

CONSTITUTIONAL JURISPRUDENCE OF THE RIGHT TO INFORMATION IN INDIA

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Abstract:

The foundation of knowledge that inspires learning is information. Some traditional writings and international groups provide a good explanation of the significance of information as a weapon for empowerment. The theme of the people's government is freedom of speech. People must be informed of the significant decisions made by the government and the reasoning behind them in order to secure their continued participation in the democratic process. "Public participation in public and government processes is most meaningful when citizens have acceptable access to sanctioned information." Thus, the right to know leads to administrative openness as citizens have access to information on a wide variety of issues, thus promoting transparency in government, increasing government effectiveness by holding officials accountable and ultimately reducing corruption.

"The right to information" was not originally recognized as right under the Indian Constitution. However, the Apex Court of India interpreted these indigenous guarantees in light of the different provisions of the Indian Constitution. The "right to freedom of speech and expression" given by Article 19(1)(a), the "right to equality" enshrined under "Article 14" and the "right to life and personal liberty" guaranteed by "Article 21 of the Indian Constitution" together elucidate the concept of right to know and incorporate the "right to information" as a "fundamental right" which will of course be subject to reasonable limitations as assessed by the law under Article 19(2) of the Indian Constitution. This study has focused on the concept of "right to information", its constitutional jurisprudence and its development as a right through various judicial interpretations.

Keywords: Arbitrariness, Expression, Good-governance, Information, Knowledge, Public opinion, Republic, Speech, Transparency.

Introduction:

The Right to Information (RTI) has received global attention as an essential and critical element of the so-called "third generation" of everyone's rights. Although various ultra-modern human rights can be considered to be the products of Western Christian civilization, the elaboration of human rights is actually carried out in an environment where there is a hostile relationship between Western countries and beings. From the *Magna Carta* to the Bill of Rights of America to the fundamental rights under the Constitution of India, the rights of mortals are imagined as indigenous guarantees to cover the right of the incumbent to oppose the actions of the state. Interestingly, this abstract assumption is diametrically opposed to the assumptions in the ancient Indian political gospels. It is stated in the "*Neethi Shastra*" that the source of strength for the weak and the depressed is the king or state "durbalasya balo rajah". There is a need for a paradigm shift from the state as tyrant to the state as protector and facilitator of human happiness. In the current era of globalization, nothing is better suited to this shift in attitudes than the right to know—a shift from confidential governance to semi-transparent governance.

In the 20th century, when the world generally believed that human qualities and human freedom were the most precious things, the movement for the rights of all was agitated. and cannot compromise at all costs. Although we find the reality of human rights guaranteed by the English *Magna Carta* in the 13th century; through the Claims of Rights, the Declaration of Independence by America and the American Constitutions of the seventeenth and eighteenth centuries; and the French protests of rights in the 19th century, The first advance in the field of human rights in transnational status came as the UN organization on the 10th dropped a general human rights protest in December 1948. United Nations General Assembly in support of child rights protests in 1959; Covenant on Economic, Social and Cultural Rights 1966 (International covenant); International Convention on the Elimination of All Forms of Racial Division 1966; 1979 Convention on the Elimination of All Forms of Discrimination. Human rights are necessary to control the vault, which is necessary to meet the entry essentials of mortals, and it does include the right to good terrain and the citizens right to know.

India is a rich country and the government has a duty to cover and enhance the well-being of its people. What is shocking in the Indian constitution is that we support a popular form of government. In a place where



society chooses to accept the republic as its creed, citizens should know what their government is doing to be a beginner. Citizens do have the authority to decide who and what rules will govern them and they have the right to appeal to those who can survive without answerability, and the introductory assumption of answerability is that public should be informed about how the government functions. Only when people know how government works, whether it has potential to fulfill the duties given to them by the republic and create the republic into a truly effective collaborating republic. James Madison said, "Knowledge will always rule over ignorance and the governor of the people must arm himself with the powers of knowledge. A mass government without mass information or means of carrying it is only a prelude to violence or tragedy or both." Citizens, therefore, have the right to know data regarding the administration in the state by the administrative authorities, real data is one of the poles of the popular state. This is why the demand for government openings in different corridors of the world is declining.

The law is the controller of the actions of mortals, but no law can really function effectively unless there are elements accepted by the people and society. No law is made lightly unless business is voluntary. In order for mortals to behave in consonance with the traditions of the law, it is necessary to have an awareness of the application of the requirements of the law and the consequences of breaking the legal norms in order to produce the gospel upon which the elements of acceptance and the requirements of the law are based should be followed. This is only possible if an acceptable measure is taken to make people fear that their actions must comply with the law. In popular regimes, the dispersion of facts and statistics is the foundation of the system. It is the government's duty to keep citizens informed. Rather, it is the duty of society to adequately educate every element of it in order to maintain social standing.

The right to know is a strong weapon against dishonesty, falsification and arbitrariness and misuse of power. RTI has important implications on good governance and development. Transparency and accountability are promoted through the concept of RTI for good governance. However, responsibility cannot be fixed without transparency. There should be maximum exposure and minimum confidentiality. The RTI Act's goal is to eradicate the indifference, red indiscretions, and culture of secrecy that have long afflicted India's monolithic, opaque bureaucracy. The right to know is a symbol of good governance factors. It helps to freeze transparency and accountability in governance. The history of the struggle for Right to Know shows that it is the result of transparency and exposure to corruption in the bursary system in Devdungri Village, Rajasthan. This trouble was started by MKSS (Mazdoor Kissan Shakti Sangthan) to attack the corruption in the roots of the lawn. As a result, many countries have passed bills related to the right to information, and in the year 2005, the Parliament passed a landmark bill called the "Right to Information Act, 2005" which aims to:

- Bring more translucency in the working and functioning of public authorities.
- Strengthen government accountability and performance.
- Promote cooperation between citizens and government decision wood process;
- Reduce corruption in the government sector.

Significance of the Right to Information

The right to information in its broadest sense and ethical leadership are interwoven. They could be said to be, in a sense, two sides of the same coin, or two sides of the same desire to enhance, stabilize, and broaden the operation of well-liked organisations. Public access to information is an essential element and a prerequisite for good governance. Unless one has sufficient information on an issue or policy of public interest, it is impossible to find out its impact on the sum of good governance in the final analysis. The right to information derives from the primary rights to freedom of speech and freedom of expression, which require people to understand the politics and government operations of the mass state. As such, it naturally becomes an essential part of good governance and plays a key role in freezing rights of the people and good governance.

Information is the cardinal source of power. Those who retain information are important. Those who don't have access to information are helpless. By administering people's right to information, the important things can be brought near to helpless, through sharing and telling information. It can turn out to be the most effective catalyst for institutionalization of republic, creation of good governance and control of corruption. Information is seen as the oxygen of the republic. It energizes the infiltrated place. But if rulers' actions are hidden, they also cannot meaningfully participate in social affairs if people don't know what's going on in their society. Access to information, freedom of speech, and the free exchange of ideas are essential for popular governments to operate effectively. Because it reflects the circumstances and procedures of government, information is essential to a healthy republic and effective governance. Access to information not only makes it easier for citizens to actively participate in democratic governance, but it also encourages administration that is open, transparent, and accountable. Therefore, the "Right to Information" (RTI), the citizen's right to access information kept or managed by public agencies, can be a useful tool for directing good governance.

“Savoir est pouvoir” (knowledge is power) is synonymous with French. Moment information is power. “Asato main sat gamaya” and “tamaso main jyotir gamaya”, are not just empty prayers, but a request for an open mind and an open world. “I think legislation on the right to information is an important weapon for citizens against abuse of power”, V.R. Krishna Iyer. In the colorful matrix of rights and freedoms promoted in our constitution, there are huge information gaps in our legal system. Article 19 grants every citizen a primary right called “freedom of speech and expression.” In order to enjoy this freedom meaningfully, citizens must also have an auxiliary right to obtain all necessary information about the public interest from public authorities. This right is a sine qua non for an open, popular, responsive and accountable regime. Such a regime can survive if its people are well informed and kept informed. The right to know will enable citizens to criticize, comment on and approve rulers’ policies and plans.

