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LEGAL DIMENSIONS OF THE RIGHT TO INFORMATION IN PROMOTING CONSTITUTIONAL GOVERNANCE IN INDIA

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Abstract

Without a question, democracy is a political value. As Abraham Lincoln so eloquently put it, "Democracy is a government of the people, by the people, and of the people." It is a system of governance at several levels, including panchayats, provinces, and the union, in which the people of the nation participate in the decision-making process of the government through their representatives. Therefore, citizens must actively and pro-actively participate in this process in order for democracy to exist. It is simply an indirect method of self-governance, most of the time. It is equally true, though, that it is not limited to the political sphere; rather, it has broader meanings in the various social, cultural, personal, and economic spheres of people's life and eventually finds a home in the much larger phenomena of philosophical discourse. In other words, democracy is a collection of both individual and group virtues that are necessary for a developed country and a civilised community. The provision of freedom, liberty, and rights for its citizens is the fundamental component of democracy.

One instrument for bolstering democracy is the Right to Information Act of 2005. RTI gives Indian citizens the ability to request public information from the public authorities listed in the Act. The goal of having a thriving democracy in India can only be accomplished by the widespread distribution of information. The genuine nature of democracy will disappear if the populace is ignorant or underinformed. Since it was passed by the parliament, RTI has been the most beneficial law for Indian citizens. Even after the RTI Act of 2005 was passed more than ten years ago, its objectives have not been met. The quantity of RTI applications, however, indicates that at least 13 crore individuals in India have heard of the Act and have utilised it to exercise their right to access information that is owned or controlled by public bodies. According to the research, the RTI Act has not only given citizens the ability to request public information, but it has also been largely successful in thwarting corruption, promoting

accountability and transparency in governance, creating efficient and effective administration, and increasing public participation in various levels of Indian decision-making processes.

of governing. Stronger Rule of Law principles that genuinely move towards Constitutional Governance—also referred to as Good Governance—are made possible by the RTI Act. The RTI Act does have some shortcomings, though. The Act has a lot of problems, but if they are fixed, it might become the world's best transparency law. The Act's proper execution is debatable. For the Act to be fully implemented, the Central Information Commission, State Information Commission, and Public Authorities must all abide by its provisions. The CIC and SIC are responsible for ensuring that the Act is properly implemented. The RTI Act's pro-active disclosure provision is crucial; if all public authorities publish the information required by the Act suo moto, the Act's core will remain intact. Every public authority has an obligation to release information suo moto to the greatest extent feasible in order to reduce the likelihood that citizens will submit RTI applications to get information.

The expanding RTI system in the South Asian Region is noteworthy, according to a comparative analysis of the laws in the member nations of the South Asian Association for Regional Co-operation (SAARC). With the exception of Bhutan, nearly every SAARC member has access to information laws. The best of them all is India's Right to Information Act, 2005.

The goal of the Rule of Law was largely preserved by the RTI, which reduced administrative corruption by establishing an open and responsible governance. Information disclosure lowers the possibility of corruption by limiting the administrative branch's ability to act arbitrarily. The rule of law aims for a responsible, transparent, and corrupt-free government. Therefore, one of the best tools for achieving the objectives of constitutional governance is the RTI Act. RTI can also help to further and accomplish the democratic aim. Citizens who are well-informed are able to participate in government decision-making at all levels of governance by offering well-informed perspectives. When individuals in India have easy access to information, participatory democracy may be more lively and meaningful.

The right to information has a fundamental constitutional foundation. The Indian Constitution's preamble, which upholds the democratic ideal, calls for information to be made available in order to give democracy purpose. The right to information is implicitly included in the discussion of fundamental rights under Article III of the Constitution. In many cases, the

nation's highest court has interpreted established fundamental rights, such as the right to information. As a result, RTI is both a statutory and a fundamental right guaranteed by the Indian Constitution.

INTRODUCTION

Without a question, democracy is a political value. As Abraham Lincoln so eloquently put it, "Democracy is a government of the people, by the people, and for the people."¹ It is a system of governance at several levels, including panchayats, provinces, and the union, in which the people of the nation participate in the decision-making process of the governance through their representatives.

Therefore, democracy requires that the people participate in this process in a proactive and active manner. It is simply an indirect method of self-governance, most of the time. It is equally true, though, that it is not limited to the political sphere; rather, it has broader meanings in the various social, cultural, personal, and economic spheres of people's life and eventually finds a home in the much larger phenomenon of philosophical debate. In other words, democracy is a collection of both individual and social values that are necessary for a developed country and a civilised community. The provision of freedom, liberty, and rights for its citizens is the fundamental component of democracy. Part III of the Indian Constitution protects essential rights, such as the rights to equality, life, freedom, and so forth. In *Maneka Gandhi v. Union of India*², the Supreme Court emphasised the importance of basic rights.

It is important to note the freedom of speech and expression in this situation. Article 19 (1) (a) of the Indian Constitution recognises it as a basic right. The Constitution doesn't specify what freedom of speech and expression is. The task of determining the nature and extent of this freedom fell to the judiciary.

