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Implementation of **The Right to Information Act**

A Socio- Legal Study with Special Reference to East Godavari District, Andhra Pradesh

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National Press Associates

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1.1 EVOLUTION OF THE CONCEPT OF RIGHT TO INFORMATION

The evolution of the very principle of Right to information has an overdue historicity. In different forms, it also existed in ancient cultures. There is a long history of the modern model of the right to information. However, for the Act of Right of Information to be implemented in Indian constitutional scenario it took a relatively long time. Transparency and administrative responsibility are the sine qua quo of participatory democracy. Knowledge is the means for any person to survive and preserve his democratic equilibrium in the social system of society. In India, the right to information was established through numerous protests, where judicial declarations have distinguished themselves as a constitutional right under Article 19:

(a) This right was established in 2005 as a full-fledged law in the name of the The Right to Information Act, 2005" after the slow span of time, acknowledging the value of right to know.

1.2 CONSTITUTIONAL BACKGROUND OF THE RIGHT TO INFORMATION

In addition to foreign commitments, the Indian Constitution also implicitly holds this freedom. In Section Three of the Constitution the founding fathers provided the clauses on the freedom of speech in the form of constitutional rights for the transparency of the democratic political system. The Indian Constitution provides a wide variety of civil and inalienable rights.

Fundamental privileges and found in the Constitution's Third Chapter include the right to fair treatment of the laws and the right to equal rights according to the law (Article 14), the right to freedom of speech [Article 19(1)(a)] and the right to life and freedom of expression (Article 21). Article 32's access to statutory redress endorses certain basic rights, specifically, the right to contact the Supreme Court if any of these rights are infringed.

The connotation of the right to information as part of the country's constitutional law began with press appeals to the Supreme Court on the regulation of some logistic effects of freedom of speech. The Court respects the ability of government agencies to access records as a central tenet of democracy. Justice K. K. Mathew of the Indian Supreme Court addressed that, in the government all public agents must be accountable for their actions, except few

unavoidable circumstances, for People are entitled to know any public act, enacted in their interest.

The officials' duty to clarify or excuse their conduct is the chief defense against tyranny and corruption. The Supreme Court of India issued information in "State of U.P vs. Raj Narain," in which the Supreme Court held that the right to information is inherent in the right to free speech and expression specifically ensured in Article 19 of the Indian Constitution.

In various cases, such as Alliance for Democratic Changes v. Union of India[5] and People's Union of Civil Liberties vs. Union of India, the Court subsequently upheld this judgement, and also connected the right to information with the right to life enshrined in Article 21 of the Constitution. The High Court of India stressed the value of freedom of information and described it as a fundamental right under the facet of 'freedom of speech'.

The Section 14(1)(a) and Article 21 of the Constitution however upholds that as like all rights, the right to information is always not an unconditional right.

As a penurious right to freedom of expression, the right to information is subject to fair limitations on the exercise of that right by States. Interests of Indian sovereignty, dignity, defense, international affairs, public order, decency or morality can jeopardise the exercise of the right to information.

1.3 RIGHT TO INFORMATION MOVEMENT IN INDIA

The right to information movement in India was launched by a mass organisation named Mazdoor Kisan Shakti Sangathan in a very backward area of Rajastan (MKSS). In Bhim Tehsil of the state of Rajasthan, MKSS has carried out a drive to introduce transparency into village accounts by requesting nominal salaries in rural India. MKSS took the initiative to lead people to inquire for copies of bills, coupons and names of individuals paid salaries to be installed for schools, dispensaries, small dams and community centers. Many such construction schemes were done on the papers and so many people got salaries, but neither such construction programmes in fact were completed nor were individuals seen paying in pattern rolls.

Fund possession of rooftop school houses, dispensaries without partitions, lakes left empty and community centers with no doors and windows was grossly misappropriated.

Fake entries in sample rolls were a warning of rampant machine abuse, prompting MKSS to demand official details in government archives. Soon the campaign expanded across India. The success of MKSS has inspired militants in India and around the world since the very humble beginning in the villages of Rajasthan. It contributed to a wider discussion on the right to Information in India.

Despite the usual apathy of the State Government, after years of knocking at official doors, MKSS succeeded in getting photocopies of some important documents. Misappropriation of funds was evident. In certain cases, the pattern rolls featured names of individuals who either did not live or died years ago. This occurrence is more than enough to illustrate the value of intelligence capability to eradicate violence. It is important for the administration of the public fund and the survival of government with so many controversies from time to time.

The public hearings coordinated by MKSS showed popular optimism among the deprived local citizens and the radical forces both inside and outside the government. In other parts of Rajasthan and to other States this grassroots campaign soon establishes the control of information and the people's right to official information.

Meanwhile, in reaction to the public opinion on the subject, the Chief Minister of Rajasthan declared in the State legislature on 5 April 1995 that government would be obliged to offer records of official information to any resident relating to local development works in the country.

Exactly a year after the promise of the Chiefs of Minister coincided with the shrill election campaign against graft, the MKSS agreed to initiate a Dharna (sitting in agitation) in a town of Beawar. On the first day of the Dharna, the State Government responded by imposing an order authorising people to review certain documents at a cost, but not to receive approved copies or photocopies. The MKSS denied this order because no action can be taken by a person who detects wrongdoing in the absence of a legally legitimate copy, including filing an F.I.R. at a police department.

The Dharna proceeded with increasing popular support without resolution. Under the scenes, intermediaries and advocates, some of the governments wanted to reinstate dialogue between demonstrators and the government and to find a consensus.

Howbeit, no official guarantee was forthcoming. Therefore, after the polls on 2 May 1996, Dharna also reached into the state capital of Jaipur, besides the city of Beawar. Around 70 people in an extraordinary gesture

The MKSS demand was endorsed by associations and many respected individuals. The mass press was also freely welcoming.

Finally, on 14 May 1996, the State Government of Rajasthan formed a Committee to decide the modalities for photocopying documents relevant to local development work within two months.

The Dharna was called off by the MKSS and other people's organisations. The state government, however, did nothing essential to meet its promise. Thus in May 1997, the MKSS started another Dharna in the nearby Jaipur.

After 52 days of Dharna the Deputy Chief Minister released an order notifying Panchayat and/or the local government agencies of its right to receive photocopies of documents.

1.4 THE NATIONAL CAMPAIGN FOR PEOPLES' RIGHT TO INFORMATION (NCPRI)

The right to information really began to attract recognition when the community of people in rural India started working. They put pressure on the government to achieve the right to information law through grass-roots activism, coalitions, and effective lobbying. The national movement for a right to privacy for people was founded to support the MKSS and also to lobby nationwide for the right to information. Senior and esteemed media leaders, working and retired bureaucrats and members of the bar and banking association are present in NCPRI, rendering it a major nodal body.

Members such as Prabhash Joshi, one of the most senior journalists in India, have made the topic public by writing and travelling around the world. The National Movement also published a journal called 'transparency,' which was very useful for lobbying and networking but which is now withdrawn due to lack of resources. Members of the Nationwide Campaign on People's Access to Know have made reports to the Standing Committee on the Freedom of Information Bill 2000.

