

The Right to Information (RTI)

Historical Background

The right to information is a fundamental right under Article 19 (1) of the Indian Constitution. In 1976, in the *Raj Narain vs the State of Uttar Pradesh* case, the Supreme Court ruled that Right to information will be treated as a fundamental right under article 19. The Supreme Court held that in Indian democracy, people are the masters and they have the right to know about the working of the government.

Thus the government enacted the Right to Information act in 2005 which provides machinery for exercising this fundamental right.

To know more in detail about the Constitution of India, visit the linked article.

The Right to Information Act of 2005

The act is one of the most important acts which empowers ordinary citizens to question the government and its working. This has been widely used by citizens and media to uncover corruption, progress in government work, expenses related information, etc.

All constitutional authorities, agencies, owned and controlled, also those organisations which are substantially financed by the government comes under the purview of the act. The act also mandates public authorities of union government or state government, to provide timely response to the citizens' request for information.

The act also imposes penalties if the authorities delay in responding to the citizen in the stipulated time.

Know more about Cultural and Educational Rights at the linked article.

What type of information can be requested through RTI?

The citizens can seek any information from the government authorities that the government can disclose to the parliament.

Some information that can affect the sovereignty and the integrity of India is exempted from the purview of RTI.

Information relating to internal security, relations with foreign countries, intellectual property rights (IPR), cabinet discussions are exempted from RTI.

Objectives of the RTI Act

1. Empower citizens to question the government.
2. The act promotes transparency and accountability in the working of the government.
3. The act also helps in containing corruption in the government and work for the people in a better way.
4. The act envisages building better-informed citizens who would keep necessary vigil about the functioning of the government machinery.

Important provisions under the Right to Information Act, 2005

- Section 2(h): Public authorities mean all authorities and bodies under the union government, state government or local bodies. The civil societies that are substantially funded, directly or indirectly, by the public funds also fall within the ambit of RTI.
- Section 4 1(b): Government has to maintain and proactively disclose information.
- Section 6: Prescribes a simple procedure for securing information.
- Section 7: Prescribes a time frame for providing information(s) by PIOs.
- Section 8: Only minimum information exempted from disclosure.
- Section 8 (1) mentions exemptions against furnishing information under the RTI Act.
- Section 8 (2) provides for disclosure of information exempted under the Official Secrets Act, 1923 if the larger public interest is served.
- Section 19: Two-tier mechanism for appeal.
- Section 20: Provides penalties in case of failure to provide information on time, incorrect, incomplete or misleading or distorted information.
- Section 23: Lower courts are barred from entertaining suits or applications. However, the writ jurisdiction of the Supreme Court of India and high courts under Articles 32 and 226 of the Constitution remains unaffected.

To know in detail about the other fundamental rights of the Indian Constitution, aspirants can refer to the links given below:

Significance of the RTI Act

- The RTI Act, 2005 empowers the citizen to question the secrecy and abuse of power practised in governance.
- It is through the information commissions at the central and state levels that access to such information is provided.
- RTI information can be regarded as a public good, for it is relevant to the interests of citizens and is a crucial pillar for the functioning of a transparent and vibrant democracy.
- The information obtained not only helps in making government accountable but also useful for other purposes which would serve the overall interests of the society.
- Every year, around six million applications are filed under the RTI Act, making it the most extensively used sunshine legislation globally.

- These applications seek information on a range of issues, from holding the government accountable for the delivery of basic rights and entitlements to questioning the highest offices of the country.
- Using the RTI Act, people have sought information that governments would not like to reveal as it may expose corruption, human rights violations, and wrongdoings by the state.
- The access to information about policies, decisions and actions of the government that affect the lives of citizens is an instrument to ensure accountability.
- The Supreme Court has, in several judgments, held that the RTI is a fundamental right flowing from Articles 19 and 21 of the Constitution, which guarantee to citizens the freedom of speech and expression and the right to life, respectively.

Recent Amendments

- The RTI amendment Bill 2013 removes political parties from the ambit of the definition of public authorities and hence from the purview of the RTI Act.
- The draft provision 2017 which provides for closure of case in case of death of applicant can lead to more attacks on the lives of whistleblowers.
- The proposed RTI Amendment Act 2018 is aimed at giving the Centre the power to fix the tenures and salaries of state and central information commissioners, which are statutorily protected under the RTI Act. The move will dilute the autonomy and independence of CIC.
- The Act proposes to replace the fixed 5-year tenure with as much prescribed by the government.

Criticism of RTI Act

- One of the major set-back to the act is that poor record-keeping within the bureaucracy results in missing files.
- There is a lack of staffing to run the information commissions.
- The supplementary laws like the Whistle Blower's Act are diluted, this reduces the effect of RTI law.
- Since the government does not proactively publish information in the public domain as envisaged in the act and this leads to an increase in the number of RTI applications.
- There have been reports of frivolous RTI applications and also the information obtained have been used to blackmail the government authorities.

RTI Act – Associated Challenges

- Different types of information are sought which has no public interest and sometimes can be used to misuse the law and harass the public authorities. For example-
 - Asking for desperate and voluminous information.

- To attain publicity by filing RTI
- RTI filed as a vindictive tool to harass or pressurize the public authority
- Because of illiteracy and unawareness among the majority of the population in the country, the RTI cannot be exercised.
- Though RTI's aim is not to create a grievance redressal mechanism, the notices from Information Commissions often spur the public authorities to redress grievances.

Difference between Right to Information and Right to Privacy

The right to privacy and the right to information are both essential human rights in modern society where technological information breach is very common. These two rights complement each other in holding governments accountable to individuals in a majority of the cases.

Right to Information provides a fundamental right for any person to access information held by government bodies. At the same time, the right to privacy laws grants individuals a fundamental right to control the collection of, access to, and use of personal information about them that is held by governments and private bodies.

Right To Information Act vs Legislations for Non Disclosure of Information

- Some provisions of the Indian Evidence Act (Sections 123, 124, and 162) provide to hold the disclosure of documents.
 - Under these provisions, head of department may refuse to provide information on affairs of state and only swearing that it is a state secret will entitle not to disclose the information.
 - In a similar manner no public officer shall be compelled to disclose communications made to him in official confidence.
- The Atomic Energy Act, 1912 provides that it shall be an offence to disclose information restricted by the Central Government.
- The Central Civil Services Act provides a government servant not to communicate or part with any official documents except in accordance with a general or special order of government.
- The Official Secrets Act, 1923 provides that any government official can mark a document as confidential so as to prevent its publication.

Conclusion

- The Right to Information Act has not achieved its full objectives due to some impediments created due to systematic failures. It was made to achieve social justice, transparency and to make an accountable government.
- This law provides us with a priceless opportunity to redesign the processes of governance, particularly at the grassroots level where the citizens' interface is maximum.

- It is well recognized that the right to information is necessary, but not sufficient, to improve governance. A lot more needs to be done to usher in accountability in governance, including protection of whistleblowers, decentralization of power and fusion of authority with accountability at all levels.
- As observed by Delhi High Court that misuse of the RTI Act has to be appropriately dealt with; otherwise the public would lose faith and confidence in this “sunshine Act”.

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