According to the ruling in *Life Insurance Corporation of India v. Prof. Manubhai D. Shah*³, this freedom essentially refers to the ability to openly express one's beliefs and opinions using spoken words, written words, printed materials, pictures, electronic media, or any other means. Any examination of freedom of speech and expression would be lacking if the "Right to

¹ Encyclopaedia Britannica, available at: <https://www.britannica.com/quotes/Abraham-Lincoln>

² AIR 1978 SC 597

³ AIR 1993 SC 171

Information" were not included. This is because freedom of speech and expression is inextricably linked to the right to information.

A number of Supreme Court rulings under Article 19 (1) (a) have shaped the legal position regarding the "Right to Information." As previously stated, the right to obtain information is a component of the freedom of speech and expression. With a guarantee to obtain and gather information, the right to information thus becomes a fundamental right protected by the constitution. The *Raj Narain v. Indira Gandhi* ruling serves as the foundation. Later, in *Secretary, Ministry of Broadcasting and Information v. Bengal Cricket Association*⁴.

HISTORICAL PERSPECTIVE

The 179th Report, 2001⁵, "Public Interest Disclosure and Protection of Informers" (16th Law Commission, December 2001), was submitted by the Law Commission of India. This issue has already been addressed by the 15th Law Commission's 161st report on the "Central Vigilance Commission and Allied Bodies" in 1998 and its 166th report on "the Corrupt Public Servants (Forfeiture of Property) Bill" in 1999. The 16th Law Commission of India addressed freedom of speech, the right to know, and the right to privacy in great detail in Chapter 4 of its 179th Report. The Commission suggested creating a suitable law to protect people's right to know after taking into account Article 10 of the European Convention on Human Rights and Fundamental Freedoms (ECHRFF), Article 19(2) of the Covenant on Civil and Political Rights (ICCPR), and Article 19(a) of the Indian Constitution and Article 19(a) of the Universal Declaration of Human Rights (UDHR). The universal fundamental human right is "the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." The Law Commission of India suggested appropriate laws to safeguard and advance people's "Right to Know" in India by citing some of the most important rulings from the Supreme Court of India, the United States, and other developed nations.

The Report talks about how the Apex Court of the nation has interpreted the right to know as a basic right. The study talks on *LIC v. Manubhai D. Shah*¹² and a lot of other court cases that

⁴ AIR 1995 SC 1236

⁵ Law Commission of India, 179th report on "*The Public Interest Disclosure and Protection of Informers*", 16th Law Commission, Government of India. (December, 2001).

have looked at Articles 21 and 19 (1) (a) of the Constitution said that the right to know came from a certain basic right. At different times, the Supreme Court said that the right to know is a direct result of the right to free speech and expression, as well as the right to life and personal independence. So, it is a basic right, even though it is not included as one of the Fundamental Rights in Part III of our Constitution. The Report was very helpful in explaining the constitutional basis for the Right to Information, which was the first step towards the Right to Information Act In India, 2005. The 21st Law Commission of India has sent in its 275th report⁶, "Legal Framework: BCCI vis-à-vis Right to Information Act, 2005," which was published in April 2018. The Hon'ble has given orders for this report to be made.

The Supreme Court of India made its decision in the case of Board of Control for Cricket v. Cricket Association of Bihar⁷. The Commission was asked to look into whether the Right to Information (RTI) Act, 2005 would apply to the Board of Control for Cricket of India (BCCI). It is important to note that the Supreme Court has said that the BCCI does public functions in a way that is monopolistic, with the silent permission of the Central and State Governments. So, the Report covered three important questions that were relevant: (a) Would BCCI be able to be a "public authority" under the RTI Act and a "state" under Article 12 of the Constitution? (b) What do the words "substantially financed" and "directly or indirectly" financed/funded in section 2 (h) (d) (ii) of the RTI Act mean? (c) Do the Central and State Governments' tax breaks worth thousands of crores and land grants at very low prices or nominal value for building cricket stadiums count as indirect "substantial financing" by the Government? The Commission looked at Parliamentary Debates, Case-Law precedents, Commentaries by well-known jurists, and other tools for interpretation and construction to find solutions to these concerns. The Law Commission of India looked at the State Information laws in India while answering these questions. These were (1) the Tamil Nadu Right to Information Act, 1997; (2) the Goa Right to Information Act, 1997; and (3) the Madhya Pradesh Right to Information Bill, 1998, which could not get presidential approval. However, the Executive Order on the Right to Information is in effect in almost fifty departments. On January 24, 2003, the Madhya Pradesh Jankari Ki Swatantrata Adhiniyam. 2002 was passed by the State Assembly and published in the Official Gazette. (4) The Rajasthan Right to Information Act, 2000, and (5) the Karnataka Right to Information Act, 2000, which has since been abolished. (6) The Maharashtra Right to

⁶ The Law Commission of India, 275th Report on "Legal Framework: BCCI vis-à-vis Right to Information Act, 2005.

⁷ (2015) 3 SCC 251

Information Act of 2000 has been abolished. (7) The Right to Information Act of Delhi, 2001. (8) The "Code of Practice on Access to Information" for Uttar Pradesh, 2000. (9) The Jammu and Kashmir Right to Information Act of 2003. (10) The Right to Information Act of 2001 in Assam.