The National People's Right to Information Initiative (NCPRI) was founded in 1996. The NCPRI is a non-registered, legally controlled party. It was founded by social workers, journalists and lawyers. The primary goal of former civil servants and academics was to fight for the basic right to transparency. The first draught of a right to access bill was drafted by the NCPRI and the Press Council of India.

This report was submitted to the government of India in 1966 after lengthy discussions. In 2002, in parliament, the government officially passed the Freedom of Information Law. The first edition of the bill drawn up by the NCPRI and others in 1996 was diluted. In August 2004, the NCPRI sent a number of proposed changes to the Freedom of Information Act to the National Advisory Council, 2002. Such reforms intended to improve and render the 2002 Act more successful were focused on widespread consultations with Civil Society organisations working on openness and other relevant topics and in reaction to a pledge provided by UPA government to make the "Right to
Information Act more progressive, participatory and meaningful".

The NCPRA contained the bulk of the draught reforms and recommended them for further action to the Prime Minister of India. This was the basis for the Access to Know Bill later passed in the House on 22 December 2004.

However there were certain shortcomings in this bill, as presented in Parliament. More notably, it did not refer to the whole world, but rather to the Union Government, unlike the NCPRI proposals. The subsequent uproar by civil society organisations like the NCPRI pressured the state to reconsider the amendments.

The Bill was referred to a Parliamentary Standing Committee and a council of ministers. The Standing Committee recommended that certain members of NCPRI present testimony to it and supported the NCPRI's role on most matters. The bill was approved in the next session of the Parliament after more than a hundred changes tabled by government to represent the legislative committee and the group of ministers' recommendations. Most notably, the expertise of the bill has been expanded to include India as a whole. Since 13 October 2005, the Access to Information Act has come into force in India.

1.5 COMMONWEALTH HUMAN RIGHTS INITIATIVE CAMPAIGN

The Commonwealth Civil Rights Movement considers the right to information as a central connection between different human rights and supports this view in its advocacy work. It has also held a number of seminars and other smaller events, primarily at the provincial but also international level. Often participating in the Government's Access to Know programmes in Madhya Pradesh, Delhi, and Rajasthan as well as in the central government was the Commonwealth Civil Rights Initiative. The Commonwealth Human Rights Initiative brought together activists on all levels and built ties between fields that function both in civil society and within government.

Of 54 Commonwealth Countries, only 11 have adopted laws providing the freedom to, Australia, Brazil, Canada, India, Jamaica, New Zeland, Pakistan, South Africa, Trinidad and Tobago have passed legislation guranteening the right to information.

1.6 CONSUMER EDUCATION RESEARCH COUNCIL DRAFT

The Consumer Education and Study Council, Ahmadabad, submitted a model law on the right to information at national level in 1993. This law, in compliance with international standards, guarantees everyone but "alien enemies" the right to know regardless of whether they are citizens. This requires federal and state governmental departments to keep good records, to provide a repository for all records managed by them to facilitate computerization of records in interconnected networks, and to make public the rules, legislation, instructions, circulars, and other detail relevant to welfare systems relating to them.

Requests are only responsible for the expense of providing copies of documents and for the waiver of payments for authors, journal associations and organisations of public concern. A "grave and significant damage test applies in terms to Cabinet records pertaining to defence, safety, foreign relations and business and business affairs. Exemption to personal details in the context of privacy and the research operations of charitable organisations, where transparency would not be appropriate, are also included in the proposed Consumer Education Review Committee.

The draught also provides for the elimination of the Official Secret Act, but does not protect whistleblowers in any way. Finally, in the CERC draught, the denial of the divulgation of information is originally given to an independent information network, commissioners at

national and regional level, and eventually to and from the information court.[21] The bill was proposed in Parliament as a private member's bill, but never debated.

1.7 CONTRIBUTION OF GOVERNMENTAL ORGANIZATIONS

Various government agencies have made various efforts to achieve the right to transparency. Any significant attempts have also been made by the bureaucrats of activists. A main example is the initiative of the then Bilaspur Division Commissioner. Harsh Mander also implemented the preservation and disclosure record system in crucial areas such as the Public Delivery System like on-site copying. The effect of these easy measures quickly became evident as the rationing stores, the typical reaction of which was "no stock available," began to exhibit excesses because it was impossible to consume stocks. In a region that is one of the most polluted in the world due to its numerous polluting factories, emissions levels expected to be published daily have fallen significantly.

The right to information is now a standard part of the training provided at the National Academy of Administration of Lal Bahadur Shastri, Mussourie for new civil servants. The Right to Transparency has been endorsed on the academic level by many public servants whose advocacy has shown credence in civil society organisations and helped to overcome some of the traditional problems faced by bureaucracy. For example, frequent and detailed analyses of draught laws by Dr. Madhava Godbole have helped to explain and identify problems both for civil society activists and the general public.

1.8 CONTRIBUTION OF NON-GOVERNMENT ORGANIZATIONS IN RIGHT TO INFORMATION CAMPAIGN

The right to information movement in India is largely a product of democratic development. In the Indian background, there was always a need for honesty and accountability. In reality, demand grew after independence, and every segment of society began talking about accountability in the work of governance and administration, and numerous NGOs started to speak out at different times. These groups played an important part in the information campaign. It was precisely these organisations that began the knowledge right campaign. We do not ignore that our political agency has given this campaign a concrete shape, because we can safely assume that the progress of that movement is a joint endeavour of numerous governmental and non-governmental organisations that are under consideration.

The journalists have been agitating for the freedom to access official information since the beginning of India's independent press. It was just over 200 years ago that the British East India Company failed to develop its own firm.

The regime of the business defied the appeal of the journalist through all possible means. They had to pursue to receive information from the authorities from the general public, which was the main business of magazines. They had no opinion but to fight silence at the price of such a valuable life for much pain and sacrifice.

The truth remains that the desire for free flow from the government and other public bodies to the general public by news media has persisted, but official opposition to the press has continued even after 50 years of democracy. The successive government in Independent India has battled as doggedly as the colonial leaders against the call for free flow of governmental knowledge. Only in the last decade or so, at the end of the tunnel, was any light visible.

This time, lawyers, NGOs, intelligentsia and certain parliamentarians entered the press around other social classes. All of them began to demand the utter repeal of the Official Secrets Act and to replace them with legislation which makes it an obligation to reveal the exception to the law and secrecy. However, official opposition to these requests only reiterated the need to implement the right to know legitimately.

1.8.1 Shaping the National Legislation

The Press Council Draft

The Press Council of India led by Justice P. B. Sawant sent to the Government of India a proposed Model Law on the Right to Information, which was called Right to Information Bill 1996. The draught was taken from an earlier version prepared at a conference of social leaders, civil servants and lawyers at the "Lal Bahadur Shastri National Administrative Academy" in Mussorie in October 199528.

