Kisan Sakthi Sangathan (MKSS) has been at the forefront ensuring that this right is actualized for the Indian people (Mathur, 2008). The first legislation to be passed to ensure this was the Freedom of Information Act, 2002. However, the Freedom of Information Act suffered from many weaknesses, most importantly, it failed to acknowledge the 'Right to Information' as a Fundamental Human Right. Moreover, it provided for appeals only within government bodies. Courts were barred from passing judgments related to this Act and no independent appellate body was set up to ensure that the Act was implemented. To overcome these problems, the government enacted the revolutionary Right to Information Act in 2005. This act was modeled after the decision of many developed countries to expand to 'Right to Freedom of Speech' to the 'Freedom of Information'. It aimed to make governance more transparent and public officials more accountable for their actions. This level of accountability and transparency in state matters also makes discourse and choices of the public more informed. The Right to Information is considered to be imperative for democracies to attain their true desired end goal of governance 'by the people' (Gandhi, 2017).

Whenever any citizen requests information from any of these authorities, they must release the same information within thirty days, according to the provisions of the Act. All government ministries, state agencies, bodies set up by the act of parliament or legislatures and all other bodies that are funded by the state or central government are answerable to the public for their actions according to the Right to Information Act. The Supreme Court, in 2014, ruled that all private companies providing public utilities and Non Governmental Agencies funded partly or fully by the government are under the ambit of the Right to Information Act (Nayak, 2014). The Right to information in India is governed by two major bodies- at the national and state level respectively. The Central Information Commission (CIC) which is headed by the Chief Information Commissioner (with powers similar to the Chief Election Commissioner) The CIC heads all the central departments and ministries- with their own Public Information Officers (PIOs). CICs operate under and are accountable to the President of India. State Information Commissions – State Public Information Officers (SPIO)s head over all the state departments and ministries. The SPIO office is directly under the corresponding State Governor. State and Central Information Commissions are independent bodies and the Central Information Commission has no jurisdiction over the State Information Commission. These authorities are called quasi-judicial authorities (Gandhi, 2017). A citizen who desires to seek some information

from a public authority is required to a prescribed fee for seeking information. If the person is from a disadvantaged community, the fee is waived off. Information disclosure in India is restricted by the Official Secrets Act 1923 and various other special laws, in which the new RTI Act relaxes. These exceptions are made for the sake of National Security and Intellectual Property Rights (PRS India, 2011).

The Right to Information has been credited to be one of the most empowering features of Indian democracy. It places unprecedented levels of accountability on state officials, even on their day to day activities, especially in matters related to the usage of Public resources. On average, over 4800 RTI applications are filed every day. The effectiveness of the act can be judged by the fact that in the first ten years of the commencement of the act over 17,500,000 applications had been filed (Sharma, 2016).

## **DISCUSSION**

The Right To Information Act has successfully made Indian democracy more transparent and officials at all levels of government more accountable for their actions. Indian bureaucracy has been marred with allegations of corruption and red-tapism. RTI has been used by people across the social and economic spectrum to call out problematic and corrupt behavior on the part of government officials and obtain true records and reasons for the lack of state action in certain key areas of development. Suvarna Bhagyawant, from Ambegaon (a village in Maharashtra), was repeatedly asked to pay a bribe of 500 rupees to the local Panchayat (a self-governing body at the rural level in India) to obtain the death certificate of her grandfather. She made several pleas to state agencies given that she did not have the economic capital to pay the bribe until she finally decided to file an RTI complaint. The document was provided to her within 8 days (Central Information Commission, 2015). The Right to Information Act was also used to call out the problematic culture that existed in prisons of Uttar Pradesh. Jails in Uttar Pradesh lodged prisoners far more in number than they could accommodate comfortably. What made it a case of human rights violation is that more than half of the prisoners in different jails of the state were under trials. Out of 81,027 prisoners lodged in various jails of the state, 55,460 (more than 60%) were under trial. Many of them had been behind bars for many more years than what the punishment for their offense would have allowed. The response to this RTI complaint forced the Supreme Court to intervene. Not only was it revealed that about 65% of Indian prisoners are still under trial, but the Supreme Court also issued a notice to the National Crime Records Bureau (NCRB), urging it to intervene in this matter. The Supreme Court also recommended direct government action to frame a policy aimed at grant bail to prisoners facing trial for offenses in which punishment ranges between three and seven years (Central Information Commission,

2015). RTI has been used to expose corruption, ignorance, and inefficiency of the government and bureaucracy across India.