The Law Commission looked at the National Commission to Review the Working of the Constitution (NCRWC) report and decided that the BCCI is a public authority under the Right to Information Act, 2005. The report suggested a few changes to Article 19 (1) say that all citizens have the right to (a) freedom of speech and expression, which includes the freedom of the press and other media, the freedom to hold opinions, and the freedom to seek, receive, and share information and ideas. Art. 19 (2) Sub-clause (a) of clause (1) does not change how any existing law works or stop the state from making any law, as long as that law puts reasonable limits on the exercise of the right given by that sub-clause in the interests of India's sovereignty and integrity, the security of the state, friendly relations with foreign states, public order, decency or morality, or in cases of contempt of court, defamation, or incitement to an offence, or stopping the disclosure of information received in confidence except when required in the public interest. The NCRWC said that Article 19 (1) (a) should apply to any person who is involved in any of its public functions. This would make the right to information enforceable against bodies whose functions are public in nature.

REPORT OF THE PRESS LAWS ENQUIRY COMMITTEE, (GOVERNMENT OF INDIA, NEW DELHI, 1948)⁸: This Committee report from the Government of India made a lot of suggestions for how to promote the Right to Information in India. In Paragraph 46, it talks about parts of the report from the Draughting Committee on the Covenant on Human Rights (2nd session of the Sub-Commission on Freedom of Information and of the Press, Commission on Human Rights, United Nations Economic and Social Council). In April 1948, the U.N.O. conducted a conference in Geneva on freedom of information. To support the freedom of information, steps must be done to remove political, economic, technical, and other barriers that could get in the way of the free flow of information. In Para 50, it said, "It is clear that modern citizens need a lot more information than people did in the past." Every day, the need for news and opinions to be widely shared and for information to be accessible to all grows.

⁸ Nath, Ganga, "Report of the Press Laws Enquiry Committee". Published by Government of India Press, New Delhi, pp. 26-31 (1948).

It has been said in Para. 51 that "If the people are to govern themselves, their only hope of doing so wisely lies in the collective wisdom derived from the fullest possible information, and in the fair presentation of differing opinions." The right is also important because it lets each person find the religious and political ideas that work best for them. Finally, in Paragraph 64, Committee¹⁶ says that "it is a well-known principle that matters that must remain secret in the vital interests of the State should not be allowed to be disclosed." The UN Conference on Freedom of Information and the Press has also accepted this limitation on the right to free speech. In truth, the press is the principal source of information for millions of people in a modern democracy. The press can't tell the public everything, though. There are some fair limits that the press can't go past when it comes to sharing information. You can't share classified information, but you can share unclassified information, as long as you do so with reasonable checks. You should also not tell anyone outside of work about private information. The study, on the other hand, didn't talk about how important the "Right to Information" is for a country's growth in many aspects. Information makes people smart, and a smart citizenry is necessary for participatory democracy and good administration in India.

REPORTS OF CENTRAL INFORMATION COMMISSION: Annual Reports for the year, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021 of Central Information Commission, India. Throughout all these reports the CIC has extensively gone through all the provisions of the RTI Act, of 2005. Non-of the provisions of the Act have been left by the CIC without discussion. The annual reports reveal that the Public Authorities (PAs) registered under the RTI Act are 2275 as per its 2020-2021 annual report, out of the total 93 PAs could not file their quarterly reports within the time. However, the compliance of PAs under section 25 of the Act is 95.91%. The report further reveals that the number of RTI applications received by the PAs during the reporting year is quite high, its 133802 along with the opening balance of 348410 it stands to be 1682212 numbers of applications. 51390 applications are rejected on grounds mentioned under the RTI Act. However, no information is mentioned regarding the number of applications disposed. The report further reveals that the number of Appeals/Complaints received by the CIC in the reporting year is 19183 and the number of appeals disposed is 17017. The number of second appeal/complaints pending for disposal as on 1st April of reporting year is 38116. The CIC has initiated e-Court and video conferencing from 2016 and its working well. The CIC has also developed on Transparency audit software in 2019-20 for such audits of PAs on pro-active disclosure provision of the Act. The CIC is also doing publicity of the RTI Act through holding

annual convention and advertisement of themes and issues related to the conventions through audio-visual and print media. However, CIC did not mention much about the implementation issues of RTI in rural India. It does not say anything about how right to information can make promote participatory governance in India. Complete implementation of RTI Act is a sine-quo non for rule of law that can turn governance into constitutional governance which commonly popular as good governance.

JURISPRUDENTIAL ASPECT OF RIGHT TO INFORMATION IN INDIA

People believe in democracy because of the old saying, "Let the people know the truth and talk about it, and everything will be fine." But crooked managers make it hard for people to see the truth by making things unclear and bureaucratic. People that benefit from concealment do not let the truth be known. The government doesn't want to tell the truth, and they use secrecy and confidentiality as part of their job. This keeps the people of the country (who are the ultimate sovereign of the country) in the dark. In that darkness, all the bad things that happen in government happen, which makes room for corruption, lack of transparency, lack of accountability, and arbitrary decisions by government agencies. These are not the goals of any democratic nation in the world. "Freedom of Press" is the main tool that has been used to bring the virtue of truth to the workings of democratic and civil government by opening up the whole government to the people of the nation. This is why it is seen as the ark of the covenant of democracy. However, in many countries, the press doesn't do its job of giving people accurate information and honest criticism about how the government works (for example, through yellow journalism or pliant editors). This means that the situation stays the same, and the press doesn't seem to be able to achieve any of its goals. In other words, the experience shows that the newspapers' use of the "Freedom of the Press," which is one of the most important Fundamental Rights, is not up to par. They do it with bad intentions or for narrow political reasons, either to always support the government, even for the wrong reasons, or to support the opposition parties, even for the wrong reasons, or to work with international forces. Even though there is a gap here, it is important to talk about the role of the press in a democracy. The press, which includes newspapers and periodicals, It gathers information from many sources and occasionally analyses it, but how far it can disclose that information is a big worry. To add pure blood to the democracy, the "Right to information" (either through the press or directly available to the people of the country), no one can actively participate in the democracy, either

to form the government or to take advantage of the democratic form of governance, which is the ultimate goal of democracy.