Most importantly, the draught of the Press Board affirmed in its preamble that the right to access is now covered as an element of basic freedom of expression in accordance with a variety of supervisors under the Constitution.

Judicial judgments noted previously. Judicial rulings. The draught affirmed that every person has the right to access information from public agencies. Importantly, not only the State, as

described in the Constitution, but also all private undertakings, non-statutory agencies, corporations and other non-State bodies, whose actions affect the public interest, were included in the phrase "public body."

1.8.2 The Draft by the Shourie Committee

The Minister of Personnel and Pension Affairs set up a working group on Access to Information and Promotion and Accessible and Transparent Governance in January 1997 to explore the viability and need a robust Right to Information Act or its implementation phased in in fulfilling the need for open, sensitive government. The committee was also invited to suggest changes to numerous other applicable laws, including the Official Secrets Act of 1923, as well as review the structure function of the law and the current Code of Procedure and Office Manual.

H.D. headed the working committee. Shourie and former General Prosecutor Soli J. Sorabjee and other officials in ministries and public corporations dealing with a broad public interface were included. In May 1997, the working group delivered its report, which was distributed at the Conference of Chief Ministers on 25 May 1997. There was strong acceptance in favour of the freedom of information law at the Conference as follows.

Although some State has also taken measures to ensure that the abuse of the provisions does not lead to humiliation of the states, others are still doing similar exercises." In compliance with this decision, the Government of India invited the State governments on the Working Group.

1.8.3 Progressive Politicians and Right to Information

For the first time, Mr V.P. Singh, then Prime Minister of India, led by the Government of the National Front, emphasised the value of the Right to Information Act as a legislative right in 1990 among the Indian lawmakers. The Access to Information Act did not materialise during V.P. due to a lack of government will and will. Duration of Singh. The campaign for independence, the Indian Constitution, the Supreme Court and some politicians backed the right to know. But it was not because of different factors such as lack of funding for policies, administrative structures, etc.

1.8.4 Efforts for Enactment of National Legislation

In response to the grassroots stresses of the national andinternational organisations, the Consumer Education and Study Council of Ahmadabad submitted the draught RTI Legislation in 1993 (CERC). In 1996, the Indian Press Council, chaired by Justice P.B. Sawant, proposed to the Indian Government a draught model law on the right to knowledge. The proposed model legislation was eventually revised and called the 1997 PCI-NIRD Freedom of Information Statute. Unfortunately, the government has not taken any of the proposed laws seriously into account.

In the meantime, MKSS activism resulted in the movement of the National People's Right to Information (NCPRI), which was established in New Delhi in 1966 in support of the national right to information. Civic activists, writers, prosecutors, professionals, retired public servants and scholars were among its founding members. One of its main objectives was to campaign for national legislation to facilitate the use of the fundamental right to information. To enact and implement substantive legislation on access to knowledge, NCPRI aims to provide constructive grassroots support. The Common International Organisation for Human Rights (CHRI) firmly supported the right to information as a basic right for successful democracy requiring responsible participation by all. CHRI advised the public about RTI's importance and promoted assured access to information at the policy stage. The CHRI contribution to the implementation of the Indian National Right of Information Act was to help the debates, evaluate the freedom of the legislation and provide both Cabinet ministers and parliamentarians with advice to the National Advisory Council. Driven by the work of the Indian Press Council, the Working Group and the Central Government, the State Governments were also subject to public pressure and began to draught laws on the right to information. On 17 April 1996, Tamil Nadu set a precedent with the implementation of the Right to Information Act. Chief Minister M. Karunanidi wasted little time in implementing regulations to guarantee access to government records. "The bill was modeled on a bill recommended by the Indian Press Council. However this law was full of exemptions and insufficiencies, such that the media, committed NGOs and other activists involved did not respond much. Goa in 1997, Rajasthan in 2000, Delhi in 2011, Assam in 2002, Maharashtra in 2003, Madhya Pradesh in 2003, and Jammu Kashmir in 2003 are all States which have adopted the right to information act. The Maharashtra Right to Information Act has all been considered as the model act to encourage Openness, Accountability and Responsiveness in all

State Institutes and private organisations providing government financial assistance. The Tamil Nadu Act was regarded as the most revolutionary in rejecting details." The lack of knowledge of the citizens with regard to the Right to Information Act lacks formal enforcement. Despite all these flaws in the Legislation, the Access to Know Acts also provided for a culture of openness, accountability, reaction, social audit, citizens knowledge. In 1997, national law on the right to know was speededed up. On 24 May 1997, a Conference of Chief Ministers on "Effective and Responsive Government" was held in New Delhi. The conference recognised the need for regulations on the right to transparency. "The Government of India therefore appoints a working group to study the effectiveness of the Right to Know Act in compliance with Article 14, 19 and 21 of the Constitution and Article 19 of the UDHR, under the leadership of Sri H.D Shourie." The Committee on the Freedom of Information was given the authority to prepare draught legislation. The report and draught legislation of the Shourie Committee were released in 1997 but the law was criticised for not following enough high requirements for transparency. The Shourie Committee's draught legislation was enacted by two successive governments, but never accepted in parliament. Although Sri Atal Bihari Vajpayee, the then Prime Minister, announced in 1988 that he would soon pass a law on the right to information, nothing effective was done about it. In 1999 Sri Ram Jethmalani, then Minister of Urban Development of the Union, released an administrative order that requires the residents of his ministry to inspect and collect photocopies of files. "The Secretary of Cabinet, disappointingly, did not cause this order to come into effect. The proposed legislation of the Shourie committee was reworked into the Freedom of Information Bill, which was far less pleasing than the Shourie Committees and eventually referred to the parliamentary standing committee on home affairs, which met before presenting its report with the civil society organisations. The committee recommended that the government address the flaws identified by civil society in the draught Bill." Unfortunately, the recommendation was not adopted by the Government. The National Freedom of Information Law of 2000 was passed in 2002. It was passed in December 2002 and obtained presidential properties under the Freedom of Information (FOI) Act of 2002 on 06 January 2003. Unfortunately, for a number of reasons a deadline for the bill is never notified, so it was never fully enforced. The Government of India agreed to make various rule reforms including the creation of a public information officers appeal device with investment powers to challenge the decisions.

1.9 POST ENACTMENT SCENARIO

Jammu and Kashmir retired IAS Officer Sri Wajahat Habibullah was appointed to the Central Government as Chief Central Information Commissioner under the RTI Act. Through nominating him, the Government has started the procedure of setting up a mandatory commission under the RTI Act of 2005. Four central information commissioners have been appointed by government, including Sri A N Tiwari, Sri O.P Kejriwal, Sri M.M Ansari and Smt Padma Balasubhramanian.

"The Government of India revised the central civil service (conduct) rules of 1964 to adhere to the RTI Legislation and on 18 October 2005, released a notice that state officials exchanged information pursuant to the RTI Act and its relevant rules."

