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Assessing the Impact of the Right to Information on Promoting Transparency and Accountability

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ABSTRACT

In India, the enactment of the Right to Information Act, 2005 (RTI Act) aimed to enhance transparency and accountability in governance by granting citizens access to information held by public authorities. The act empowers citizens to seek information from government bodies, and mandates public authorities to proactively disclose certain categories of information. This paper aims to assess the impact of the RTI Act on promoting transparency and accountability in governance in India. The paper examines the literature on the RTI Act, including its implementation, challenges, and outcomes. It also considers case studies of the RTI Act's impact on various sectors such as health, education, and corruption. The paper finds that the RTI Act has been instrumental in promoting transparency and accountability in governance. The Act has led to increased citizen participation in governance, better public service delivery, and reduced corruption. The proactive disclosure of information by public authorities has also improved the quality of information available to citizens. However, challenges remain, including the lack of awareness among citizens, bureaucratic resistance to implementing the act, and inadequate infrastructure for implementing the act. Overall, the paper concludes that the RTI Act represents a crucial milestone in fostering transparency and accountability in the governance of India.. However, further efforts are needed to address the challenges in its implementation and to ensure that the act is effectively leveraged for promoting good governance”.

Keywords: Transparency, RTI, Accountability, Scam, Fundamental Right.

I. INTRODUCTION

As per the Preamble of the RTI Act, the legislative intent is to create a pragmatic system that enables citizens to obtain access to information held by public authorities, thereby promoting transparency and accountability in the operations of all public entities. This legal framework has played a pivotal role in advancing democratic ideals by fostering greater transparency in

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governance and encouraging active citizen involvement in the democratic process.

The right to information plays a critical role in shaping an individual's ideas and expressions. The Indian Constitution recognizes this right through Article 19, which guarantees the fundamental right to freedom of speech and expression, including the right to know.³ The significance of this right was first highlighted in *Bewaar, Rajasthan*, in 2004, when MKSS workers mobilized a mass movement demanding their right to information. Subsequently, the Right to Information (RTI) Act was enacted in 2005, which is also an essential component of an individual's fundamental right to life under Article 21⁴. The RTI Act empowers citizens to demand information from the government promptly and without any obligation to provide reasons, as it is their fundamental right. This right is available to all citizens, irrespective of their age, gender, or economic status and does not necessitate a direct impact on an individual's private affairs. In India, where democratic governance entails accountability to its people, the dissemination of information by the government is crucial in holding it accountable for its actions and reducing corruption. Therefore, the right to information assumes utmost importance for individuals in India.⁵

“The Right to Information (RTI) Act grants individuals substantial rights to access information regarding government activities. It not only mandates public authorities to furnish information but also imposes a duty to disclose or publish information. The RTI Act is not only a legal instrument but also a social mechanism that has facilitated societal changes. It provides individuals with a means to obtain information that can be utilized to hold the government accountable, seek explanations for decisions made, and understand their implications.

Additionally, the RTI Act requires public authorities to provide reasons for their administrative and quasi-judicial decisions, thereby minimizing the potential for arbitrary decision-making.⁶

The RTI Act has had a significant impact on the public, to the extent that it has forced the government to be more transparent and accountable, due to the threat it poses. The act lays down strict regulations for providing information, and non-compliance can result in fines or punishment. The Right to Information Act facilitates participatory development, democratic governance, and the efficient delivery of socio-economic services. It also encourages

³ Kumar N, *Constitutional Law of India* (Allahabad Law Agency 2015)

⁴ Khandelwal D and Khandelwal KK, *A Commentary and Digest on Right to Information Act, 2005 (22 of 2005): A Comprehensive Commentary on Right to Information Act, 2005 Providing Analysis and Explanatory Notes on Various Sections Alongwith Case Laws* (Bright Law House 2007)

⁵ Saini PK and Gupta RK, *Right to Information Act, 2005: Implementation and Challenges* (Deep & Deep Publications 2009)