Access to Information (ATI) or Right to Information (RTI) is a basic human right that all democratic countries throughout the world recognise for their people. Different international organisations have even recognised and supported this right.

The United Nations General Assembly says that "freedom of information is a fundamental human right and the touchstone of all the freedoms to which the United Nations⁹ is consecrated." The Universal Declaration of Human Rights (UDHR)¹⁰ says that "everyone has the right to freedom of opinion and expression." This right encompasses the freedom to have opinions without anyone getting in the way, as well as the freedom to get, give, and share information and ideas through any media and across borders. The International Covenant on Civil and Political Rights (ICCPR) says that "everyone shall have the right to freedom of opinion and the right to freedom of expression." This right includes the freedom to seek, receive, and share all types of information, whether it be verbally, in writing, in print, through art, or any other media of his choice, without respect to borders. All of these International Conventions agree that the "Right to Information" or "Freedom of Information," no matter what name it goes by, is a basic human right that everyone has. It is a necessary condition for free speech, which is a gift from nature to all people and something that everyone in this world society gets just by being born as a human. The right to knowledge, which goes along with "Freedom of Speech and Expression" in democratic countries, has been explicitly or implicitly recognised in these countries' constitutions, no matter how big or small their area or population is.

Constitution of India and Right to Information

A written Constitution usually lays out the values and goals that it sees as not only the people's hopes and dreams, but also the norms of society, which are based on the culture of a nation and the actions of the government. These include "embodying the nation by empowering the State; establishing unifying norms and values; developing shared goals for society (ideology); giving public officials special (selective) powers that are legitimised (institutional autonomy); and

⁹ UN General Assembly, "Calling of an International Conference on Freedom of Information", A/RES/59 (1)/EN/pdf. (December 14, 1946).

¹⁰ Universal Declaration of Human Rights, 1948, Art. 19.

limiting these special powers by protecting freedom for (bulk of) individuals (individual autonomy)."¹¹ A country may have a constitution, but it may not have constitutionalism. "Constitutionalism is said to exist if and when government institutions and related political processes are effectively constrained by constitutional rules. "The Constitution's Preamble says that the people's will in India is the law. "We, the People" of India decided to make India a Sovereign, Socialistic, Secular, Democratic Republic and to protect all of its citizens' rights to social, economic, and political justice, as well as freedom of thought, expression, belief, faith, and worship. These rights are very well spelt out in Part III as the Fundamental Rights (FRs). The "Right to Information" system in India grows from these provisions of the Constitution. The sentry on the Qui Vive of Indian Democracy has done a great job of interpreting those parts of the Constitution over and over again to make sure that her citizens get justice by recognising new rights that come from those parts of the Constitution. The Constitution of India is the highest law in the land and the source of all other laws. It lists the Fundamental Rights and (Fundamental) Duties of the people and the Directive Principles (of State Policy), which are the duties of the State as a whole to follow for the benefit of all its citizens.¹²

The Preamble, which is like the Indian Constitution, is an essential section of the Constitution⁸⁰. It is not the only source of any restriction, but it is very important for understanding laws and parts of the Constitution.

It lists the primary goals that the law is meant to reach (through several of its state activities). It is a kind of introduction to the law, and it is often extremely helpful to grasp what the policy and law mean. It says "what we had thought or dreamed for so long." In the *Re Berubari Union*¹³, the Supreme Court observed that the Preamble to the Constitution is a key to understanding what the framers were thinking and why they included certain things in the Constitution. The preamble of our Constitution is very important, and we should study and understand the Constitution in light of the lofty and noble goal it expresses.¹⁴ It shows where the constitution comes from, which is the people of India, by including the enacting provision that made the Constitution official, and by listing the important rights and freedoms the people in India have. It's important to talk about the Right to Information law in India in relation to

¹¹ Hans Keman, "Constitutional Government", available at: <https://www.eolss.net/samplechapters/c04/E6-32-01-02.pdf>

¹² *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461 and in *Central Government v. LIC*, AIR 1995 SC

¹³ AIR 1960 SC 845

¹⁴ *Subba Rao, C.J., in I.C. Golak Nath v. State of Punjab*, AIR 1967 SC 1643.

the most value-added ideas like Democracy, Justice, and Liberty in the Preamble. The Preamble of the Constitution, unlike other laws, explains what the Constituent Assembly meant by its actions. It has been shown that the Preamble should be seen as an important aspect of the Constitution and used as a reference for how to read it if there is confusion. The Right to Information is the only way to achieve democracy, justice, and freedom under the Constitution. It is Right to Information that can make those hopes come true.