RTI advocates armed with laws have created a host of central government controversies. "Due to the authority of The Right to Information in 2005, the Central Government approved a Right to Information (Amendment) Bill in 2006 which would limit the scope of the Right to Information Act, 2005 and in particular, exclude file notes from the legislation." Global demonstrations against the planned reforms were extensive. The movement to safeguard the RTI Act against the right to information (amendment) Bill 2006 was founded by right to information activist and civil society organisations. On 14 August 2006, CHRI opposed changes to the Prime Minster, the cabinet, other key government ministers, parliamentarians, ICCs and allies in civil society. The campaign called for a vote on the new Bill to be held in civil society as part of their demonstrations. On 18 August 2006, in a different creation, both the opposition and the Communist Parties, based on passing legislation, announced that they would object to the plan if it was put before Parliament. The Government has also agreed not to bring in the proposed Access to Information Act amendments (RTI ACT).

The Second Commission on Administrative Reforms, headed by Mr. Habibullah and appointed to replace Mr. Sri Veerappa Moily, submitted its first report on the application of the Government of India's Right to Information Rule. The report provides key proposals for strengthening the operation of the Act, including the repeal of the Official Secrets Act of 1923 and the introduction into the Act of national security of its unlawful dissemination of government information. It also recommends that at least half of the members of the Information Commissions are drawn from non-civil service backgrounds and re-examine the management of public records by establishing both centre and state records offices that give

the ICOs the duty to oversee the legislation and draw up a roadmap to effectively implement the judiciary.

1.10 FREEDOM OF INFORMATION ACT 2002

However, passing national legislation proved a challenging activity. Due to its background in the passage of possible laws by state governments and central governments, the Central Government designated a working group for Shourie in an incredibly dilute form as the basis for the Freedom of Information Bill 2000, which became a statute in compliance with the Freedom of Information Act of 2002.

This act was heavily criticised for granting so many loopholes, not only on the basis of the usual national security and sovereignty, but also for demands including 'disruption of the public authority's capital.' There was no upper cap to the rates that could be paid. There were no penalties since a request for information was not met with. As a result, the FOI Act never came into effect.

1.11 ENACTMENT OF RIGHT TO INFORMATION ACT 2005

A new UPA government came into office at the Center in May 2004. When the general minimum programme of the UPA government promised that the Right to Information Act would be made more progressive, participatory and practical, the national Right to Information movement was strengthened. Sonia Gandhi established the order to oversee the implementation of the government's common minimum programme.

"The National Advisory Council regularly forces the Government of the UPA to implement the bill and pass a law through some activists including Aruna Roy, Jean Drez, who are active in the National Movement for People's Access to Information Act (NCPRI). Since its inception, the NAC has taken a close interest in RTI." A declaration of the Right to Know of the NCPRI was sent to the members of the NAC at its first meeting on 17 July 2004. CHRI sent an overview of the 2002 FIO Act to address the application of the Access to Information Act in favour of consultations. At the NAC conference, civil society had been urged to deliver a paper proposing changes to the FOI Act of 2002.

"On 31 July 2004, the Second NAC Meeting issued draught NCPRI Guidelines for the reform of the FOI Act 2002. The NAC considered the draught NCPRI guidelines and made

them publicly available. Meanwhile the Supreme Court released an order on 20 July 2004 while listening to public interest proceedings pursued by Advocate Prashant Bhushan has been instantly on behalf of the NCPRI and the Public Interest Litigation Center since 2002."

In its decision, the Supreme Court set a time limit of 15 September 2004 for the notification of the Act to the central government and, if not for the issuance of provisional administrative instructions. At its third NAC meeting on 14 August 2004, the NAC settled on the final recommendations to amend the FOI Act of 2002. The final NAC version was submitted by its Chairman Smt. Sonia Gandhi to the Office of the Prime Minister. Subsequently the government press release of 18 September 2004 said In the Winter Session of Parliament, the government will submit a proposal seeking amendments to the law on the right to information on the basis of the NAC's suggestions."

Accordingly, the 2004 Access to Information Bill was tabled in the winter session of the Lok Sabha on 23 December 2004. This RTI was primarily based on suggestions submitted by the NAC to the Government.

Based on the initial new Bill of the NCPRI, parliament referred the RTI Bill 2004 to the Standing Committee on Staff, General Complaints and Justice of the department. CHRI sent its recommendations to the RTI Bill 2004 Parliamentary Standing Committee before proving them to the Committee on 14 and 16 February 2005.

Human society advocates have submitted testimony to the commission. CHRI sent an extra submission to the committee on 21 February 2005. "On 21 March 2005, the committee's report (including the proposed amended version of the RTI bill) was submitted at the Lok Sabha. On 10 May 2005, the RTI amendment Bill, 2005 was tabled at Lok Sabha (which audited much of the Parliamentary Standing Committee's recommendations). The bill was passed on 11 May 2005 by Lok Sabha, and on 12 May 2005 by Rajya Sabha." On 15 June 2005, the National Right to Information Act 2005 was authorised by President APJ Abdul Kalam. The National Government, State Governments and municipal councils as well as certain private bodies have the presidential approval. The title of the Act clearly indicates that the object of the Act is to allow all people of the country to access information, both in right and not as an obligation, from governments and public bodies. In adopting the Act, Parliament sought to encourage transparency and openness in the operation of public bodies and the executive. "The great democratisation of the information power gave us all the

potential to transform in steps that we cannot conceive even to reduce poverty. To make this transition possible for people needs, whatever they could be is our highest order responsibility. Equipped with facts and future insight about all the sluggish speed of poverty alleviation can be increased.

This, through the Access to Information Act, guarantees accountability, transparency and democratic government. People are taught about governance and transparency by the 2005 Access to Information Act. The Access to Information Act 2005 is generally recognised as one of Indian Parliament's most relevant laws since its independence. When applying regulations that specifically impacts people the government must be consistent about its acts. The Act is a milestone for developing political practises that include all knowledge people need according to statute. This will improve India's political foundation and make it a nation functioning under the articles of the Constitution whose main part upholds the citizens' fundamental rights. Basic rights are the right to life, independence, property and knowledge.

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34. MM Ansari is a senior bureaucrat who has served as the Chief Information Commission. He was appointed as one of the three interlocutors on Jammu and Kashmir by the Congress led Central Government from 2010 to 2011

2 RIGHT TO INFORMATION: A GLOBAL PERSPECTIVE

CHAPTER STRUCTURE

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- Right to Information in Major Countries

2.1 INTRODUCTION

Various elements have contributed to the implementation of the Right to Information in various countries. Legislative provisions from other countries are also being studied and contrasted in order to find common issues. In the context of numerous international conventions such as the Universal Declaration of Human Rights,[38] and the International Universal Declaration of Human Rights[39] and the International Covenant on Civil and Political Rights, the importance of freedom of information is widely recognized and accepted. For the vast majority of Indians, however, the right to knowledge has remained a distant reality. India and other developing countries have developed a "poverty of information" by sanctioning an official culture of secrecy, rather than defending citizens' rights to information.