⁶ Sathe SP, *Right to Information* (LexisNexis Butterworths 2006).

collaboration between citizens and the government in designing and implementing development programs that enhance the quality of life. These programs aim to increase opportunities for better education, healthcare, higher earnings, a cleaner environment, and a more enriched cultural life.⁷

II. ANALYSIS

(A) The Interdependency Between Transparency and Accountability

“The RTI Act has had a significant impact on the public, to the extent that it has forced the government to be more transparent and accountable, due to the threat it poses. The act lays down strict regulations for providing information, and non-compliance can result in fines or punishment. The RTI Act promotes participatory development, democratic governance, and effective delivery of socio-economic services. Another critical aspect is the promotion of citizen-government partnerships, which fosters the design and implementation of development programs aimed at improving the quality of life. This includes increasing opportunities for higher earnings, better education and healthcare, a cleaner environment, and a richer cultural life.⁸ Mendel has laid out international and comparative standards that should underpin freedom of information legislation.

- **Maximum disclosure:** This principle states that there should be a presumption in favour of disclosing information, and that exceptions to disclosure should be narrowly and clearly defined.
- **Obligation to publish:** This principle states that public bodies should proactively publish information of public interest, without waiting for a request to be made.
- **Promotion of open government:** This principle emphasizes the importance of fostering a culture of openness and transparency within public bodies and promoting public participation in decision-making processes.
- **Limited scope of exceptions:** This principle asserts that exceptions to disclosure should be strictly limited, and subject to a harm and public interest test.
- **Rapid and fair processing of requests:** This principle emphasizes the importance of processing requests for information in a timely and fair manner and providing independent review of any refusals.

⁷ Dr Kumari TK, Whistleblowers and the Laws in India- A brief study, Vol. XII No. 3 Nayaya Deep, 63 (2011)

⁸ Dr Roopinder Oberoi DR, Institutionalizing Transparency and Accountability in Indian Governance: Understanding the Impact of Right to Information (2013) 11 IOSR Journal of Humanities and Social Science 41

- No deterrence by excessive costs: This principle emphasizes that individuals should not be deterred from making requests for information due to excessive costs.
- Open meetings: This principle states that meetings of public bodies should be open to the public.
- Disclosure takes precedence: This principle asserts that the right to access information takes precedence over other interests, such as privacy.
- Protection for whistle-blowers: This principle emphasizes the importance of protecting individuals who disclose information in the public interest from retaliation or persecution”.

(B) RTI Creates Public Accountability

“In a democratic governance system, the government is responsible for the welfare of the public and not just a few individuals. Hence, all levels of government, from local to central, are accountable to the people. Therefore, citizens have a legitimate right to know what their government is doing. The right to information empowers citizens to hold public institutions accountable, independent of elected representatives who may struggle to obtain the necessary information despite having resources. This right is crucial to promote a culture of accountability by providing access to information regarding finances, proceedings, and decisions of social actors that impact the public. It can also act as a check on mismanagement, corruption, bribery, and other forms of malpractice⁹. This will promote regularity in the process and improve the functioning of public institutions.”

(C) Ensures Transparency

“The assumption that the government acts in the best interest of the public and utilizes funds efficiently has been undermined by recent incidents of mismanagement, misuse, and misappropriation of public funds. To address this issue, it is crucial to promote transparency in all government operations. The implementation of the Right to Information empowers citizens to monitor the use of funds by public officials, ensuring that resources are utilized effectively. Transparency also holds officials accountable for any misconduct or misuse of public resources, ultimately promoting greater public trust in government operations¹⁰.

