

# The Impact of the Right to Information Act on Administrative Accountability

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**Abstract** — *The Right to Information (RTI) Act, 2005 is considered to be a significant legislation which has revolutionized the governance of India by changing the attitude of government from secrecy to transparency. The Act, by providing citizens with the legal right to access information possessed by public authorities, enables people to keep an eye on the actions of the government and to demand accountability for the actions and performance of public officials. This mechanism is a key element of the good governance and helps to curb corruption and promote participative democracy by making information public, which helps to reveal administrative malfeasance. But the operation of the Act is hampered by several constraints such as bureaucratic resistance, less trained Public Information Officers (PIOs) and less systematic record management infrastructure. Moreover, exemption clauses are frequently used inappropriately, appeals are pending in Information Commissions for long periods, and information seekers are frequently threatened with regard to the safety of their information. Institutional reforms, stronger awareness among rural population and incorporation of digital technology to facilitate information dissemination are all suggested as being crucial for the full realization of the potential of the RTI regime.*

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## 1. INTRODUCTION

The Right to Information (RTI) Act, 2005 is one of the most revolutionary and far-reaching legislations in the contemporary history of Indian democracy. The culture of secrecy in the Indian administrative domain has been deeply embedded in the system since the times of the British and continued by the Official Secrets Act of 1923. This opacity provided the opportunity for administrative arbitrariness, mismanagement and institutional corruption to take root over the past more than sixty years, with citizens largely unaware of how the state functions. The RTI Act brought a paradigm change from this traditional secrecy to a regime of transparency and accountability, thus changing the relationship between the Government and the governed completely.

The right to information is seen as the key to participatory governance in a vibrant democracy. Transparency is openness and accessibility of government which is characterised by transparency in the conduct and performance of public officials and officers, whereas accountability is the responsibility of public officers and officials to be held accountable for their actions and the results they produce. These are two principles that go hand in hand to enhance the effectiveness of the government and to build trust of the people. The RTI Act puts these concepts into a legal framework and provides every citizen with the right to information from public authorities, thereby ensuring that information becomes a public good. This law was not just an administrative reform from above, it was the result of tireless grassroots movements, such as the struggle undertaken by the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan in the 1990s. Their motto,

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'the right to know is the right to live,' was a powerful reminder of the importance of information access for human dignity and survival.

The importance of the RTI Act is that it gives power to the people to question, audit and evaluate the activities of the power holders. It functions as a powerful instrument for the fight against corruption, as it enables it to reveal malfeasance in government departments, welfare schemes and public-private partnerships. The Act provides for public accountability of decisions, thereby preventing arbitrary use of power and forcing the public officials to act in the public interest. Although a breakthrough step, there have been a number of implementation impediments in the Act's path, such as administrative resistance, inadequate record keeping, and a high rate of appeals in the pendency. The current research essay explores the various facets of the RTI act's effect on administrative accountability in India, its successes in promoting transparency and the ongoing hurdles to its potential.

## **2. CONSTITUTIONAL AND JUDICIAL FOUNDATION OF RTI.**

The RTI Act is not just a standalone piece of legislation but is firmly entrenched in the rights guaranteed by the Indian constitution. The Constitution does not mention the "right to information" but in every instance the judiciary has taken it to be a natural corollary of the Right to Freedom of Speech and Expression under Article 19(1)(a). The idea of this right was first brought to the forefront of the Indian legal system in the landmark case of *State of Uttar Pradesh v. Raj Narain*, in 1975, when Mathew J, famously stated that in a government of responsibility like ours, there can be but few secrets. The court claimed that the people have the right to be informed of all public acts, and of all things done in a public manner by the functionaries of government.

This is further reinforced by further judicial pronouncements which say that accountability can not be achieved without information. In *S.P. Gupta's case*, the court had said that all information on the working of the government should be made public rather than confidential, unless the strictest conditions of public interest deem otherwise. These decisions turned the RTI from a demand to a basic legal right, and ultimately led to the passage of the broad statute in 2005. Thus, this legal regime establishes a framework that makes the state accountable not only at election time but also on an ongoing basis, by means of a constant process of questioning and explanation to the public.

## **3. ADMINISTRATIVE CULTURE - FROM SECRECY TO ANSWERABILITY**

The main effect of the RTI Act has been to tear down the colonial tradition of opacity and insulation of the bureaucracy from scrutiny. Until 2005, public officials could get away with whatever they wanted to do, making their decision-making process opaque and their records almost inaccessible for the common man. The RTI Act provided a structural answerability mechanism which requires the appointment of Public Information Officers (PIOs) in each of the government departments. These officers are legally bound to give requested information within 30 days or else they incur the penalty of Rs. 250 per day (may be more) is the maximum that can be claimed. 25,000.