The British colonial era gave birth to the Official Secrets Act. The Indian Official Secrets Act (Act XIV), first enacted in 1889, was the first edition. This was done to silence the voices of a slew of new newspapers that had sprung up in a variety of languages, many of which were criticizing the Raj's policies, raising political consciousness, and facing police persecution and prison sentences. During the tenure of Lord Curzon as Viceroy of India, the act was revised and made more stringent by the "Indian Official Secrets Act, 1904". A new version was announced in 1923. Any secrecy or privileges in governance in the country was addressed in the Indian Official Secrets Act (Act No XIX, 1923). It covers two broad issues—spying or surveillance, covered by section 3 of the Act, and the disclosure of additional government secrets under section 5. Any official code, password, design, model, article, note, document or information may include secret information. Secret information Section 5 allows punishment both for the person providing the information and the person receiving the information.

A government ministry follows the Manual of Departmental Security Instructions, 1994 for the classification of a document, not under Official Secrets Act (OSA). In addition, what a "secret" document is, does not tell OSA itself. It is the discretion of the government to decide what falls within the scope of a "secret" OSA document. The argument was often made that the law is directly contrary to the Right to Information Act, 2005.

The primacy of RTI Act in respect to other laws including the OSA is set out in Section 22 of the RTI Act. This has an overriding effect on the RTI Act, in spite of anything contrary to the

rules of the OSA. If, therefore, OSA's information furnishing discrepancies exist, the RTI Act shall be replaced. However, the government may refuse information pursuant to Sections 8 and 9 of the RTI Act. Indeed, in classifying the document as "secret" by government under OSA Clause 6, it may remain outside the RTI Act, and Section 8 or Section 9 may be invoked by the government. Jurists regard that as a breach. The Law Commission was the first official body to issue a statement about OSA in 1971. In its report on the "Offences Against National Security" it stated that "it agrees with the claim that it should not be attracted to the provisions of the Act solely because a circular is marked in secret or confidentiality, where it is published in the public interest and there is no question of the national emergence and interest of the State as such". The Law Commission, on the other hand, made no recommendations for amendments to the Act.

In 2006, a Chapter in the" National Security Act" containing provisions relating to official secrets was recommended by the Second Administrative Reform Commission (ARC). The ARC, a commission of inquiry, noted that the OSA was "incongruous with the transparency regime within a democratic society," referring to the 1971 report by the Law Commission calling for an "umbrella Act" to unite all national security legislations. Freedom of information should be assessed on a number of fronts and at various levels. Access to knowledge also clearly makes life more comfortable or prosperous for some parts of society, such as the middle and upper classes. The right to knowledge, on the other hand, becomes critical for those who are poor and have difficulty reading. The most disadvantaged become even more disenfranchised because as a result of a lack of access to information.

The right of citizens to access information maintained by the government and other public authorities has been recognised as a crucial human right in the last few decades. Transforming secretive administrative processes into open and transparent systems has been a constant demand in countries all over the world. There is a growing global demand for governments, intergovernmental organisations, and citizens to recognise the right to information. "The United Nations, the Commonwealth, the Organization of American States, the Council of Europe", and other international organisations have advocated for the right to information to be recognised as a fundamental human right, with mechanisms in place to ensure its enforcement and security.

Transparency and public accountability have been identified as core State responsibilities, and the right to information has been identified as a critical component in developing participatory democracy and advancing human governance. The Right to information is advocated as being linked with effective governance. No amount of development programs would be able to improve citizens' quality of life if strong administration is not in place. Accountability, clarity, predictability, and involvement are also recognized as four critical components. Transparency refers to the public's access to information as well as clarity regarding how government institutions operate. The Right to information defines the efficiency of institutions' activities, as well as how efficiently citizens can participate in management and hold the administration accountable.

Government organisations must function more objectively to improve the predictability of transparency. The Right to Information therefore essentially leads the government towards good governance that makes international recognition. Many laws have been adopted which bring this right into force globally. In the Information Disclosure systems which are regularly reviewed and updated, many intergovernmental or professional organisations now have their place.

Sweden has been the pioneer in promoting legislation in public affairs on transparency. The rising criticism of the government secrecy that predominated in Sweden on 02 Dec 1776 led to the Freedom of the Press Act being adopted. Citizens can acquire a copy of Parliamentary and Civil Service papers under this Act. An illegal refusal to submit the requested document may result in the officer's dismissal from his position. The 'Right to Know' was later approved in Sweden in 1810, but it was supplanted in 1949 by a new statute with the sanctity of being an integral part of Sweden's own constitution. Almost all documents are now available to any Swedish resident free of charge, thanks to state and municipal organizations.

"The Right to know" began in earnest after the Second World War. The UN General Assembly declared that freedom of information is a fundamental human right and the lynchpin of all other liberties which are recognised by the UN in its 65th Plenary Meeting on 14 December 1946. In this context, only international and regional human rights agencies have incorporated this right. In March 1948, the United Nations held a conference in Geneva with 54 countries on the issue of "freedom of information," which prompted the United Nations General Assembly to declare freedom of information a fundamental human right.

The "Universal Declaration of Human Rights" was signed on December 10, 1948. (UHDR). "Everyone has the right to freedom of opinion and expression," according to Article 19 of the Universal Declaration of Human Rights (UDHR), which states that "everyone has the right to search, obtain, and impart knowledge and ideas in all areas and frontiers." Article 10 on the European Convention of Human Rights (1950) guarantees "not only the freedom of the press to inform the public but also the right of the public to be informed," among other things. A multilateral treaty, the International Covenant on Civil and Political Rights (ICCPR) came into effect in 1966 (ratified in 1978). Freedom of knowledge is the gateway to several other protections, according to Article 19 of the Universal Declaration of Human Rights.

The Human Rights Organization, with a clear mandate to focus on the defense and promotion of freedom of expression and information around the world, has formulated the nine principles that should underpin any legislation on freedom of information:

1. Full disclosure
2. Publishing obligation
3. Open government promotion
4. The number of exceptions is restricted
5. Inquiries and requests are handled quickly and fairly
6. Requests are not subject to undue costs
7. Open meetings for public bodies
8. Repeal of inconsistencies in the law that prevent full disclosure, and
9. Whistleblowers should be protected

Article-19 of the Universal Declaration of Human Rights is drawn up as a legally binding treaty, which implies it is binding, in customary international law, on all consenting states (including India). It is generally agreed that Customary international law is based on the broadly consistent practice of states. Customary international law relies, either explicitly or impliedly, on the agreement of nation-states.

This provision effectively deconstructs the walls of secrecy by encouraging accountability through the dissemination of information. It also creates fertile ground for the emergence of divergent viewpoints, which are an important component of social growth. The right to information has also been promoted by the Global Campaign for Free Expression, and it has been stated categorically that the right to information does not exist in isolation.