Indian Indigenous Viewpoint:

As such, the Indian constitution does not explicitly grant or indeed relate to RTI as this right has evolved into a third generation right after 1950, when the constitution came into force. RTIs are derived by the Bar Association from one expressly stated right or the other. Although RTI can be considered an adjunct to the right to education, this right itself is not conferred by the original constitution and is itself a deduction from the right to life.

The rights of beginners are secured by the law of the land and may be assessed by law within the bounds of the same. Article 13(1) states that a law of existence not in consonance with the original right shall be void to the extent of its non-confirmity. Article 13 clause (2) of the Constitution of India also empowers the state to refrain from making any laws that might cancel or terminate any primary rights. Article 19(1) originally gave citizens seven rights, one of which is the right to freedom of speech and expression. Subsection (2) of the composition allows the State to impose appropriate bars on this freedom on the grounds of either of them, namely “contempt of court, defamation or incitement to crime, etc.”. “Freedom of speech and expression” is guaranteed by the 1st Amendment to the Constitution of US, which states that Congress shall make no law restricting speech and the press. While the 1st Amendment confers this right outrightly, the Apex Court of U.S. restricts freedom of speech through indigenous interpretations, while the Indian Constitution grants the right under Article 19 1(a), and sets forth in Article 19(2) the grounds on which the law may reasonably restrict this right. The freedom of the press is particularly mentioned in the First Amendment of the United States Constitution, although it is not mentioned in Article 19(1) of the Indian Constitution’s Subsection (a). However, it has been argued that freedom of speech includes freedom of the press.

Article 19(2) sets out the limits of freedom given under Article 19 clause (1). It empowers the Council to impose appropriate bars on the right to freedom of expression on the following grounds:

- 1) “National security
- 2) Friendly relations with foreign countries
- 3) Public order
- 4) decency or morality
- 5) Contempt of court
- 6) Defamation
- 7) Incitement to commit a crime
- 8) Sovereignty and integrity of India.”

Appropriate limitations under these provisions can only be assessed through appropriate legislation, not executive action.

The press played an important role during social domination. From Bal Gangadhar Tilak to Gandhiji, almost all the leaders who have mobilized people against social domination have used the news media to inform and educate the people about liberal values. Tilak opposes sedition laws, and the court’s interpretation of it does penalize honest and nonviolent scrutiny of dictators in journals. Gandhi claimed the authenticity of India’s struggle for independence and similar struggles can only succeed if the public can speak openly and courageously. The complete Gandhi motion emphasized on the worth of freedom of speech. The Apex Court of India ruled in “Ramesh Thapar v State of Madras” and “Brij Bhushan v. Delhi” that previous suppression of the press was unconstitutional. Previous suppression is only allowed if the “right to freedom of speech” is suspended during the declaration of emergency under Art. 352 of the Indian Constitution. The Apex Court held that the freedom of the press included in freedom of speech is no more advanced than the freedom of speech enjoyed by citizens.

The RTI i.e., the right to enter and participate in facts and figures, belongs to the freedom of speech and expression. Every citizen has the right to acknowledge or share information through the use of fashion, i.e., access to television broadcasts for the above-mentioned purposes. The Official Secrets Act of 1923’s Section



5, which forbids the disclosure of some approved papers, has not yet been fully extended by the right to information.

Let us now examine the indigenous basis of the right to information within the broader contours of the “right to freedom of speech and expression”. The Apex Court has dealt with indigenous views of the “right to information” in quite a few corner decisions. Here are some judicial statements from the Apex Court that have taken a clear stand on the right to know.

In “Sakal paper (Private) Ltd v Union of India” , Sakal Journals (Private) Ltd challenged the authenticity of the “Newspapers (Price-Pe) Act 1956” and “the Price and Runner Order Act 1960”. Empowering the federal government to manage the prices of journals based on the number and size of publications and to govern the allocation of announcement space, the challenged order specifies the no. of publications to be published through a review relating to the price charged. It also limits the announcement space that censorship can give. The legislation is intended to promote policies that help lower and Indigenous language journals compete with larger, more volatile English-language journals, which can sell their papers at relatively low prices due to the frugality of size. Although the item is measurable, it has the consequence of restricting freedom of the press. Announcements are a origin of profit for journals with large rotations, so they can offer additional entrants at lower costs. The Apex Court held that the challenged bills and orders assessed restrictions on freedom of the press as unconstitutional. One question is whether similar bars ought to be seen as restrictions on the liberty of doing business as provided by Article 19(1)(g), or as a limitation on the liberty of the press defended by Article 19(1) (One)? If they are taken as limitations on commerce, they can obviously be considered reasonable restrictions in the public interest allowed by Article 19(6), but if they are taken as limitations on liberty of the press, they cannot be similar limitations as they are not covered under the scope of those allowed by Article 19(2) and are therefore supported. In reviewing the effectiveness of restricting the freedom to conduct business or trade, the Court will be less inclined to comply with the Council's wishes, as it is in the public interest. But when inspecting its justifiability in relation to liberty of the press, courts have resorted to a stricter interpretation. Such restrictions must be in the interest of Article 19(2). By emphasizing the textbooks of the two clauses of Article 19, the videlicet subsection (2) and subsection (6), the court introduced the principle of priority liberty in Indian indigenous law. Restrictions on freedom of speech have a lower presumption of constitutionality than restrictions on freedom of trade or commerce, but the court didn't say so, so the court adopted the preemptive liberty doctrine proposed by the U.S. Supreme Court, CJ Stone.

Similar inspections were assessed by the “Newsprint Control Order of 1972–73” issued under the “Basic Commodities Act of 1955”, of a similar nature to those found unconstitutional in the Sakal case. This was questioned by “Bennett Coleman Co”, which publishes the Times of India and other colorful domestic publications and weekly magazines. As per “the Newsprint Control Order”,

- a) Entries for all journals are limited to 10;
- b) 20 more journals publishing fewer than 10 entrants;
- c) No one who has published several newspapers and weekly magazines can publish new editions or evening papers;
- d) A business operator of the same type shall not transfer newsprint distributed to the newspaper it publishes to another newspaper, or reduce the rotation of any of its newspapers for increasing the no. of runners in the other newspaper; and
- e) There isn't much room for announcements. There have been claims that the “Newsprint Control Order” placed unjustifiable limits on press freedom. Additionally, it was recommended that controls on the media also applied to people's ability to read the compilation of comments they deemed appropriate.

In “Bennett Coleman v India,” the challenged order infringed liberty of the press and was therefore an extremist power under Article 19(1) (a) of the Indian Constitution. Still, the court went further than Sakal's ruling, arguing that the challenged order violated not only the journal's publishing rights, which are essential to freedom of the press, but also the Compendium's right to access information. This is included in the theft of “freedom of speech and expression”. In his mature judgment, Chief Justice Ray said, it was irrefutable that freedom of the press means that all citizens possess the right to speak and reveal their opinions Press freedom reflects the people's right to read.

“Freedom of speech and expression” is a right and the essence of the Republic. The media carries out the role of providing information and conducts research on the outline as well. A fully developed populace must be equipped with an information infrastructure that enables it to perform an effective role in the republic. In “Indian Express Newspaper v. Union of India,” J Venkataramiah opined:

Press freedom is essential to social and political engagement in the free world of today. In recent years, the media has taken on the role of a public mentor, enabling widespread formal and informal education, particularly in developing nations where access to television and other forms of contemporary



communication is still restricted to certain social groups. By disseminating information and viewpoints that enable voters to make informed decisions, the press serves the public interest.