Information dissemination is the primary responsibility of the media in a democracy. Media is considered to be at par with the executive, legislature and executive and is termed as the 'fourth pillar' of democracy. However, in the twenty-first century, media has failed to adequately disseminate information about governance to the people, especially in India. There are two primary reasons for this. The first is that the 'state' categorically withholds information from the media to curb dissent and criticism. It is in the interest of elected officials to hide their inefficiency from the media, which is supposed to act as a body that keeps checks on the functioning of the government. Secondly, media houses to have vested interests that prevent them from holding people positions of power accountable. This vested interest can be in the form of ideology, economic dependence or social acceptance. In capitalist societies, the 'free media' often starts behaving like the 'mouthpiece' of people in positions of power. India ranks 138th out of 180 countries in the Press Freedom Index (EPW Engage, 2018). Given that the media houses have failed to disseminate information about the functioning of the government to the public, and holding the government accountable, there is a need to give the people power to do the same. The 'Right To Information' Act seeks to fulfill this need. Moreover, social justice in a democratic society is guaranteed through the provision of certain 'Fundamental Rights', the 'Right to Freedom of Speech' being one of the most important of them. However, to exercise that, people need to have access to information based on which discourse can evolve and justice can be demanded. Hence the Right to Information seeks to expand the Right to Freedom of Speech to ensure the provision of social justice in India.

To ensure the implementation of the RTI Act, state institutions have been mandated to digitize their data. The government has set up the RTI Portal which acts as a gateway to the citizens and provides access to information held by Public Authorities. It also allows people to verify the progress of an RTI request or complaint. All central ministries have 'digitized' their 'information infrastructure' and state authorities have also been directed to do the same. However, difficulties have emerged because of the lack of a uniform payment structure and access portal for RTI actions across Indian states. The Federal Structure of the Indian government and the separation of Information Commissions at the State and Central has made the process of filing RTIs confusing and inaccessible to those who lack basic education (Prasad, 2018).

There is an intersection between knowledge and power in representative democracies. The provision of adequate information to the people gives them the power to sway elections and hold leaders accountable. The Right to Information Act was envisioned to help the people of India,

retain their power in the democracy by pioneers of the legislation including Aruna Roy (Thottam, 2011).

## **CONCLUSION**

The RTI Act has revolutionized polity in India. The access to information at the hands of the public has made public officials and politicians more accountable for their actions. Historically, India has been plagued by instances of corruption and red-tapism at the macro and micro levels. Scams including the Bofors scandal, Commonwealth Games scam that has involving hundreds of crores of rupees at the central and state level have been a regular occurrence. People have been forced to pay bribes to access the most basic state facilities including ration cards and death certificates. Even though the Right to Information Act has not been able to prevent scandals at the national level, it has been extremely instrumental in exposing these scams and holding perpetrators accountable. More importantly, instances of corruption and bribery amongst lower-level officials, who interact with the public daily have come down.

The Right To Information Act was amended in 2019, in a move which has been criticized for diluting its power and autonomy. The new legislation seeks to give the government powers to fix salaries, tenures and other terms and conditions of employment of information commissioners. Criticism is primarily based around the fact that the government is taking control of Information Commissioners and the Central Information Commission, bodies that are not only supposed to be independent of the central government but are also supposed to keep the central government under checks and balances (Banerjee, 2019). The legislation states that the tenure and salaries of the CIC and ICs, which were previously fixed at levels equivalent to the tenure and salaries of other autonomous bodies such as the Election Commission, will now be decided by the Central and State Governments. This level of control is said to affect the autonomy of the bodies that enforce the RTI Act and curb their ability to keep the government's actions in check. Theoretically, the government can remove any Information Commissioner according to its wishes, hence undermining the checks and balances system that democracy is built upon (Sinha, 2019). This is tantamount to giving the executive the power to remove members of the judiciary arbitrarily, which is a threat to democracy. Activists including Aruna Roy, who initially spearheaded the movement for the Right to Information have criticized these amendments and the motives behind the same (Roy, 2015).

The Right to Information Act has brought necessary and positive changes to Indian democracy. It has acted as a means of ensuring social justice to the most oppressed classes of society. It has been used as a tool by activists to accelerate social reform and public policy, even at the risk of their safety (Bhatnagar, 2016). It is extremely important to protect the autonomy of the

institutions that uphold this fundamental right in India, to ensure the most fundamental of democratic principles, governance 'by the people', is upheld.

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