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which India has ratified, contains a similar clause. Article 19 states: Each person shall have the right to freedom of speech, which includes the freedom, whether oral, in writing or in printed form, also in the form of art, or through any other media, to search, to obtain and communicate information and ideas of any kind, regardless of frontiers. In order to promote democracy and human rights, RTI demands that governments stop interfering with freedom of information and ideas.

In accordance with ICCPR, Article 19(3), special responsibilities and duties apply to the exercise of such rights. This may therefore be subject to certain limitations, only as laid down by law and required to respect others' rights or reputations, national security, public order or public health or morals. Their impact is modest. As a result, the ICCPR broadens the provisions of the Universal Declaration of Human Rights by acknowledging the justifiable constraints on the exercise of this right. However, these restrictions must be legal and required to protect "national security or public order, public health or morality."

Also in 2002, the Council of Europe, an international organisation founded in 1949 to uphold human rights, democracy and the rule of law in Europe, approved a recommendation to facilitate access to information for its Member States. "This recommendation sets out detailed principles for governments of member states to adopt a national law on access to information, which reflects the New Customary Rule principle: see the Restoration (Third) of the United States Foreign Relations Law (1987), in Sec. 102 Comment." These include access procedures, potential exemptions and appeals.

Article 4 of the American Declaration states that "every person shall, by any means, have the right to freedom of enquiry, opinion and expression, and dissemination of thoughts." In addition, international law, such as "Article 16 of the ICESCR," safeguards and promotes the right of access to public information in connection with the realisation of socio-economic and cultural rights. According to Article 16 of ICESCR "all nations of the world must secure the

right to access periodic governmental information on progress related to economic, social, and cultural rights in order to promote public review of policies and encourage participation among diverse sectors of society."

Several countries have passed extensive legislation to make public records and the right to knowledge more available. "In 1967, the United States of America passed the Access to Information Act. Canada (Access of Information Act 1983), Australia (Freedom of Information Act 1982), Jamaica (Freedom of Information Ordinance 2002), the United Kingdom (Freedom of Information Act 2000), South Africa (Promotion of Access to Information Act 2002), Uganda (Access to Information Act 2005), and Trinidad and Tobago (Freedom of Information Act 1999) are among the countries with access laws. As a signatory to the International Covenant on Civil and Political Rights (ICCPR), India owed it to the international community to effectively guarantee the Right to Information, as defined by Article 19 of the ICCPR."

2.2 RIGHT TO INFORMATION AROUND THE WORLD: AN OVERVIEW

Access to government data and information is critical for achieving modern government and developing and maintaining a civil and democratic society since it allows for public knowledge and discussion. It safeguards against abuse, bad administration, and corruption. Because of its open transparency and decision-making procedures, it can also serve to build public trust in governments.

Governments all over the world are gradually disclosing details about their operations. Many countries have passed extensive Freedom of Information Acts to make documents kept by government agencies more available, and over thirty more are working on it. Despite the fact that FOI rules have been in place for decades, more than half of them have only been adopted in the last 14 years. Human rights groups, the media, and foreign financiers have all asked for greater transparency. Governments must give information in order to flourish in the current information age.

Despite the fact that the vast majority of industrialized countries have approved legislation, the rest of the globe is catching up. Nearly a dozen Asian countries, including India and Pakistan, have enacted or plan to implement legislation, including India and Pakistan, which ratified legislation in 2002. A half-dozen South and Central American countries have passed

legislation, and another half-dozen are debating it. South Africa passed legislation in 2001, and several other Southern and Central African countries, particularly Commonwealth members, are following suit. Nigeria, Ghana, and Kenya are anticipated to enact laws soon. Furthermore, countries have enacted data privacy laws that allow people to access their own information held by government agencies and private organizations, as well as specific regulations that include freedom of access in specific fields like health or the environment, as well as codes of practice. The materialistic economy has been replaced by knowledge in this modern age of globalisation, as a result of liberalisation and privatisation. Knowledge is now regarded as a source of influence, and information is a component of knowledge. It is the foundation upon which the information superstructure is built. A well-informed citizen is a valuable asset to any nation, while an uninformed citizen is a liability. Accountability and openness of public bodies are essential for establishing democracy in the true sense. This can only be accomplished with the help of knowledge. Democracy these days has been disfigured by corruption and politics and it has now become mobocracy. So, in order to realise the dream of a government of the people, by the people, information is crucial.

The international community is not a bystander to this problem and has gone to great lengths to make this dream (information freedom) a reality through numerous international documents. Freedom of information has been guaranteed under multilateral and bilateral agreements. The first and most important link in this chain is the 1948 Universal Declaration of Human Rights, which emphasised the critical value of freedom of information across various provisions. The International Covenant on Civil and Political Rights (ICCPR) is the second most important treaty, emphasising public authority accountability and transparency, as well as citizen participation in policymaking.

In democratic countries around the world, people's access to information under the domain of public authorities has emerged as a matter of great concern. In order to encourage openness, transparency, and accountability in government and to ensure greater citizen involvement in decision-making, 55 countries, including India, have implemented national legislation requiring public bodies to disclose information kept by them, and another 30 are in the process of doing so. All developed nations, including Sweden, the United Kingdom, Finland, Japan, and the Netherlands, as well as scores of developing countries, have attempted to pass legislation to ensure that government agencies are accountable and transparent.

2.3 FACTORS RESPONSIBLE FOR ADOPTION OF RTI

Without the participation of the people, democracy ceases to reach its full potential. Civil society has always been at the forefront of transparent governance, which is required for any productive participation in government decision-making processes. Individuals and organizations, according to civil societies, must have the right to access information held by their government, its agencies, and other public bodies that relates to matters of public concern and impacts the broader public. Without such information, governments cannot be held liable, and the government and the public have little understanding of what the government is or should do. The Government collects a lot of information concerning its citizens, the state of the country, the activities to be undertaken and how public money is to be spent. The documented and collected information has long been highly protected by government, and it has been presumed that it will not be disclosed unless government decides that it is necessary for people. Numerous countries currently recognize citizens' human rights to information access, while governments are required to disclose information unless there is a sufficient cause to conceal it. A threat to national security, violation of personal privacy, or harm to foreign ties with another country are examples of such reasons.

Several international bodies charged with promoting and defending human rights have authoritatively recognised the basic and legal importance of the right to freedom of information, as well as the need for meaningful legislation to ensure the right is respected in practise. The United Nations and the Commonwealth are two examples of these organisations. This is supplemented by growing national consensus about the importance of freedom of information as a human right and as a fundamental support for democracy as reflected in the inclusion in many modern constitutions of the right to freedom of information, as well as by the dramatic increase in the number of countries which have adopted legislation that has recently enforced this right. This, collectively, means that freedom of information as a human right can be clearly recognised internationally. Many nations, however, still do not explicitly protect the right to information. Frequently, the right is granted to some degree by the constitution, or legislation grants citizens access to information about a specific subject. The right to know may be protected as part of the right to freedom of speech, as in Antigua and Barbados, where Article 12 requires "freedom to obtain information and ideas without interference," or it may be protected separately, as in

Mexico, where Article 6 states in part that "the state shall guarantee the right to information." The best way to ensure that the government provides citizens with access to information in general is to pass special laws to that effect, such as a right to information law, which specifies what information the government is required to make accessible and how to obtain it.