The learned judge thus observed that similar mass media means can be suppressed or manipulated by those in power to achieve their own ends through a variety of biases such as financial means, use of force, pre-censorship, obstruction of journal dissemination or accountability. It has been observed that the independence of the mass media is crucial for citizens' right to know. This does not mean that the media, as a for-profit organization, is exempt from Labor laws and financial laws

The opinion of the Apex Court in “Indian Express Newspaper v. Union of India”, Sakal Papers Pvt Ltd v India and Bennett Coleman v India, authoritatively stated that any restriction or curtailment notice would affect the rights of beginners under Article 19 (1) (a). To put it another way, the public has the right to recognize “marketable”. The right to freedom of speech and expression is protected under Article (19)(1)(a), as is the individual's right to hear, read, and recognize such speech. Information shared through announcements must serve as a guide for realizing the needs of residents in terms of monetization. Both speakers and philanthropists who speak are covered by Article 19(1)(a).

Some of these issues were raised in “India v Film Society”. It was argued that forced speech (similar to statutory warnings on cigarette packs) often referred to as ‘must carry’ clauses in statutes, rules or regulations is violation of the right to freedom of speech unless it can be justified under section (2) Art. 19. Justice Sujata Manohar observed:

However, if the “must carry” clause helps people make informed decisions, which is the core of the right to freedom of speech and expression, then this does not amount to a violation of that right. However, such a clause is still in place to compel someone to create propaganda or a skewed or distorted viewpoint. For instance, a statute may occasionally require the disclosure of specific facts for the benefit of the public. Any food item must either publish its weight or have a list of the ingredients used in it on the box. These are beneficial “must-carry” signs intended to alert the public to the correct quantity and composition of the goods they are purchasing. It enables the general public to make an informed decision about whether or not to utilize a specific product. There must be a legal disclaimer on cigarette packs indicating smoking is unhealthy. Yes, this is a “must carry” law or required speech. Although it is meant to serve as a starting point for more useful information that will help addicts decide whether or not to smoke, it is also meant to facilitate introductory purposes. Similar mandates cannot be interpreted as limiting freedom of expression even while they support speech.

In the case of “Keshavananda Bharati v. State of Kerala”, Justice Mathew used his images of indigenous jurisprudence. Kerala is represented by these prominent words such as “The rights of beginners themselves have no fixed content; the most important of them are empty containers, into which each generation must pour its content according to its own experience. In this environment, it is important to remember that in building a just society, when ordering, it is sometimes necessary to subordinate the rights of beginners to guiding principles”.

From these words, if interpreted in a need-based approach, Article 19 can determine many states of rights. The composition observed in “Indian Express Newspaper v. Union of India,” also covers the following understandings:

- a) It helps the individual achieve tonal satisfaction;
- b) Contribute to the discovery of authenticity;
- c) It enhances the ability of individuals to share decision-making wood;
- d) It provides a medium through which a reasonable balance can be established between stability and social change.

Therefore, the area of “right to information” is hidden in Article 19(1) (a) of the Indian Constitution.

In this regard, ‘the Apex Court stated that the “right to information” is a natural part of the “right to freedom of speech and expression” for beginners under Article 19(1) (a) of the Indian Constitution’

Access to information about government services ordered by law and government charges is rudimentary for people, leaving the government more accountable for their performance.

“Freedom of expression, Right to Information and Privacy”

“Article 19(1)(a) of the Indian Constitution guarantees freedom of speech and expression.” This right is still subject to Article 19, paragraph 2, which allows laws to be made to assess security, public order, decency or morals for the sake of the “sovereignty and integrity of India, friendly relations with other countries, court’s contempt, defamation” or incitement to commit a crime.

The Law Commission also highlighted American viz’s problems. The 1st Amendment to the Constitution of U.S. mentions the right to freedom of speech. In one of the most famous decisions in “New York Times v. Sullivan,” the U.S. Apex Court held that the core meaning of the first correction is that “the debate on public issues should be a profound public commitment to the principle of exemplary rebuttal and broad disclosure

and it Likely to include intense, sour and occasionally unpleasant sharpness to followers of the government and the public."

The term "public official" will include marked representatives, designated public officials and all government employees, in fact, the one situated around the bottom of any association who are public officials who have, or appear to have, the conduct of government affairs, significant responsibility or control. In principle, not every government official is a "public official". His position must be a discussion of specific allegations that can lead to public scrutiny and debate. Again, the law has been widely developed as to what constitutes "sanctioned conduct" of public servants.

In *Garrison v. Louisiana*, the top most Court held that "recklessness, inefficiency, and restraint against former felony court judges apply to sanctioned conduct by similar judges." Charges can be anything that may relate to a staff member's fitness to serve, and they will apply.

Our Supreme Court has the opportunity to address the exposure of government actions through the media or otherwise. One of the most important cases- "*S. Rangarajan V. P. Jag Jiban Ram*," in this, the Apex Court stated that censorship of administrative projects is not barred, but ought to strike an appropriate balance between freedom of speech and the interests of society. But because the court values free expression, it must be protected unless doing so would endanger the interests of the society or result in urgent circumstances. The harm from waiting shouldn't be abstract, scholarly, or unreliable. It ought to be directly related to the expression.

In "*Life insurance companies v. Manubai D. Shah*", the Apex Court stated that there was not anything wrong with requiring the respondent's responses to be published in the life insurance company's internal journal. This is because; the statute requires companies to serve the fashion interests of the community. The Court held that, therefore, the community has a right to know whether this requirement of the legislation is being met in the operation of the LIC. LIC must publish the organization's answers in its internal journal, so that reading the journal's compendium gets the full picture of the company, not nothing. Therefore, LIC's refusal to publish the answer violates the community's right to know the inner workings of the company.

The Supreme Court in "R. Rajagopal v. Tamil Nadu":

The case involved serious misconduct by a regular murderer in the publication of public hires. The case is precisely about restrictions on "the right to know" and the seizure of government officials. The Court referred to one English House of Lords verdict reported in *Derbyshire v. The Times Newspaper Ltd.* and held that while "decency" and "defamation" were two grounds under Section 19(2), any publication directed against any person would not be subject to condemn. Furthermore, in the case of a "public official", the right of attachment or, for that matter, insofar as it applies to conduct in the performance of his sanctioning duties, is simply not a remedy for a damages action. Indeed, the publication is based on untruthful data and statements, unless a public official determines that the publication is reckless and arbitrary out of veracity. In this case, it is sufficient for the person who posted the message to justify their reply after a reasonable validation of the data. He does not have to prove that what he publishes is true. Of course, damages can be awarded if the publication turns out to be false and motivated by malign or specific hostility. Undoubtedly, the public enjoys the same protections as any other citizen with respect to his segregation in matters not applicable to his duties of endorsement (Bars, Parliament and House of Representatives are not bound by these principles and are subject to the Official Secrets Act Less binding, 1923 or any similar statute.

The following legal protest by the Supreme Court has preliminary implications in exposing loose officials. However, providing information about corruption, history, present or hindering and protecting whistleblowers from harm if permitted by law.

More recently, the Apex Court examined how the freedom of speech and expression and the community's right to know are related and also assessed the genesis of the public's right to know from the "right to freedom of speech and expression". The Court in "*Dinesh Trivedi v, Union of India*" stated that in ultra-modern indigenous republics, it is self-evident that citizens have a right to know about government affairs, which are labelled and seek to develop sound governance plans aimed at in their happiness. People must be informed of the significant positions adopted by the government and its support base in order to guarantee their continued engagement in popular processes. The Vohra Commission report was under consideration when the court ruled that the conclusions drawn in the report should be reviewed by a new body or agency or by the President of India in accordance with the Prime Minister's decision, even though it would be unwise to base some of them on the public. After discussion with the Lok Sabha Speaker, a special committee was recommended and chosen.