This fear of personal liability has resulted in a change of behavior in the bureaucracy. Comparisons made on the administration before and after the enactment of the RTI Act reveals that those who were found to be lax and careless in their work are seen to be active and alert. With each action, noting of any file and spending that can be audited by any citizen, there is now an alertness in the authorities that there will be no further mismanagement. Moreover, the Act stipulates Section 4 (proactive disclosure), which obligates public bodies to achieve the voluntary disclosure of their

structure, functions, financial profiles and decision-making norms online. If used properly, this eliminates the need for citizens to make requests and establishes an open culture, in which information is released by default.

#### **4. MECHANISM OF ACCOUNTABILITY AND APPEALS PROCESS**

The RTI Act provides for a strong institutional structure, so that transparency becomes “real practice”. Requests are usually initiated by the filing of a written or electronic request by a citizen to a PIO or Assistant PIO. The Act sets out two levels of appeals if the information is refused, or if the answer is not satisfactory. A First Appeal is made to an officer with a higher rank in the same department. The citizen may present a Second Appeal to the Central Information Commission (CIC) / State Information Commission (SIC), if very he is still displeased.

The Information Commissions are quasi-judicial and independent bodies tasked with enforcing the Act. They are authorized to call witnesses and inspect records as any Civil Court. These commissions are the last arbiters between citizens and public authorities, and they are important in making sure that the spirit of the law is upheld. The RTI Act gives a protection to the citizens from the high-handedness of the bureaucracy and protection to the right to information which may not be easily suppressed by the bureaucracy.

#### **5. DOING SOMETHING ABOUT CORRUPTION AND EXPOSING BIG SCAMS**

The most apparent effect of the RTI Act on the accountability of administration is as a formidable tool against corruption. RTI introduces transparency that has made it easy to uncover many cases of graft, embezzlement and maladministration. This is demonstrated through some well-known examples:

The Satyendra Dubey Case: Following the killing of an engineer after he had highlighted a corruption scandal in the construction of the highways, the activists' RTI applications exposed some shocking facts that created a huge public outcry and brought accountability issues to the forefront of the government's agenda.

The 2G Spectrum Scam: The irregularities in the allocation of 2G Licenses, as exposed in RTI filings, resulted in cancellation of spectrum licenses and legal action against some top officers.

□ Adarsh Housing Society Scam: Applications revealed that land meant for war veterans had been allocated to the politicians and the bureaucracy illegally which led to wide-spread investigations and dismissals.

RTI was employed to identify diversion of food grains intended for the poor and ration cards that were issued for the wrong persons which resulted in the cancellation of the fraudulent ration cards and reduction in the time taken in the service delivery through the Public Distribution System (PDS).

The Act's provisions help to make government documents, such as contracts, payment estimates, and audit reports, more transparent and easier to access by the general public, making it harder for corrupt officials to work with impunity. Transparency in public expenditure serves as a disincentive because officials have no idea that years down the road their signatures on bogus documents can be exposed.

#### **6. EMPOWERMENT OF THE MARGINALIZED COMMUNITIES**

The RTI Act has had far-reaching effects at the grassroots level, giving power to the most vulnerable segments of society, outside the political and corporate arena. The Act gives a voice and a platform to the marginalised, such as the

people of the village who are poor or illiterate, and demand their legal rights. Through RTI, citizens have been able to get their basic services, including passports, ration cards, birth certificates and pensions, which were otherwise delayed due to administrative apathy and bribery.

The Act has played a crucial role in the tracking of the implementation of the National Rural Employment Guarantee Act (NREGA) in rural India. Villagers have applied for permission to examine ghost entries in muster rolls and to ensure that wages are paid to genuine labourers. States such as Odisha have seen hundreds of cards freed in one instance through an RTI application about the job cards. This decentralisation of power moves away from the 'donor-recipient' paradigm and towards a citizen-governance paradigm, where citizens become active in the governance process and public resources are put to their proper use.

## **7. ADMINISTRATIVE EFFICIENCY AND RECORD MANAGEMENT**

Proper recordkeeping is an important aspect of accountability; information cannot be retrieved when it is not created and organized. The RTI Act has helped in the modernization of administration by making departments shift from unorganized manual filing system. Records must be properly cataloged, indexed and computerized in a reasonable timeframe; this is required by section 4(1)(a).

This trend towards digitisation has made public services more efficient by allowing information to be retrieved more quickly. Departments that have adopted Information and Communication Technology (ICT) and e-governance tools are better prepared to deal with the large number of requests for RTIs and provide timely responses. However, this improvement is not uniform and departments in urban areas fare better than other departments in rural or lower tier administrative areas where infrastructure is inadequate. Overall, however, the direction has been toward a more disciplined and evidence-based administrative practice, even if this is not yet reflected in every aspect.

There are a number of obstacles to implementation. There are many barriers and challenges to implementation.

While the potential of the RTI Act is great, implementation challenges are significant and hamper its effectiveness to ensure accountability.

**Bureaucratic resistance and bureaucracy:** Many public officials feel that the RTI Act is fighting against them or harassing them. Resistance may take the form of a deliberate delay, the provision of incomplete or false information or the refusal of a request for no good reason. In some cases, the 'phobia' of RTI has resulted in officials not taking any action, for fear of being looked at later.