Part III of the Indian Constitution has a broad list of basic rights. People have called this part the "Magna Carta of India." Adding this portion to the Constitution is in line with what happens in a modern democracy. The goal is to protect what is necessary for a free society. Jackson, J. says in *West Virginia State Board of Education v. Barnet* that it is a "Bill of Rights." In *A.K. Gopalan v. State of Madras*¹⁵, the Supreme Court held that "A Fundamental Right in India is to build a 'government of law and not of men,' a system of government where the tyranny of the majority does not crush the minority of various kinds: linguistic, ethnic, religious, and economic. But the Fundamental Rights aren't absolute. It's okay for the Constitution to put limits on those rights for the good of society and for other people to use those rights. Even though they aren't absolute, fundamental rights are nevertheless the most important part of India's democratic culture. Freedom is the most important freedom, although Article 19 (1) protects various liberties in a separate way. One such freedom, like "Freedom of Speech and Expression," gave birth to "Right to Information" in India, which is a Fundamental Right for all people of this country. In India, the Right to Information (RTI) is a legal right that gives people access to information kept by public bodies. It is also a Fundamental Right that comes directly from the Constitution. Article 19(1)(a) and Article 21 of the Indian Constitution implicitly recognised this right as a Fundamental Right. It was kept secret for decades after the Constitution of India was adopted until the higher judiciary revealed it to the people at the end of the nineteenth century. Before sharing any information that is related to someone's personal information, the "right to privacy" has become a very important problem. The Right to Information and the Right to Privacy, which is protected by Article 21 of the Constitution, are at odds with each other. According to section 8 (1) (j) of the Right to Information Act, a citizen has the right to ask for personal information from records or information held by public authorities. This is only allowed if there is a larger public interest in disclosing the information. The citizen can then access the information by inspecting it or getting certified copies of it.

¹⁵ AIR 1950 SC 27

Second, "Right to Privacy" is a part of "Right to Life and Liberty" under Article 21, and "Right to Information" should not overlook it. The "Public Authorities" can give out personal information about someone to someone who asks for it, but they can't do it in a way that violates that person's "Right to Privacy." The Right to Information Act also shows this: " j) information that is personal and whose release has nothing to do with any public activity or interest, or that would violate the individual's privacy without good reason, unless the CPIO, SPIO, or Appellate Authority is satisfied that the release of such information is in the larger public interest. Article 19 (1) (a) of the Constitution says that in a democratic government, the people only give some of their rights to "speech and expression."

The people give the government some authorities, but they keep a lot of important powers for themselves. This is because the people want to govern themselves instead of letting others do it. So, freedom of "Speech and Expression" and other related rights, which are really the source of self-governing powers, are what people have to hold the government accountable. The Obiter Dictum of the Supreme Court's decision in *Maneka Gandhi v. Union of India*¹⁶ says, "Freedom of speech and expression carries with it the right to gather information as well as to speak and express oneself at home and abroad and to exchange thoughts and ideas with others not only in India but also outside." This is an Obiter Dictum.

CRITICAL ANALYSIS: RIGHT TO INFORMATION

We know everything, yet we don't know everything. It is written down, but not shown. If it is exposed, it is limited; if it is not limited, it is twisted. You have the right to know, but not too much. You have the right to know, but not the right to be known. Democracy doesn't want not knowing, but loving it. There is light, shade, and darkness, but there is also sunshine. A democracy that doesn't know what it doesn't know, and doesn't know that it doesn't know, adds foolishness to its ignorance to undermine its goals. This type of light and shade makes shady politics and the black market more likely.¹⁷ In the bigger picture of this outstanding insight by famous lawyer Dr. Rajiv Dhawan, it is clear that "Right to Information" is a common standard of effective governance in all democratic countries in this 21st century. This brand right has made people very hopeful and confident about how the government works by giving them the right to ask the government they chose to give them all the information it possesses directly or through its agencies.

¹⁶ *Maneka Gandhi v. Union of India*, 1978 (1) SCC 248

¹⁷ Rajeev Dhawan, "Information and Democracy in India".

There are laws in about 135 nations, following Kuwait and Saudi Arabia, that protect the "Right to Information." These laws are called the Right to Information Act, the Freedom of Information Act, or the Access to Information Act. Most importantly, many countries around the world have given Constitutional protection to this right by declaring it a Fundamental Right. This has been done directly by the Parliaments of those countries (through a Constitutional amendment or by including the right from the beginning of the Constitution) or by the interpretation of their highest courts.

The primary ideas behind the RTI Act are spelt forth in the preamble of the Act itself. That clearly states the following goals as the main ideas of the law:

- a) To create a workable Right to Information system that lets people get information that is controlled by public authorities. This is to encourage openness and responsibility in the functioning of all public authorities.
- b) To provide some independent institutionalised system to thrive and defend people's right to information, the Central Information Commission and State Information Commissions were set up to keep an eye on how the law is carried out.
- c) To establish up a free flow of information and a democratic, well-informed public to fight corruption.

The RTI Act has a lot of different sections that work well together to achieve all of the goals listed above. Chapter I of the Act meets the first goal. Chapter II strengthens the "Right to Information" by requiring "Public Authorities" to make necessary public information available on their own, so that fewer people will need to file RTI applications to get the information they need. This will make it easier to handle fewer requests for information. Chapters III and IV of the law help achieve goal number two of the preamble by setting up an independent, institutionalised way to quickly punish defaulting PIOs (for either denying information or giving wrong or misleading information) and make sure that the law is properly enforced. Chapter V of the law talks about the Information Commissions' powers, duties, and areas of authority. Section 22 of Chapter VI of the Act says that "No Court shall entertain any suit, application, or other proceedings in respect of any order made under the Act and no such order shall be called in question otherwise than by way of an appeal under this Act." This makes Information Commissions more independent. Sections 3 and 4 explain why the third goal of the Preamble to the law is important.