Furthermore, according to the interpretation of the 179th report of the Indian Law Commission, the Supreme Court recognized the "right to information" as segment of the initial "right to freedom of speech and expression" guaranteed by Article 19(1) (a), subject of course to reasonable limitations as assessed by the law under Article 19(2).

Indian law commission recognizes freedom of the press and freedom of information:

Article 19 clause (1) sub clause (a) deals with “freedom of speech and expression”, and it is suggested that the work must expressly include liberty of the press and other media, choice to hold opinions, and freedom to seek, acknowledge and develop information and plans. It is also suggested to amend Article 19 (2) to add further restrictions on the disclosure of confidential input unless required by the public interest.

Commission proposed to amend Section 19 (1) (a) and (2) to read as follows;

"Article 19 (1) (a) All citizens shall enjoy the right to freedom of speech and expression, which includes freedom of the press and other media, freedom to hold opinions and freedom to seek, acknowledge and impart information and ideas.

Article 19(2): Nothing in subsection (1)(a) shall affect the operation of any law, or assist the nation in enacting any law so long as a similar law imposes reasonable restrictions on the exercise of the rights conferred by that subsection in India. Sovereign and integrity interests, national security, friendly relations with foreign countries, public order, decency or morals, or in connection with contempt of court, defamation or incitement to commit a crime, or to prevent disclosure of information from confidential access unless required by the public interest."

As for point 6.10 of the report on the right to information:

The primary premise underlying the new type of government is that citizens should have means of approach to information. Lack of information availability and a lack of awareness of the decision-making process are two significant factors that contribute to the suffering and helplessness of the average person. He continues to be uneducated and is nearly completely unaware of the processes that affect his interests. Citizens are unable to learn how their issues are handled because of secretive government policies and procedures. They cringe while questioning the cops handling their cases because to their recent elite position and stunning style. The right to information needs to be protected and given actual weight. The government must assume substantial responsibility in this area in order to activate its seal and guarantee the dissemination of information to citizens. Traditional assertions of confidentiality ought to be rejected. In actuality, rather than a confidential pledge, we ought to have a semi-transparent one. Transparency and participation in management are important. Numerous advantages of the right to know include quick case resolution, a reduction in Babudom's slow and cunning methods, and last but not least, significant controls on theft and corruption.

Right to Information and the relevant constitutional provisions:

There are several drawbacks to simply placing the “right to information” in Article 19(1) (a) of the Indian Constitution. The “right to freedom of speech” includes the freedom to provide information, but does it also include the right to admit information? “In Bennett Coleman”, the Apex Court stated that when freedom of the press is restricted, the right to compiled information is also negatively affected. Commentators have the right to provide information as part of their freedom of the press. The right to know may not always be about free speech. However, if I get the information, my speaking ability will obviously increase. But many times, I need information that may not be related to my desire to speak. I wonder how an administration uses her selective powers. I may need information on who the gas pump is assigned to. Right-to-know is needed to make the executive branch's exercise of optional powers transparent, as such transparency would serve as a distraction from the handling of instability.

In “S.P Gupta v. India,” the complainant raised the issue of Government's abuse of authority to appoint and mobilize High Court justices. The background is the removal of the three oldest justices of the Apex Court in the year 1973 and the removal of J. Khanna in the year 1977. The independence of the Top most Court is undermined by ensuring that judge appointments are not used for political motives. It is necessary to find out whether the procedures set out in “Article 124 (2) and 217 (1)” have been strictly followed. Seeking information discussed with Chief Justice of India and Chief Justice of the High Court, as there is no similar information to determine whether the judge's chattel is constitutional. At that time, “the right to know” was a prerequisite for the rule of law. Most of the questions raised by Hind Mazdoor Shakti Sangathan in Rajasthan's fight for the right to know are mundane questions about workers' allowances and employment. Similar information is necessary for icing that there is no demarcation between workers and everything is done according to the law. Only by knowing how many workers are employed, how they are paid, where the equipment for the development shop was purchased, and how the equipment is used, can a proper inspection of the experimental shop be carried out. Therefore, “the right to information” is not limited to Article 19(1) (a), it also finds mentioning in Articles 14 (Right to equality) and Article 21 (Right to life and personal liberties). Doesn't the right to know form part of “procedures prescribed by law”? The court stated that the “right to life” means the right to a quality life. Is the exercise of power not accompanied by the rule of law? It also comes from the “Preamble of the Constitution”, which advocates for the Indian people and the governmental structure that is envisioned there. It suggests that one component of the constitutional presentation structure is the “right to information”. It is strongly tied to the Constitution's initial framework, particularly Articles 14, 19 (1) (a), and 21.



Right to Information under Article 21:

It provides for the “right to life and personal liberty”. The expression “right to life and certain liberties” is an omitted term that includes various rights and attributes. In “R.P. Limited v. Indian Express Newspapers” the Apex Court interpreted right to know u/a 21. The Court held that the right to information is an essential part of a collaborative republic. In view of the shrinking distance of the international community, the convergence of cooperation in various fields across borders, and the global vision in various fields including human rights, the word “freedom” ought to have an amplified meaning. It cannot be limited to the absence of physical limitation. It is broad enough to extend to a series of rights, including the right to have a specific opinion and the right to maintain, develop and enrich that opinion. In order to maintain and nurture this perspective, it is necessary to acknowledge information. Article 21 gives everyone the “right to information”, which includes the right to acknowledge information. The Apex Court in “Essar Oil Ltd. v Halar Utkarsh Samiti”, stated there is a strong connection between Article 21 and the right to information, especially where “the government’s secret opinion could affect health, life and livelihood”. The complainant laid a passage carrying canvases through marine national parks and reserves. Respondents challenged the state’s decision through PIL, arguing that the government should require and obtain an environmental impact report from an expert agency and be comfortable with the damage to the terrain before granting authorization. It is not irreversible, and aspirants should publish their proposals so that the public, especially those who may be affected, are concerned about the proposed actions. Reiterating in Reliance Petrochemicals Ltd. V. Owner of the Indian Express magazine, the court has ruled that citizens responsible for covering the terrain have the right to be informed of the government’s proposal.

Article 21 is wider in size and compass compared to composition 19 (1) (a). Therefore, the Court needs to expand its scope through judicial activism. In P.U.C.L. v. U.O.I., the Supreme Court held that fundamental rights themselves have no fixed content, they are at best empty containers into which each generation must pour its content according to its own experience. The court’s attempt should be to expand the scope and dimension of basic rights through judicial interpretation procedures. Fundamental rights mentioned in Chapter III of the Constitution are no different from protests against similar rights based on Supreme Court decisions. Furthermore, it is well addressed that courts must not forget the principles embodied in transnational conventions and instruments when interpreting indigenous issues involving fundamental rights, and that courts must implement the principles contained in these instruments to the extent possible. Courts are obliged to give due respect to transnational practices and morals, while interpreting domestic laws, especially if they are not inconsistent or conflicting with domestic laws.

Article 21 of the Indian Constitution has been widely and freely displayed by the Supreme Court. This makes it mysterious. In fact, the framers of the Constitution allowed them not to fall into the trap of the “due process” clause of the 14th Amendment to the U.S. Constitution when they included Articles 14 and 21. Breaking away from a narrow interpretation, the Supreme Court held that the right to subsistence, the right of women to be treated with dignity and quality, the right to segregation, the right to oppose handcuffs, the right to health and medical assistance to workers, and a group of fundamental rights fall within the scope of what constitutes 21 therefore, The Constitution includes all these rights within the scope of the “right to life”. It is worth noting that the Article 21 composition is not prohibited by the Article 19 composition of the Indian Constitution. To the extent that the Indian Constitution applies to them, Article 21 applies broadly to everyone residing within or outside India.