**2. Poor Record Management:** The lack of good record management in many departments is a great challenge. PIOs may refuse to provide information by saying it is "non-available" when they either don't have the infrastructure to access old and/or fragmented physical files, or they simply don't have any. This absence of systematic archival practices directly challenges the mandate of the Act which is time-bound.

The Information Commissions are often overburdened and understaffed and have a huge backlog of pending appeals. In some states, appeals take more than one year to be heard, meaning citizens are dissuaded from getting information and letting incorrect officials escape punishment. The slow pace of appointments of Information Commissioners adds further to the lack of the oversight mechanism.

5. Waste of time and energy: The exemption clauses of Section 8 are often used to withhold public interest information under pretexts of "national security", "personal privacy" or "commercial confidentiality" and cause waste of time and energy. Judicial interpretations, like the Girish Ramchandra Deshpande Case, have been criticized for broadening the definition of "personal information" which reduces disclosure of information about public servants.

Lack of Awareness: There is a significant proportion of the population, especially among rural and marginalized populations, lacking an understanding of their rights under the Act, or of the process of filing a claim. This lack of awareness hinders the Act from achieving its potential to empower the masses.

## **8. RTI ACTIVISTS AND WHISTLEBLOWERS SAFETY**

One of the darkest sides of the RTI regime in India is the raising of safety concerns for those seeking information. RTI activists facing sensitive corruption and/or powerful mafia activity are at risk of intimidation, harassment and physical violence. The attacks have increased markedly since 2011, with several top activists such as Satish Shetty and Amit Jethwa being murdered.

Doubtful legal protections for whistleblowers can make it extremely dangerous for people to use the Act for very sensitive investigations. The Information Commissions have no obligation to protect activists and law enforcement officers are sometimes "hand in glove" with those threatening activists. The culture of fear serves to discourage many citizens from using the RTI to hold corrupt systems of power to account – a "dark side" to transparency.

## **9. THE FUTURE OF RTI: AMENDMENTS AND DIGITAL INTEGRATION**

Legislative and technological changes are at a pivotal moment in the future of administrative accountability using RTI. The Right to Information (Amendment) Act, 2019, has been a bone of contention as it bestows powers and authority on the Central Government on determining appointment, salary and service conditions of all the Information Commissioners. Critics say this undermines the independence and autonomy of the Commissions and increases the risk of their being easily influenced by political pressures.

On the other hand, advancements in technology provide new opportunities to enhance accountability. Launch of online RTI portal at both central and state levels has simplified the RTI application process and enabled real-time tracking. The Jan Sookna Portal in Rajasthan is an example of initiatives that are taking transparency to the next level by providing vast amounts of data, from the cost of welfare schemes to the costs of the projects, that the government itself publishes, rather than having to be requested. The possibilities of RTI combined with AI and big data could create even greater speed and uncover trends of administrative failure.

## **10. ACTIONS FOR INCREASED ACCOUNTABILITY ARE PROPOSED**

Several modifications are needed to make the RTI more effective and a pillar of democratic governance:

Institution of mandatory training for PIOs and staff to enhance quality and timeliness of responses; comprehensive and regular training programme.

Enforcement of Penalties: Penalties in the Act should be applied rigorously by Information Commissions to put an end to the culture of impunity among the erring officials.

Prevention of Pendency: Vacancies in CIC and SICs should be fulfilled on a timely basis with the people from different backgrounds so that the cases can be disposed efficiently.

Protecting Activists: Need of a strong legislative mechanism to protect the whistleblowers and RTI applicants from retribution.

- Speeding Up Digitization: Complete Computerization of Records and extension of online portals to local languages will make the Act more accessible to the rural poor.

Enhance Proactive Disclosure: Departments should be audited each year on their adherence to Section 4 to make sure they are not just paying "lip service" to transparency.

## 11. CONCLUSION

The Right to Information Act certainly has ushered a new era of transparency in Indian governance, in the process eradicating the "darkness of secrecy". It has shifted the concept of administration from command and confidentiality to service and accountability, and has been the greatest change in public administration in the past 60 years. The Act has, thanks to the courage of ordinary citizens and activists, brought to light the endemic corruption and stopped multi-crore scams and ensured that the "last man in the line" can avail his rightful entitlements. It has reinforced the democratic process at the local level, making people more informed and aware of the actions of the state.

The road to absolute administrative responsibility is still a long way though. Bureaucracy, lack of infrastructure and judicial restriction on the scope of the Act represent persistent challenges that risk to turn this important right into a "procedural formality". The growing violence against the use of RTI remains a serious problem as it does not promote a democracy in this legislation. The RTI Act needs to be backed by strong political commitment, institutional reform and change in the mindset of the bureaucracy on transparency as a 'burden' to an 'enabler of good governance'. The effectiveness of the Act will ultimately rely on the watchfulness and tenacity of the people it is designed to protect, and on which the right to know is a core means for empowerment and social change.

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