Constitutional Validity

After talking about some of the ideas that the courts (mostly the Supreme Court of India) had to explain or interpret since they weren't clear or weren't full, It's time to talk about whether the Right to Information Act is constitutional.

Article 13 (2) of the Constitution of India says, "The State shall not make any law that takes away or limits the rights granted by this Part, and any law made against this clause shall be void to the extent of the violation."

Some parts of the RTI Act were challenged as unconstitutional, but not the full thing. In *Namit Sharma v. Union of India*, the constitutionality of sections 12 (5) and (6) and 15 (5) and (6) of the Right to Information Act was questioned. The exact copies of the above-mentioned parts of the Right to Information Act are listed one after the other for easy reference: (a) "The Chief Information Commissioner and Information Commissioners must be well-known people in public life who have a lot of expertise and experience in law, science, technology, social service, management, journalism, mass media, or administration. and governance;"(b)—"The Chief Information Commissioner or an Information Commissioner must not be a Member of Parliament or Member of the Legislature of any State or Union Territory, as the case may be, or hold any other office of profit or linked to a political party, running a business, or working in a vocation;(c) says that the State Chief Information Commissioner and State Information Commissioners must be well-known people in public life who know a lot about and have worked in law, science and technology, social service, management, journalism, mass media, or administration and governance. and (d) say that "The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession."⁶⁴³ The writ petition said that Sections 12 (5), 12 (6), 15 (5), and 15 (6) of the Act, which set the eligibility criteria for Central Information Commissioners and State Information Commissioners, were unclear, unrelated to the purpose of the Act, and violated Article 14 of the Constitution of India. It also said that when Parliament passed these provisions, it did not follow the constitutional principles and guarantees when it exercised its legislative power. The petitioner's arguments are as follows: First, the criteria for choosing information commissioners (at the State and Union levels) to settle disputes under this Act are too vague, which makes them unconstitutional because they go against the Supreme Court's established principles of law in many cases. The competent legislatures (in this case, the Parliament of

India) did not clearly and properly set any eligibility criteria for appointing people to judicial or quasi-judicial bodies like the CIC, SIC, etc. This means that it is not in line with established Constitutional principles. Second, because the information commissioners have to conduct judicial or quasi-judicial duties (including penal jurisdiction) or use related powers, they must make decisions in a judicial way.

RULE OF LAW, NON- ARBITRARINESS AND RIGHT TO INFORMATION

The main purpose of the Right to Information Act was to establish a workable framework that would allow the nation's residents to safely access information that is governed by public authority. The goals were to encourage openness and accountability in the operations of all Indian public authorities. Although the Supreme Court of India ruled in Cricket Association of Bengal vs. Secretary, Ministry of Information and Broadcasting, Government of India that access to information for the nation's citizens through RTI queries is a matter of Fundamental Right under Article 19 (1) (a), i.e. Freedom of Speech and Expression. However, neither the preamble nor the object section of the Right to Information Act explicitly state this interpreting right as a goal or objective. Since the Right to Information Act has established access to information as a statutory right for all citizens of this nation, it can be legitimately inferred without referring to it as Fundamental Right jurisprudence that the Act was passed from the perspective of Administrative Law jurisprudence (though Fundamental Right jurisprudence cannot be withered away) in order to promote transparency and accountability in the operations of all public authorities. This is simply a reality of good governance or constitutional governance, which is envisioned in the preamble to the Constitution of India, and which the administrative branch of the Government of India must uphold; otherwise, people's trust in the administration will be shaken, and "We, The People of India" will lose faith in the administration's efficacy, transparency, accountability, and result-oriented performance. Furthermore, it is not always necessary to invoke the Fundamental Right (Constitutional Law) when discussing information access because, as should not be overlooked, information access has numerous implications for administrative law or the state's executive functions. Understanding the goal and significance of the Right to Information Act will be extremely evident if the fundamental goal of Administrative Law is considered, as the RTI Act serves as an administrative catalyst for the advancement of that specific goal of administrative law [without lessening the significance of the "Right to Information" as a Fundamental Right that

is interpreted under Article 19 (1) (a)]. In his work "The Indian Administrative Law," renowned author M.C.J. Kagzi¹⁸ provides an extremely thorough explanation of the definition and application of this area of special legislation.

Rule of Law

A.V. Dicey initially introduced the idea of the "Rule of Law" as a component of the unwritten Constitution of the common law nation of the United Kingdom in his book "Introduction to the Study of the Law of the Constitution". According to the "Rule of Law" or supremacy of the law According to A.V. Dicey, this means that: (a) the government does not have arbitrary or discretionary power; (b) everyone is subject to the ordinary law of the land, which is administered by ordinary and usual tribunals; and (c) the common law rules of the constitution, which differ from those of the European civil law countries, are the results of the rights of the subject rather than their origin. Below is a verbatim copy of pertinent passages from this book to help readers comprehend what the "Rule of Law" is and what the key elements of this magnificent idea are, as discovered by A.V. Dicey in English common law.