Compared with Article 21, Article 19 is one of the three most important documents, and together with Articles 14 and 21, it establishes the rights of individuality and only grants basic rights to citizens. Anyone who is not an Indian citizen cannot carry Article 19 of the Indian Constitution. Section 19(1)(a) gives every Indian citizen the right to freedom of speech and expression. The Supreme Court has given a truly liberal interpretation of each and every entry in Article 19(1) of the Indian Constitution. At this juncture, the discussion of legal progress in this area is relatively unpleasant and gratuitous, and it is enough to note that freedom of speech and expression also includes the right to acknowledge information. Therefore, Article 19(1)(a) confers the right to information horizontally to the citizens of India while Article 21 does the opposite although horizontally confers the right to information to every person who is governed by the constitution and laws of India.

Right to Information is not absolute:

The right to information, which is part of the right to freedom of expression, is restricted and can be assessed under Article 19(2). In Prabha Dutt v. Union of India, the Supreme Court held that the intelligence officer’s right to information did not give her unfettered access to information. Intelligence requesters claim the right to request capture. The court re-emphasized that no intelligence agent could solicit detainees against her will. The detainee’s consent is necessary. In addition, interviews may be permitted under the terms of the prison manual.

In “Sheela Barse v. Union of India,” a letter written by Free Intelligence Officer Sheela Barse complaining that the authorities had revoked a previously granted authorization to claim the catch was treated as a writ

claim. The Supreme Court has humanized the conditions of captives in previous opinions, but the extent to which those conditions are actually met can only be assessed if the captives are allowed to speak to intelligence officers. Interviews with captors are an important source of insight into how far these conditions have been observed. The court recognized the right but said it was governed by the prison manual. According to Articles 19(2) and 21, the content of the Prison Manual must stand the test of reasonableness. According to the court, "the maximum restriction of the introduction is reasonable, believes that the video recording "should be specially authorized by the relevant departments.

A committee chaired by Home Secretary, N.N. Vora was appointed to conduct a critical assessment of all available information regarding the conditions and connections of all Cabal organizations for further action. In *Dinesh Trivedi v. India*, the petitioners argued that the full report of the Vora Commission and all supporting gear submitted by various members of the Commission should be disclosed. Chief Justice Ahmadi observed: To ensure uninterrupted participation of the people in popular processes, they must be made aware of the important views taken by the government and its base. Democracy therefore expects openness, and openness is the attendant of a free society. Sun is a stylish cleanser. But staying alive for future troubles is the opposite. It is important to recognize that belated popular pressure on government policymakers can have alarming by-products. If every action of a political or administrative person was turned into public debate and investigated to quell public opinion, it would really have an impact on the independence of policymakers who might consider it a safe decision to do nothing.

The committee recommends the creation of a nodal agency to determine the execution process for people involved in similar harmful conditioning. The court concluded that the details of the Vora committee report and the gear on which it was based could be kept secret until the nodal agency is ready with a case against the humiliator. The people mentioned in the report may be in high positions and have political influence. Therefore, it is not safe to report publicly too early. The nodal body must be a separate body and must be considered similar by people. The court therefore directed the government to appoint a nodal agency, but not to inform the aids. The learned Chief Justice said, therefore, we believe that the matter needs to be resolved by an agency that can serve with the highest degree of independence, completely free from any possible influence and pressure. Such an agency must retain the necessary powers to fully and directly review all allegations before it decides (if every time it decides) to initiate an execution. To this end, it must be provided with the facilities and services of well-trained investigators with outstanding records and impeccable credentials. This decision should guide unborn decisions about when and what information is required and what information may be covered by the immunity granted under the 2005 Right to Information Act.

In the case of "State of Andhra Pradesh v. Canara Bank"

The court ruled that the right to information is not an absolute right. This is a component of having the freedom to express oneself. The RTI Act's Section 8(1) (i) strikes a compromise between the right to know and the right to be seized. As a result, it uses a standard that considers the public interest to determine whether material should be suppressed or made public where there is a conflict between the two rights. This recognizes that both rights are significant and must be maintained.

Right to Information and the Role of Judiciary:

The law is the emperor of the emperor, stronger than the brand, and with its help, the poor peddler can indeed win the support of the king or the state. The preamble of the Indian Constitution contains the solemn determination of 'we the people of India to build India into a 'self-governing socialist democratic republic' and to ensure social justice, profitability and political justice to all its citizens. "Justice is considered one of the most important moments of introductory rights, and the realization of the greatest mortal rights without it being done is very delicate, if not intractable. Nonetheless, it must be remembered that unless the public demands from the authorities to obtain information, otherwise the merits of the case cannot be made up. Some cases are being brought in court in order to obtain clones of public documents. The rule of law is the soul of every civilized society. Law is a command or order, which can be better described as the language of the state. The relationship between law and antiquity is like the relationship between language and society. The rule of law is the general way of life in a civilized society. Over time, the rule of law has been used not only to maintain order and encompass individual interests, but also to encompass the interests of society and the wider public to achieve the ideals of the ultra-modern welfare state. In a republic like ours, the interpretation of the law is judiciary's function and the primary concern of the administration of justice is to protect the well-being of its subjects.

Supreme Court on Right to Know:

The Supreme Court on various occasions has talked about the importance of the right to know and has also observed that one-sided or partial information, misinformation or hints all in turn produce a forgetful population, turning the Republic into a farce where all the information is vague, misguiding or biased due to monopoly and arbitrariness.



"Freedom of speech and expression" includes the right to know, right access and share information and it is necessary for transparency. It enables people to take part and put forth their opinions on social, political and ethical issues. For the truest model of society with good governance, dissemination of public information and ideas and the instrument of political dialogue plays crucial role.

Discussed below are some of the prominent judgements of the Supreme Court of India that have developed and shaped the right to information as a fundamental and indispensable right.

Romesh Thapar v. State of Madras

Freedom is the foundation of all popular associations, because without free political discussion there can be no public education essential to the proper functioning of popular government. A similar breadth of liberty may involve the pitfalls of abuse (but) "it is better to leave its many pernicious branches to their luxuriant growth; moreover, by pruning them, impairing the vigor of those that bear proper fruit".

The Court again stated in paragraph 68 that "The public interest in freedom of discussion, of which freedom of the press is one, stems from the requirement that members of popular society should be adequately informed that they can wisely influence opinions that may affect themselves. "

According to the Attorney General v. Lord Simon of Glaisdale, Times Journals Ltd,

There are four broad social purposes for free speech to serve-

- a) it contributes to the individual's tonal satisfaction,
- b) it helps to discover authenticity,
- c) it enhances the ability of individuals to share decision-making, and
- d) it provides a medium through which a reasonable balance can be established between stability and social change. All members of society should be fit to form their own beliefs and communicate freely with others. In short, the initial principle involved is the people's right to know. Therefore, freedom of speech and expression deserves the generous support of all those who believe in the participation of the people in government.

Bennett Coleman and Co v. Union of India,

The right to information is considered to be included in the right to freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution. Supreme Court respects citizens' right to scrutiny in 'Bennett Coleman case' when India lifted its newsprint control order, the allocation of newsprint to censorship was limited to previously paper like transactions. In dismissing the Newsprint Control Order, the court noted that similar restrictions on newsprint use assessed an unreasonable restriction on press freedom because it failed to provide the anthology with the critical reading it hoped. But not only the right to freedom of speech for comments is violated, but also the right to read. Anthology's right to access reading material in the comments is his/her right to information, which is implicit in the right to freedom of speech.