(D) Right to Information as a Fundamental Right

⁹ Bawa PS, Right to Information Act: A tool of management and good governance (2013) 63 Indian Police Journal 65

¹⁰ Dalal RS and Singh J, Impact of Right to Information Act, 2005, on Good Governance: An Evaluation (2016) 62 Indian Journal of Public Administration 905

The Indian Supreme Court has consistently recognized the right to information as a fundamental right, derived from Article 19(1)(a) of the Constitution of India. This right has been developed through various cases where the press asserted their freedom of speech and expression against government restrictions. These cases dealt with issues such as newspaper bans and government control over newsprint. As a result, the public's right to know has emerged as a vital aspect of freedom of speech and expression, cemented in constitutional law. The court has also explored the limits of this right in its jurisprudence. In the landmark case of *Bennett Coleman and Co. v. Union of India* (AIR 1973 SC 106)¹¹, it has been firmly established by the Supreme Court of India that the right to information is an integral component of the right to freedom of speech and expression enshrined in article 19(1)(a) of the Indian Constitution. The case of *Indira Gandhi v. Raj Narain*¹² is notable for the court's explicit statement that it is not in the public interest to keep routine government business shrouded in secrecy. The court emphasized that officials have a responsibility to explain and justify their actions, which is the main safeguard against corruption and abuse of power.

In the case of *Secretary General, Supreme Court of India v. Subha Chandra Agarwal*¹³, the Delhi High Court held that the Chief Justice of India is a public authority under the RTI Act & the information regarding their asset is public information. The asset declaration of the Supreme court judges falls under the definition of information in section 2(f) of the RTI act and is subject to Public Information Officer of the Supreme court to release the information requested by the respondent concerning the asset declaration. The CJI, in consultation with the Supreme court judges, may establish uniform standards for the nature, format, and frequency of asset declarations.

(E) The Right to Information and Transparency of Administration as an Effective Tool of Good Governance

Participation is a vital element in promoting good governance and should be inclusive of all genders. Representative democracy should not only focus on the interests of a few but also cater to vulnerable groups in society. The Right to Information Act facilitates people's participation in governance and holding decision-makers accountable throughout the year, not just during elections. By granting access to information, the Act promotes fairness and equal opportunities, and creates a more equitable society. It also provides a means to challenge unfairness and encourages collective efforts towards making democracy work for everyone. Furthermore, the

¹¹ *Bennett Coleman and Co. v. Union of India*, AIR 1973 SC 106

¹² *Indira Gandhi v. Raj Narain* AIR 1975 SC 1590

¹³ *Secretary General, Supreme Court of India, vs. Subhash Chandra Agarwal* (2020) 5 SCC 481

Act reinforces grassroots democracy by ensuring people's participation in local governance and development initiatives.

The Right to Information Act promotes easy accessibility of government information, including documents, records, services, finances, and policies to all members of the community. This aids in bridging the gap between citizens and administration, promoting the nation-building process. Additionally, it helps citizens understand the limitations of the government at various levels, thereby promoting transparency and accountability. The availability of information fosters the development process and is a sign of a mature and robust democracy”.

Promoting transparency is a crucial component of effective governance, as it ensures that governmental decisions adhere to established rules and regulations and that information is readily accessible to those affected by these decisions. The implementation of the Right to Information Act in 2005 has facilitated the ability of individuals to obtain information from any government department within a specified time frame, which serves to foster accountability and transparency in governmental decision-making processes. Despite some Union government departments being exempt from this legislation, citizens can still request information related to human rights violations. Private entities can also be approached for information, but this must be done through the controlling authority, which then sends a notice to the organization under Section 11 of the Act. As taxpayers, citizens are entitled to request information from the government.¹⁴.

Transparency and accountability are fundamental aspects of good governance, applicable not only to government entities but also to private sector institutions. The Right to Information Act is a crucial tool in promoting accountability and transparency in the administration, providing people with access to information that enables them to hold the government accountable and seek explanations for its decisions. However, it is essential to recognize that accountability cannot be achieved without transparency and adherence to the rule of law. Thus, transparency and accountability are two sides of the same coin, both critical to ensuring good governance.