Governments have faced a number of internal and external pressures to enact FOI rules. In several nations, civil society organisations have played an important role in the promotion and acceptance of legislation. This has involved press and environmental activism. As part of their "egovernment" attempts to improve service efficiency and accessibility, governments are offering more.

2.4 CONSTITUTIONAL RIGHTS

As part of their democratic transition, most countries' constitutions have recognized human rights. Almost all newly drafted or updated constitutions include a provision granting citizens the right to access information maintained by government agencies. Over 40 countries now have constitutional provisions relating to access. They frequently include sections relating to an individual's right of access to his or her personal files, to controversies, and to environmental information. Frequently, crises led in the passage of legislation designed to avert future challenges caused by a lack of transparency. Civil society rallies against political scandals affecting public health and the environment forced long-established democracies such as Ireland, Japan, and the United Kingdom to ultimately enact legislation. Anti-corruption measures have been particularly effective in transnational countries undergoing cultural transformation.

2.5 MODERNIZATION AND THE INFORMATION SOCIETY

As the Internet has become more mainstream, the public, corporations, and civil society organisations have raised their appetite for more transparency. The requirement to modernize record systems and the push toward e-government has developed an internal lobby within governments that argues for information sharing as a primary goal. Slovenia's Ministry for Information Society had a critical role in the law's passage.

2.6 INTERNATIONAL PRESSURE

The international community has played a significant role in promoting access to information. International organisations in charge of some nations, such as Bosnia and Herzegovina, have ordered the development of legislation. "The Commonwealth, the Council of Europe, and the Organization of American States have all drafted recommendations or model laws, and in September 2003, the Council of Europe voted to write the first international treaty on access. The World Bank, the International Monetary Fund, and others have urged countries to pass legislation aimed at decreasing corruption and strengthening financial sector accountability." Dozens of countries have already signed the UN-sponsored Aarhus Convention on Access to Environmental Information, pledging to enact rules governing access to environmental information.

2.7 RIGHT TO INFORMATION IN MAJOR COUNTRIES

2.7.1 United Kingdom

The Freedom of Information Act of 2000 (Freedom of Information Act) was passed on November 30, 2000, and went into effect on January 1, 2005. The Act gives the general public a right of access to all kinds of recorded information held by public authorities, provides for exemptions from that common law and sets public authorities a number of obligations. The Act only applies to the government and not to private entities. The Act covers a broad range of public bodies, including federal, provincial, and municipal governments, as well as various other public organizations (such as the Post Office, the National Gallery, and the Parole Board), as well as schools, colleges, and universities. Additionally, the Act applies to private firms, such as spin-offs, that are wholly or predominantly held by a public agency. The Act requires governmental entities to distribute information that has been certified by the Information Commissioner as fast as possible.

Any person would be able to request information from an agency. Individuals are not required to be the subjects of data or to be impacted by its storage or usage. According to the experience of other countries with comparable freedom of information laws, the media will almost probably make extensive use of the legislation to obtain information for broadcast or publication. If the data subject is a person, the Data Protection Act's principles to protect the data subject would take precedence over any Freedom of Information Act right.

Applicants have two rights under the Act.

1. To find out if the knowledge is in the institution's possession.

2. To obtain the information in the requested format.

Written requests for information, including technological communications such as fax and email, are necessary. The applicant's name and the requested information must be included in the application. An institution may seek extra information in order to identify and locate the information. Institutions would be required to submit information from both before and after the Act's adoption when responding to a request for information. Requests for information must be responded to as quickly as practicable, with the Act establishing a maximum response period of 20 working days. The requested information may be subject to a charge. Where a fee is sought, the 20 working days prior to charging the fee will be extended up to three months in compliance with the Fees Regulations. There is no obligation to comply with vexatious' or repetitive requests if the institution has recently responded to an identical or substantially similar request from the same individual; however, the institution has a responsibility to provide advice and other assistance to anyone making a request.

Not only does the Act create an universal right of access to information maintained by public entities, but it also defines 23 exceptions to that right. Exemptions include those for national security, law enforcement, commercial interests, and data privacy. The Act clearly exempts knowledge that is made available to an applicant via channels such as the Funding Councils. As a result, information that is already publicly available through an institution's publishing scheme must be made publicly available in response to a specific request.

In cases where the public interest in retention of any requested information overrides the public interest in disclosure of the requested, the institution is required to advise the applicant, unless reasoning is effectively provided, that the exempt information is disclosed. Absolute exemptions are exemptions for which disclosure in the public interest is not to be considered. This section includes exemptions from parliamentary rights, confidential Personal Information, Prohibitions of disclosure in cases where an enactment is prohibited or would constitute an outrage to court, etc. The exemptions are for the institution concerned to consider whether specific information falls under certain information categories (or classes), for instance; court records, Information concerning public authorities' and government policy formulation investigations and proceedings. The organisation is not required to disclose

details if it falls under one of these exemption categories. There is no obligation to determine whether disclosing the requested details would jeopardise a specific activity or interest. As a result, the information becomes excluded only if revealing it would likely to jeopardise, one of these factors.

The Commissioner is an elected public official who is responsible for enforcing the Act and reporting directly to Parliament. An individual who has made a request for information may request a decision from the Information Commissioner on whether the request was handled properly under the Act. A notice of decision can be sent to the information commissioner and the claimant in response, setting out any measures that must be taken to ensure that the Act is followed. The Commissioner is also authorised to provide public authorities with information and enforcement notices. The Material Commissioner may issue a ruling or an enforcement notice demanding the disclosure of information in the public interest in certain circumstances. If the public authority believes the Commissioner erred, it has 20 days from the date of receipt of the notice to get a signed certificate overriding the Commissioner's notice from a Cabinet Minister. (Executive power of veto). The Ministerial certificate is not appealable. Both notifications are subject to appeal to the Information Tribunal, an independent authority. In any notification sent by the Commissioner, the Commissioner must include an explanation of the appeals process. Decision notice may be appealed to the Information Tribunal by the plaintiff or the public authority, which may uphold, overturn, or vary the notice. A public body has the same right of appeal after receiving an information or compliance notice. Any party to the appeal can file an appeal to the High Court against the Tribunal's decisions. The Information Act, 2000 coincids with the Indian Right to Information Act of 2005. These provisions are similar, but both of them still have to realise their success.

2.7.2 United States of America

The Freedom of Information Act was enacted for the first time in 1966 and substantially expanded in 1974. The Act demonstrates that Congress recognizes the importance of a fundamental right to access government records. The Act is predicated on the premise that anybody should have access to identifiable, current records maintained by federal government entities without demonstrating a need for the information. The Freedom of Information Act's objective is to ensure that government information is released responsibly.