State of Uttar Pradesh v. Raj Narain and others,

Justice K.K. Matthew observed: In a responsible government like ours, all public agents must be held accountable for their actions, so there are only a lot of secrets. The people of this country have a right to know every public act, and everything their public officials do in public. They have the right to know all the details of the conduct of every public action.

As Justice Krishna Iyer in Maneka Gandhi v. Union of India said, a government that operates in secret has not only violated the decency of the populace, but has also buried its own funeral. So, if we look at the concept of power, we can notice the corruption of power and the absolute corruption of absolute power. There is a certain danger that, despite being sweated several times for wealth purposes, power can be used arbitrarily and used for loose pretension.

S.P. Gupta v. Union of India,

Now, constitutionally, it is appalling that we support a popular form of government. In a place where society chooses to accept the republic as its creed, citizens should know what their government is doing to be a beginner. Citizens have the right to decide who and by what rules govern them, and they have the right to demand respect for their actions from those who govern on their behalf. No government can survive without accountability, its credibility will always be in question and the introductory assumption of accountability is that the people should be aware of the functioning of government and its objectives. Only when the people know how the government works can they do their part of the republic allotted to them and make the republic a truly effective participatory republic. "Knowledge," said James Madison, "will rule forever ignorance, and a man who wants to be his own ruler must arm himself with the power endowed by knowledge. A mass government without mass information or means of communication is just a force or prologue to tragedy or both". Therefore, citizens have the right to know data about state administration, and real data is one of the pillars of a state of public opinion. This is why the demand for government openings in different corridors of the world is declining.

The need for government openness is primarily based on two reasons. It is now widely believed that a republic not only corresponds to the rule that people used to exercise their votes five times to choose them, and once voted, also passively retire and have no interest in government. The common denominator at the moment is that the republic has a more positive content, the unity of which must be uninterrupted and universal. This in particular means that people not only vote wisely and rationally, but also make sound judgments about the actions of government and the elegance of public projects, so that the Republic will not be just a sporadic vote, but an uninterrupted process of government - a habit of a station and a state of mind. However, one can achieve this important part in a republic only if the republic is an open government, where information about the functioning of the government is fully accessible.

Indian Express News Paper (Bombay) (P) Ltd. V. Union of India,

The Court dealt with the effectiveness of newsprint tariffs in the context of Section 19(1) (a), and therefore the Court found that "newsprint's purpose is to advance the public interest by publishing data and opinions cannot make responsible judgments."

The Court further stated that "the public interest in freedom of discussion, of which freedom of the press is one aspect, arises from the requirement that members of the general society should be fully aware that they can judiciously influence opinions that may affect themselves".

Secretary Ministry of Information and Broadcasting, Government of India v. Cricket Association of Bengal,

The Court summarized the freedom of speech and expression law under Section 19(1)(a) along with its limitation of Section 19(2) thus, "Freedom of speech and expression includes the right to access and impart information. Freedom of speech and expression is necessary for the realization of the tone. It enables people to contribute to debates on social and moral issues. It is the best way to find anything A fashionable way of being a true model, because only through it can the broadest ideas spread. It is the only tool of political dialogue so important to the Republic. Rather important is the role it plays in easing all the feathered cultural and academic endeavors."

Therefore, the right to communicate includes the right to communicate through any available medium, whether print, electronic or audiovisual, such as announcements, films, compositions, speeches, etc. This is why freedom of speech and expression includes freedom of the press. As far as freedom of the press is concerned, this includes the right of circulation and the right to determine a similar number of rotations. This freedom includes the freedom to convey a person's opinion barriers to as much of the country's population as possible. This right of beginners can only be limited by laws enacted for the purposes stated in Article 19 (2) of the Constitution.

"People's Union for Civil Liberties v. Union of India",

The Apex Court held that the controversial correction to "the Representation of the People Act", which denies information about the candidate's predecessor, violated the selector's right to know, a precondition for their exercise of the selector, concerning their preliminary rights. Therefore, the right to know the predecessors of the candidates nominated for election is an appendix to the "right to freedom of speech and expression" guaranteed by Article 19(1) (a) of the Indian Constitution.

Acts of Parliament cannot affect how the courts interpret indigenous law. It will carry out constitutional amendments. Because it touches on the constitution's opening framework, an amendment can really be rejected. representing the federal government's position that the right to information was not a provision of the original constitution but rather resulted from judicial interpretation of the document. As a result, the EU makes an effort to differentiate between the fundamental rights guaranteed by the constitution and those that result from judicial interpretations of the constitution. According to the court, the rights that were created as a result of the beginner's rights being interpreted by the courts were not less important than the original rights specified in the Constitution.

It should be understood that the primary rights such as equality and liberty mentioned in the constitution have no fixed content. Every now and then, this yard fills with souls and blood, making it come alive. The court has interpreted the Articles 14, 19 and 21 more than 50 times, giving them meaning and color that enables the country to have a genuine society that is democratic in nature.

Justice P Venkataraman Reddi has opined the same view as - 'We must be proud that the precious freedom of speech has emerged stronger in the post-independence period. It is continually nourished and shaped to suit the contemporary demands of the Indigenous Court.'

Indira Jaising v. Registrar General of the Supreme Court of India

There is no question that in a democratic system, the open flow of information to the populace is essential for efficient operation, particularly when it comes to matters that are part of the public record. The petitioner's qualified attorney didn't consider the opinion that the "right to know" is unalienable. There are several areas where similar information is not required. In fact, the "Freedom of Information Act 2002" (also referred to by the requester's knowledgeable lawyers) does not categorically require that information

collected in any location, in any way, for any objective, be made available to the common people. The investigation directed and the report to the CJI is private and discretionary and used only for his knowledge and not for exposure to anyone else. The principles set out in the following comments are in disparate surroundings and cannot be invoked in the circumstances, which are extraordinary.

Dinesh Trivedi, M.P. v. Union of India

To ensure uninterrupted engagement of the public in the popular process, they must be kept informed of important opinions and decisions of the administration and its base. Therefore, the Republic expects honesty, and it is the attendant of a free society. It is important to recognize that the popular pressure that government policymakers should be exposed to is belated. However, it does have an impact on the independence of policymakers if every step taken by an administrative person is translated into public debate and investigated to soothe popular sentiment. It paralyzes the entire system and stops it from functioning. So, it's almost mystical to have two different scenarios, and the solution is to keep a good balance that will ensure the public good.

In an ultramodern indigenous republic, the citizens' right to know about government affairs is self-evident. have been flagged by them for the purpose of developing a reasonable governance plan for their welfare. This right also has admitted restrictions; it is in no case an absolute right. In actions that have serious implications for public safety, privacy can be reasonably asserted for it is also in the interest of the people for similar things not to be secretly exposed or spread.

Enactment of the Right to Information Act, 2005:

The Indian Constitution establishes a "democratic republic" and a republic demands such populace that is aware of current trends and semi-transparent information, which is essential for it to function and also to curb falsification and dishonest acts and dealings and hold the government and its agents answerable to the public. Therefore, there was a need for a legislation to give shape and structure to these constitutional spirits and thus the "Right to Information Act, 2005" was enacted. It is an Act that provides for the actual governance of citizens' right to information to ensure access to information under the authority of public officials to promote translucency and answerability. This legislation provides a framework for realizing the right to information as interpreted and accommodated by the judiciary under "Article 19, Article 21 and Article 14 of the Indian Constitution".

Some of the key features of the Act can be summarized as:

This Act of 2005 gives power to the citizens to:

- Put up any question from the public authorities or seek information from them.
- Ask for copies of any 'government document.'
- Do inspection of the documents that are in the authority of the executive or the public officials.
- Inspect any other government work.
- collect samples of things and materials from any Government site or work.