The Right to Information Act has been instrumental in empowering citizens in India, enabling them to participate in decision making and hold the government accountable for its actions. Prior to the Act's enactment, many individuals were unaware of various government schemes and their entitlements, leaving them unable to challenge any violations of their rights. With the right to access information, people can now take part in the decision-making process and demand accountability from the government. The Act has eliminated unnecessary secrecy

¹⁴ Routray PK, RTI: A Tool of Good Governance (2022) 11 Sanshodhan 38

surrounding government decision-making, allowing citizens to exercise their right to know. This has led to increased awareness and greater participation of citizens in governance, promoting a more transparent and accountable government.

III. RTI EFFECT ON SCAMS

“The RTI act has given students and the public the ability to investigate and acquire information about government projects, schemes, tender allocations, and other related activities. This has exposed irregularities and flaws in these processes and forced the courts to take action against them. This has dealt a severe blow to corruption and encouraged government institutions to operate more fairly and transparently. The RTI has also compelled authorities to disclose complete information about their expenses and operations, thereby eliminating the possibility of opaque practices. As a result, the RTI has uncovered several significant scams in recent years, such as the Adarsh Society Scam, 2G Scam, and Commonwealth Games Scam.¹⁵”

IV. CONCLUSION

“The success of the RTI Act, a landmark legislation, can be attributed to those who tirelessly utilize information for the betterment of society. This involves revealing public scandals, urging authorities to be more responsible, and addressing community grievances. Although the RTI Act is an exceptional law, it encounters significant difficulties and obstacles in its execution and implementation, particularly in marginalized regions. Nonetheless, if utilized and executed judiciously, the RTI Act has the ability to unlock a governance system that is more attentive to the needs of the people, which is the cornerstone of democracy.

Despite the positive impact of the RTI Act, there is a need for reform to address its shortcomings. Public authorities that try to evade the act should face strict penalties, and the judiciary should ensure that this is enforced. Furthermore, the act should be interpreted more broadly, and more institutions should be brought under its scope. This is particularly important as the government's privatization efforts could result in the privatization of many public institutions, which could have a detrimental impact on the functioning of the RTI Act. Therefore, a flexible and liberal approach to the act's implementation is necessary for it to remain effective.

One of the key benefits of the RTI Act is that it empowers citizens to exercise their right to know, which is a crucial element of any democratic society. Citizens have the right to access

¹⁵ Impact of RTI on Corruption in India: A Critical Analysis (latestlaws.com) < <https://www.latestlaws.com/articles/impact-of-rti-on-corruption-in-india-a-critical-analysis/#edn3>>

information held by public authorities, including government departments and ministries, local authorities, and other public bodies. This enables citizens to scrutinize the workings of the government, hold public officials accountable, and expose wrongdoing.

However, the implementation of the RTI Act has faced several challenges. One significant issue is the lack of awareness among citizens about their rights under the act. Many people, particularly those in marginalized communities, are not aware of the act's provisions and how to use it to access information. This highlights the need for greater awareness campaigns to educate citizens about their right to information.

Another challenge is the resistance from public authorities to disclose information. Some public authorities are reluctant to provide information, either due to bureaucratic inefficiencies, lack of capacity, or a desire to conceal information. This is where the courts should play an active role in ensuring that public authorities comply with the act's provisions. They should take strict action against those who attempt to evade the act and ensure that public officials are held accountable for their actions.

To sum up, the Right to Information Act is a pivotal law that can bring about a positive change in governance in India. However, its implementation needs to be improved to realize its full potential. This entails a more open-minded approach towards its interpretation and implementation, wider awareness campaigns to educate citizens about their entitlements, and stringent action against public authorities that flout the act's provisions. If these challenges are effectively tackled, the RTI Act can pave the way for a more accountable and participatory governance system that caters to the needs of the people and nurtures democratic principles.”

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