ROLE OF RTI IN ENHANCING PEOPLE'S PARTICIPATION IN GOVERNANCE

Every segment of society must have a voice in the creation of laws, rules, and programs since they are all impacted in some way. Even those who are negatively impacted by these policies should have a voice in how they are developed. One of the most important prerequisites for good government is public participation. Prior to 2005, society was unable to look for explanations or information regarding the policies put in place for them. They were speechless. RTI established a link between the general public and the government. The RTI Act would not succeed without public participation. The foundation of a democratic system of government is active public engagement. In industrialized nations, opinion must emerge before laws are passed. In a democracy, it is crucial to be able to make educated decisions and participate in political and economic processes. It is seen to be essential to get residents' support and involvement. In absolute terms, a nation may never achieve "full participation." However, the government's decision-making process should include participation in different stages of decision-making as well as the establishment of forums for sincere discussion and debate to

¹⁸ M.C.J. Kagzi, *the Indian Administrative Law* 1-3 (Universal Law Publishing Co. Ltd., New Delhi, 6th ed. 2002, India

advance a deeper comprehension of issues. The process of giving individuals the opportunity to rationally and methodically express what they believe is essential at the core of rights, progress, or any other issue gives rise to participation. In the end, the material pertaining to the topic of debate, discussion, review, assessment, or reassessment with regard to governance will be used with knowledge and comprehension to create perspectives and viewpoints. Regular elections and citizen monitoring organizations are just two examples of the many participatory methods found in democratic countries. They are established for a number of reasons, such as to get benefits, health care, public education, and to offer feedback on proposed laws or policies. Effective participation relies on the availability of information that is empowering in nature, highly certain, and completely authentic. With this information, no one, especially those in positions of power, will be able to influence or censor the issue that will be the subject of the decision or evaluation. A large and diverse nation like India cannot develop unless participatory management in governance is made feasible. This necessitates providing the public with the appropriate kind of information that is stored in government files. At every level, people need to be educated and participating. They must be fully aware of the procedures being followed. Today, meaningful public involvement in important problems impacting their lives is essential to democratic governance, and such engagement is nearly impossible to achieve without public knowledge of how the government operates. Improving public access to government information is one way to do this.¹⁹

The call for the Lokpal bill is an illustration of public participation. It appears that the fury volcano has finally erupted in Indians' hearts at a time when they were becoming discouraged and irritated by witnessing massive a series of scale scams. The overabundance of corruption and inaction on the part of governmental bodies had left the entire country feeling worn out and angry. India's international reputation was in jeopardy and in danger of being destroyed. People from various facets of society were forced to join the anticorruption movement led by renowned Gandhian Shri Anna Hazare after corruption in numerous government departments was exposed, something the country had not seen since the anti-emergency movement in the 1980s and the Ram Janmabhumi movement in the 1990s. Similarly, the Supreme Court's ruling in Cricket Association of Bengal (CAB) v. Secretary, Ministry of Information and Broadcasting, Govt of India²⁰ that stated that the "Right to Information" was a "Fundamental Right" under Article 19 of the Indian Constitution, as well as the grassroots efforts of Mazdoor

¹⁹ Start Hearn Gordon, "Our Parliament", Cassell and Company, London. At p. 129-132

²⁰ AIR 1995 SC 1236

Kisan Sakti Sangathan (MKSS), were instrumental in establishing the voice for the Right to Information law in India.

USE OF RTI IN PROMOTING GOOD GOVERNANCE

Good governance does not exist when there is corruption in the government and its instrumentality. The RTI Act has been extremely effective in promoting increased accountability and openness by exposing corruption and corrupts. The following examples provide a clearer understanding of this:

Adarsh Building Scam: A 31-story structure was constructed in Mumbai's Colaba, a desirable real estate neighborhood. A six-story structure honoring the widows and war heroes of the 1999 Kargil War was originally planned for this property. After two activists submitted an application, it was discovered that the Ministry of Defence, not the Maharashtra government, actually owned the land. This occurred early on when the RTI Act was introduced. The government officials became cold as a result.

The telecom ministry, under the leadership of Adimuthu Raja, was implicated in the 2G Spectrum Allocation Scam. This scheme took months to develop, but gradually it exposed the corruption that had crept into the Congress Party. It exposed several officials' bribery, which ultimately cost the government more than Rupees 1,50,000 crores.

The Commonwealth Games Scam (the Diversion of Dalit Funds): India was humiliated internationally shortly after the 2G scam came to light. The corrupt transactions that took place during the CWG were the result of Suresh Kalmadi. The athletes' quarters were unsanitary. By giving the contract to Swiss Timing for Rupees 141 crores, he caused India to lose Rupees 95 crores, according to an RTI filing. According to another RTI, the Delhi government transferred 744 crore rupees to CWG from monies intended for Dalit social development. Additional inquiries were brought forward by the misuse of Dalit funding during the CWG. The National Coalition for SCSPTSP legislation, an umbrella organization of Dalit and Adivasi groups, used budget documents and RTI to determine that, from the seventh to the twelfth five-year plans (until 2014-2015) in the Union budget, a startling 5,27,723.72 crores in funds had been denied to Dalits and Tribals.