Panchayati raj institutions, national or state government departments, and other organizations or institutions (including Non-Governmental Organizations) that were created, organized, managed, or substantially sponsored, either directly or indirectly, by the State or federal government, information can be sought from all of them - [Section 2(a) & (h)]

Disclosure Suo motu without explanation and opinion - Public authorities shall disclose all information on their own in accordance with "Section 4 of the Act". Section 4(1) (b) provides a general listing of when disclosure is required, not all information. This does not, however, justify the obligation of public officials to disclose information on a regular basis in accordance with section 4(1) (b). "State Public Information Officer" (SPIO) also cannot force an answer on how, when and on what basis he prepared the rank list etc. This is a request for SPIO's interpretation/opinion that he is not authorized to give behavior. Only available information - Information can only be provided if public power is available, and if it is not available, it cannot be produced.

At least one Public Information Officer (PIO) has to be made from amongst officers in each department. He or she has the obligation to accept the requisition forms and gives the persons the information they seek. [section 5(1)].

Additionally, there are "Assistant Public Information Officers" (APIOs) in each sub-district or divisional level. They manage requests for information and appeals of the Public Information Officer's decisions before sending them to the appropriate officials - [section 5(2)].

Requests for information must be made in writing or electronically, in either Hindi or English (or in the official language of the area), and include the necessary application costs. The PIO must offer the requester as much reasonable assistance as possible to limit the request to writing if they are unable to submit it in writing. - [section 6(1)].



The applicant is just required to provide their contact information; section 6(2) does not require them to provide any other personal information save their contact information.

When the applicant is blind, deaf, or otherwise disabled, the public authority must provide assistance to permit access to the information (section 7(4)). Providing the support necessary for the inspection may be a part of this aid.

A fair application fee of Rs. 10 (the price may differ in other states; it is set by the Central Government) for each application and delivery of data is charged. However, there is no fee for people who are less fortunate than the poverty level [section 7(5)]; or if the information is supplied after the deadline. [section 7(6)]

The cost of getting a copy of the documents is payable. Fees of Rs. 2 is required by the Central Government for each newly established and edited page. The costs are higher in various states. The information will be given for free if it is not delivered within the specified time frame. [Section 7(6)].

The complaint can be filed by the applicant against PIO along with necessary information if he fails to provide information within the required timeframe or bothers him excessively.

The complaint can be filed by the applicant against PIO along with relevant information if he fails to provide information within the required timeframe or interferes with them in an unreasonable manner. A direct complaint may also be filed with the “Central or State Information Commission” in the event that a PIO omits to receive a request for information without a legitimate reason, willfully rejects a requisition for information, willfully provides inaccurate, deficient, or deceiving information, or willfully charges excessive fees to provide the same.

The PIO has the right to withhold information in certain situations. “Section 8 of the RTI Act” contains a list of the numerous information disclosure exemptions.

Any information that cannot be withheld from a legislative assembly or the parliament cannot be withheld from a common person. If a person violates Section 8 of the Act or does not obtain a response from the PIO within the allotted time, they have 30 days to initiate an appeal with a superior officer to the PIO. - [section 19(1)].

Within 60 days of the first appeal, the appellant may file a second appeal with the State Information Commission or the Central Information Commission if they are not satisfied with the outcome of the first appeal. [Section 19(3)].

According to section 20(1), a PIO is responsible to pay a fine of up to Rs twenty-five thousand starting from Rs 250 per day for the delay, if they fail to provide the data requisitioned or convey the rejection order within the allotted time. In accordance with the service rules that apply to the relevant PIO, the Information Commission may also propose disciplinary action against him or her [section 20(2)].

Information Operation Transfer— According to the Act, there is a provision for handing over operations to public authorities with the required information. CPIO shall refer operations to the applicable public authority based on the information provided to the complainant.

Conclusion:

Government secrecy is the most important cause of corruption, inefficiency and unresponsiveness, and an adversary to good governance. Government requires the trust of the governed. It cannot hide its presentation points from people on the grounds of secrecy. The essential values of the rule of law, justness, engagement of the populace, translucency, responsiveness, agreement, frugality, and efficacy, as well as all impeachable answerability, are all features of good governance. Responding to the people is the distinguishing feature of popular governance since in a republic the people are supreme and all governmental functions are created for the people. The integrity of public institutions is harmed by corruption. Mortals are culpable, and it's arguable that no system is impervious to vices created by humans, but numerous nations have successfully made the switch from bad to good governance.

Public access to information is an essential element and a prerequisite for good governance. Unless one has sufficient information on an issue or policy of public interest, it is impossible to find out its impact on the sum of good governance in the final analysis. The right to know derives from the primary rights to “freedom of speech and expression”, which require people to recognize the politics and government operations of the mass state. As such, it naturally becomes an essential part of good governance and plays a key role in freezing human rights and good governance.

The entire article set out and analyses the rich and varied provisions of the Constitution related to the “right to information”. The fundamental law of land does not expressly provide for the right to know. It is the product of the Apex Court's judicial explication of the Constitution. This interpretation can be viewed in the context of the “right to freedom of speech and expression (Article 19(1))”. An important consequence of these judicial decisions has been the gradual enlargement of the scope of rights enshrined in the Indian Constitution. The Apex Court also observed in Romesh Thapar's case, that freedom is the basis of all popular associations, because the efficient operation of the system of popular government is impossible without free political debate on issues of public education. Similar levels of freedom may be threatened with harm.

However, it is preferable to permit its numerous poisonous shoots to continue growing lushly while cutting them to weaken the vigor of those that produce healthy fruit.

In “State of U.P. v Raj Narain”, Justice Mathew stated that - “In a responsible government like ours, all public agents must be held accountable for their actions. The people of this country have the right to know every public action, and everything their public officials do in public. They have the right to know all the details of every public offering. Their right to know is derived from the concept of free speech, although not absolute. Yes, but caution should be exercised in claiming secrecy of transactions, which in any case has no impact on public safety.”

In the words of **Justice P.N. Bhagwati**, “The concept of open government is a direct release of the right to information, which seems to be implicit in the right to freedom of speech and expression guaranteed by Article 19(1)(a). Therefore, disclosure of information related to the functioning of the government must be the rule and secrecy with justification for exceptions only in cases where the strictest public interest requirements warrant. The practice of the courts must be to devalue the area of secrecy as continuously as possible as the public interest requires, always bearing in mind that exposure is also an important aspect of the public interest”.

The “right to information” is a product of the primary right as interpreted by the Supreme Court of India. Our Constitution is a majestic instrument, and if implemented in letter and spirit, contemporary society will have a transparent system of governance.

The courts have performed an effective role in the creation and protection of the people’s right to information. How the ‘right to know’ is positioned in the Constitution is the result of the judicial interpretation only. The Constitution does not expressly stipulate this right rather the right to know is the product of the judicial interpretation of the Law of the land by the Apex Court and the High Courts. This interpretation can be viewed in the context of Article 19 (1) of the Indian Constitution stating “right to freedom of speech and expression” as a fundamental (basic) right. An important consequence of these judicial decisions has been the gradual expansion of the scope of rights. Therefore, the “right to information” is not limited to Article 19(1) (a), but is also placed in Article 14 (Right to equality) and Article 21.

The enactment of “Right to Information Act, 2005” made the whole scenario more effective through its different provisions. It is a legislation that ensures that the citizen’s “right to information” is actually available to them. It gives proper shape and structure to the entire concept. It also lays down the procedure for the procurement of this right under this Act. It also provides for option of appeal and other remedies in case of violation by any public authority to provide the information. However, there are certain things or provisions which are still required to be improved under the “Right to Information Act” for its better and effective execution. Suggestions for the same have been attempted to be made further.

Suggestions:

Some of the suggestions to be made can be understood as follows-

Firstly, there is already lack of proper machinery for providing information and the redressal of cases. Therefore, it is necessary to strengthen the already existing machinery and make its functioning proper and effective. More Public Information officer (PIOs) have to be appointed for helping the general public with information and also more Information Commissions have to be set-up for speedy disposal of the cases. The Government can declare all post offices in the country as ‘Sub Public Information Offices,’ so that applicants need not to approach to any public authority to file an application, or institute a call center like platform can be considered as ‘jaankari’ where a request can be filed.

Digitization of Records - “Section 4(1) (a) of RTI Act” puts obligation on every government authority to appropriately manage and quickly computerize its record. Replacing paper records by digital versions would make them less amenable for manipulation or loss. But this requires a strong push from the government. To create such facilities in a time-bound manner at the village level, mobile van fitted with requisite facilities can be used.

Periodic updating of mandated proactive disclosure - sec 4(1) (b) deals with proactive disclosure by public authorities. However, it should not be one time activity. It is important to make a particular official in a public authority responsible for its periodic updating.

It should also be noticed that weak PIOs make entire department responsible for disclosure therefore, it should be ascertained whether PIO failed or department failed him and accordingly actions should be taken. The penalty must be imposed unhesitatingly and such an incident should be given due publicity to generate the fear of law and societal condemn among those PIOs who deny the information by virtue of attitude. If the PIO has purposefully withheld information or has not responded at all, he may be subject to a fine of Rs. 250 each day until the information is provided. The PIO must pay this fine out of his income, and he may also face punishment or be required to compensate the other party and some disciplinary action may also be taken in addition. It should be taken into consideration that the information which should be provided, if sought for and is denied instead, should result into penalization of the PIO. This will not only create fear for penalty but also ensure efficient supply of information and a few cases of penalization will lead to

realization of responsibility among the public authorities to a great extent. Penalty should not be taken as a last resort but used in all cases of default, casualness and indifference.

“Section 24 of the RTI Act” permits the government to enhance the list of exceptions by an administrative order. It should not be made an easy to do thing rather should only be allowed through the procedure of legislation.

Reference

1. The division of human rights into the three generations is credited to the Czech jurist Karel Vasak who proposed it in 1979 at the International Institute of Human Rights in Strasbourg. He based his classification on the three slogans of French Revolution, viz., Liberty, Equality and Fraternity. The first-generation rights based on liberty were, inter alia, rights to life, speech, religion and fair trial. The second-generation rights were emanations from equality and were social, economic and cultural in nature and included rights to employment, housing, health care and social security. The third-generation rights are considered to be as rational in nature and include collective rights like rights to self-determination, economic and social development, environment and natural resources. Perhaps, the right to information would belong to this third-generation category of rights.
2. Samuel P. Huntington’s postulate of “clash of civilizations” might be substantiated in the context of human rights also. He stated: “The clash of civilizations will dominate global politics. The fault lines between civilizations will be the battle lines of the future.”
3. Herbert Spencer, *The Man Versus the State* (London: Williams and Nerget 1884). Spencer expressed his “profound aversion” to Statism that was bred in the wake of industrial revolution. He championed the rights of individual, laissez faire and classical liberalism.
4. *S. P. Gupta v. Union of India*, AIR 1982 SC 149: 1981 Supp SCC 87.
5. Excessive bureaucracy or adherence to official rules and formalities: Early 18th century: so named because of the red or pink tape used to bind official documents.
6. Constitution of India, Part III, Article 19, Fundamental Rights
7. Singh, M.P. (2001), *Constitution of India*, 10ed., Eastern book Company., Lucknow.
8. See article 19(1)(a) originally there were seven freedoms in that article. One mentioned in cl(f) namely freedom to acquire, hold and dispose of property was deleted by S. 2 of the constitution (Fourth Amendment Act 1978)
9. Article 19 (1) (a) of the Indian Constitution.
10. *Romesh Thapar v Madras* AIR 1950 SC 124; *Brij Bhushan v Delhi* AIR 1950 SC 129.
11. S.P. Sathe ‘Tilak’s Philosophy of law’ in NR Inamdar (ed) *Political Thought and Leadership of Lok Narayana Tilak*, p 119, LexisNexis, Butterworths.
12. PK Tripathi, ‘Free Speech in the Indian constitution: Background and prospect’ *Yale Law Journal* p 384 (1957–58) Reprinted in PK Tripathi, *Spotlights on Constitutional Interpretation*, 1972, p 213.
13. AIR 1995 SC 124.
14. AIR 1995 SC 129.
15. Constitution of India Art. 358.
16. *M.S.M Sharma v Krishna Sinha* [1959] 1 5CR 806, 838.
17. *S. P. Gupta v. President of India* AIR 1982 SC 149 at 234.
18. AIR 1962 SC 305.
19. *United States v Carolene Products Co* 304 Us 144, 152, (1937).
20. AIR 1973 SC 106
21. AIR 1986 SC 515, p 527
22. *Express Newspapers (P) Ltd v India* AIR 1958 SC 578
23. *Indian Express (Bombay) Pvt Ltd v India* AIR 1986 SC 515, 531.
24. AIR 1986 SC 515
25. AIR 1973 SC 106.
26. AIR 1973 SC 106.
27. (1999) 6 SCC 150.
28. (1973) 4 SCC 225: AIR 1973 SC 1461
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31. *M. Nagraj v. Union of India*, AIR 2007 SC 71: (2006) 8 5CC 212: 2006 AIR SCW 5482
32. *Diamond Jubilee 1-higher Secondary School, Erode v. Union of India, Men’ Delhi*, (2007) 3 MU 77.



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- 34.Rosenblatt v. Baer, (1966) 383 US 75
- 35.(1964) 379 Us 64: 13 Law Ed 2d 125
- 36.(1989) 2 SCC 574: T 1989 (2) SC 70.
- 37.(1992) 3 SCC 537: AIR 1993 SC 171: 1992 AIR SCW 3099.
- 38.(1994) 6 SCC 632: 1994 AIR SCW 4420: AIR 1995 SC 264.
- 39.(1993) 2 WLR 449.
- 40.(1997) 4 SCC 306: if 1997 (4) SC 237.
- 41.AIR 1973 SC 106.
- 42.AIR1982SC 149.
- 43.Sathe, Judicial Activism p 85.
- 44.Francis Coralie Mullin v Union Territory of Delhi (1981) 1 SCC 608, AIR 1981 SC
- 45.AIR 1989 SC 190.
- 46.AIR2004SC1834
- 47.AIR2004SC1834.
48. (1982) 1 SCC 1, AIR 1982 SC 6.
- 49.Charles Sobraj v Supdt, Central Jail AIR 1978 SC 1514,1978 4 SCC 104; Sunil Batra v Delhi Administration AIR 1978 SC 1675; AIR 1980 SC 1579, (1980)3 SCC.
50. (1987) 4 SCC 373, 381.
- 51.Ibid
52. (1997) 4 5CC 306.
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- 54.AIR 2005 SC 186.
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56. (1973) 3 All ER 54: 1974 AC 273: (1973) 3 WLR 298 (HL).
- 57.AIR 1973 SC 106.
- 58.AIR 1975 SC.
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- 60.AIR 1982 SC 149.
61. (1985) 1 SCC 641.
62. (1995) 2 SCC 161.
- 63.AIR 2003 SC 2363.
64. (2003) 5 SCC 494.
65. (1997) 4 SCC 306.
- 66.Tushar Kanti Chatterjee v. S. P. I. P., P & RD Directorate, No. 1785 (3)—(Order), decided on 25.8.2009 (WBIC).
- 67.Rajiv Jam v. Union Bank of India, Appeal No. 1785/ICPB/2008, decided on 31.3.2008 (CIC)
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