Scam of the Indian Red Cross Society: Scam involving the Indian Red Cross Society: An RTI

application, filed two months after the RTI Act went into effect, exposed how public officials in the organization embezzled millions of rupees from monies intended for Kargil War Relief and recuperation (for victims of natural calamities). It was then discovered that the IAS officers had spent this money on opulent purchases.

RTI AND IMPACT ON PEOPLE

A Social Audit of Government Programs, Processes, and Schemes can be conducted through RTI. This includes auditing NREMGS by looking at the Application Registration Register, Job Card Register, Employment Register, and Estimates. Muster Roll Register (e); Measurement Books (MB); Complaint Register (g); and so on. Verification of the Public Distribution System (PDS) can also be done by gathering data about (a) the register or registers that contain cardholder names; (b) stock registers to determine the entire stock; (c) Registers of sales: (d) BPL cardholders' list: (e) A list of goods and government-set prices; (f) further registers provided by the Mandal Revenue Officer or Civil Supplies Officer, etc. RTI can also be used to access Integrated Child Development Services (ICDS) by requesting data on (a) beneficiary registration; (b) child attendance 359 and Anganwadi teacher: (c) Tracking children's and pregnant women's growth; (d) Immunization participation; (e) Supplemental nutrition; (f) Preschool instruction (ages 2–5); (g) Routine health examinations; (h) Enrollment in primary schools following anganwadi. Through RTI, Primary Health Services (PHCs) can be audited for their performance by requesting data on (a) medical officer and staff attendance; (b) PHC staff field visits and supervisory visits; (c) stock registers and medication inventory; and (d) the number of surgeries performed and their success rate. (e) The number of outpatients treated; (f) Examining cold chain, vaccination, and other pertinent records; (g) Samples of medications given to patients. Through the RTI Act, primary education (PE) can be evaluated by requesting data on (a) teacher attendance registers; (b) student attendance registers; (c) school teaching standards (curriculum and daily lessons); (d) student enrollment and dropout rates; (e) student performance (progress reports); (f) the Mid-Day-Meal (MDM) program's implementation; and (g) school infrastructure standards (classrooms, blackboards, teaching aids, restrooms, etc.).

CONCLUSION AND RECOMMENDATION

Disseminating information is essential to creating a functioning democracy and an open government. The more open a government is, the more likely it is to be free from corruption and to uphold the "Rule of Law" in the administration, the more effectively a democracy operates, widening the pool of principles that our founding fathers inscribed in the Constitution.

In the enormous ocean of principles, the right to information is a little drop. From the standpoint of administrative law, it is what one would anticipate from a democratic government's executive branch. It gives the average citizen more authority and enables them to actively participate in how the government operates. However, from the perspective of a nation's inhabitants and people, information dissemination once more plays a significant role by providing them with the assurance that they can exercise their right to free speech and expression in a timely and effective manner—a perspective drawn from the discussion of fundamental rights. These are actually the two main themes of this research project: first, the necessity of the "Right to Information" in firmly establishing and re-establishing the "Rule of Law" in the governance of the democratic and social welfare nation by removing arbitrary state action; and second, creating a solid foundation for the exercise of the Fundamental Right to Speech and Expression that is more effective and meaningful by providing a scope for removing bias or lies from it. To be exercised, the speech and expression must be based solely on the truth and nothing else. The establishment and restoration of constitutional government, often known as good governance in popular culture, in a nation is contingent upon the availability and accessibility of information. With the Right to Information Act as its legal framework, it is undeniable that India is moving toward more viable democracy and constitutional governance. However, it is important to note that many other constituent elements—such as economic development, cultural heritage and tradition preservation, social development, educational development, etc.—are fundamentally necessary for the establishment of constitutional governance of a nation, which the nation has fairly accomplished recently and is receiving strong positive vibrations from institutions and people throughout the nation.

However, there are also countless examples around the nation when information seekers were threatened and ultimately assassinated while attempting to expose the corruption and swindle of the powerful political and business figures. For a law to be effective, individuals must be able to use it freely and confidently for the intended purposes. Thus, in their quest to purify the system and establish constitutional government as a political and economic reality in India, information seekers are giving up their valuable lives by becoming RTI SAHIDS. The spirit of the Right to Information Act is undoubtedly being tempered by the threat and possible death that hang over the heads of RTI petitioners and their families, discouraging individuals from submitting RTI petitions out of fear psychosis.

(A).Applications and certified photocopies should be subject to a standard charge across the nation, and no extraneous paperwork should be added to the bill in order to scare the person seeking the information. (B). The Commissions on Information needs to enforce the RTI Act more rigorously, particularly with regard to information disclosure deadline violations. Strict sanctions must be applied to willful delays and the providing of inaccurate, incomplete, or irrelevant information. (C). By establishing a specific timeframe, the quasi-judicial authorities must address the rate of complaint and appeal disposal as their first priority. (D). Different kinds of frequent awareness activities should be undertaken to reach out to all members of the democracy so that they can fully exercise their rights and to make the significant percentage of unknowing populations conscious and dedicated. (E). Education regarding the National Educational Policy, 2020 in order to instill in the minds of future generations a sense of accountability, watchfulness, and right consciousness. (F). Technology should be used by all public authorities for tracking, requesting, and fee-paying. (G).In order for the Information Commissions to have the independent character specified in the original Act, the RTI Act, 2019 amendment should be changed once more to support the original provisions of the RTI Act, 2005 regarding the length of service of ICs and their compensation.