The Freedom of Information Act's key priority is to uphold the public's right to access to government information while also acknowledging the need to strike a balance between that goal and the clear national interest in preserving such sensitive data. According to the Act, everyone should have the right to request access to identifiable, current records maintained by a federal government institution without having to justify their request. The exemptions provide a check on the Act's onerous disclosure obligations. There are nine types of records that are excluded from disclosure under the Freedom of Information Act. The Freedom of Information Act (FOIA), codified at 5 U.S.C. See Section 552(b) for more information. This segment does not refer to the following topics:

1. Specifically allowed to be kept secret under conditions specified by an Executive order in the interest of national defence or foreign policy, and (B) are property classified pursuant to such Executive order;

2. pertaining solely to an agency's own personal rules and practises;

3. Exempted from disclosure by statute (other than section 552b of this title), given that the statute (A) mandates that the matters be concealed from the public in such a way that there is no doubt about the subject, or (B) provides particulars to be withheld; withholding refers to specific types of matters to be withheld;

4. Trade secrets and privileged or confidential commercial or financial details received from a person;

5. Inter-agency or intra-agency memorandums or letters that a party other than an agency in dispute with the agency will not be able to obtain under the law;

6. Family and medical data, as well as other files whose disclosure would be an unjustified violation of personal privacy;

7. Records or documents gathered for the purposes of law enforcement. However, only to the degree that the release of certain law enforcement documents or information

   (a) might reasonably be anticipated to obstruct enforcement proceedings,

   (b) might deprive an individual of their right to a fair trial or an impartial adjudication,

(c) An unwarranted invasion of personal data can reasonably be expected,

(d) In the case of records or information compiled by a criminal law enforcement agency during a criminal examination or an agency conducting a lawful national enforcement agency or a legal national agency, the identifying person may reasonably be expected to reveal a confidential source, such as an individual State, local or foreign agency or any private institution providing confidential information.

(e) disclosure of techniques and procedures for enforcement enquiries/processes of prosecution or, where such disclosure could reasonably be expected to rick out circumvention of the Law, guidance for enforcement investigations or prosecutions, or

(f) reasonably likely to endanger any person's life or physical security;

8. includes the reports prepared, produced on behalf of or for the use of the Agency responsible for the control or supervision of the financial institution in relation to examination, operation, or condition;

9. Geological and geophysical information and information on wells, including maps. Five subsections are included in the Freedom of Information Act.

(a) The Act is at the centre. It sets out how the information is to be provided to the public, how it is to be made available, and how information requests are to be submitted. It also outlines the scope of the decision refusing the disclosure of requested information and defines disciplinary action provisions against a government officer who is not compliant with the Act.

(b) Identifies nine categories of information that are exempt from the Freedom of Information Act's disclosure provisions: national security information, government personnel rules, information expressly exempt from disclosure under another statute, trade secrets, inter-agency memoranda, personal files, investigative records, and financial institution regulatory report;

(c) Reiterates the Act's overarching policy of responsible disclosure by restricting the extent of exemption from disclosure to the categories specified in sub-section (b).

(d) Requires agencies to submit annual reports to Congress about how they are implementing the Act.

(e) Lists the numerous government departments and organisations that are subject to the Freedom of Information Act's provisions.

Maintaining a balance between public and governmental interests is crucial to the Freedom of Information Act's success. To ensure the Freedom of Information Act's successful operation, Congress carefully constructed a system of checks and balances to oversee the disclosure of federal government records under the Act. The three branches of the federal government are also involved in this scheme.

The legislature's primary function is to determine the types of records that are subject to the Freedom of Information Act, how the Freedom of Information Act is to be implemented, and the functions of the executive and judicial branches in this structure. If the operation of the Act is found to have flaws, Congress can amend it. Each organisation must decide whether a specific piece of data must be made available under the Freedom of Information Act's expansive disclosure provisions or whether it can be withheld under one of the nine exemptions. The Freedom of Information Act is finally enforced by the courts. The law gives federal courts broad authority to investigate and enjoin improper executive agency decisions. If a person disputes an executive agency's decision to withhold information, federal courts have the authority to determine whether the agency acted appropriately in withholding the information and to order the disclosure of improperly concealed information.

Each of its branches' performance maintains the balance between the public interest in disclosure and the government interest in information protection. Despite this, the exemption from national security has shown reluctance to undertake its assigned tasks in circumstances involving the Act's first of nine exemptions. The Freedom of Information Law requires the courts to exercise its powers to establish de novo the ownership of the agencies' information protection decisions and to enjoin the improper ones in order to operate efficiently in respect to national security information.

Congress was aware of these problems, however, it decided the judiciary should be empowered to make the difficult decisions needed to implement the Freedom of Information Act effectively. The Freedom of Information Act thus strongly depends on the performance of the courts' function. For the successful operation of the Freedom of Information Act, it is crucial that judiciary should perform its functions properly. The Act seeks to strike a balance between the public's right to information and the legitimate demands of government secrecy by specifying nine categories of information that may be withheld in the interests of national security, individual privacy, or effective government operations. While the Act specifies nine categories of information that are exempt from disclosure, these exclusions do not require agencies to maintain records; rather, they provide for information protection.

One of the most contentious parts of the Freedom of Information Act is the national security exception. This exemption is the oldest and most widely used retaining ground. It was also the most heavily criticized exemption by proponents of greater government access to public information. There are two potential issues with the Freedom of Information Act with regard to national security exemption. First, the amount of government information that is covered could be disproportionate due to the high level of ambiguity and danger associated with questions involving confidential information. Second, the exemption changes the power balance by allowing the executive to set the requirements for deciding which information is covered.

2.7.3 Australia

Prior to the Freedom of Information Act in Australia, official reports in Australia blamed undue government secrecy on the English tradition's dominance and its connection with Crown prerogative. Mr. Justice Powell directed the British Government to produce reports of MIS actions in proceedings brought by the Crown against Peter Wright in the New South Wales Supreme Court, and any such residue may have been expunged. An impressive series of reforms in Australian administrative law which coincided the Administrative Review Council, the Administrative Appeals Tribunal (AAT), the creation of a Federal Ombudsman and an amended legal basis for the review of administrative action must be undermined the Freedom of Information Act enacted in 1982.

They are aimed at: openness, equity, involvement and impartiality in decision-making. FOI's Amendment Act was passed in 1983 to address certain shortcomings of the Act of

1982. The Act included access to documents that were up to the age of five when the 1983 Act was introduced. Further reforms in 1986, 1988 and 1991 introduced the requirements for third parties' notifications and clarified and simplified the procedures. In a 1983 study on the Act, Australia's Federal Attorney-General spoke optimistically about the benefits of the Act, which included "improved official decision-making," "a better-informed public," and "a truer democratic political process," as well as "giving individual knowledge kept or impacting profoundly affecting their lives." As a result, he was taken aback by the extent to which the Act had been used. The Act has enhanced Parliament's ministerial responsibility rather than weakening it.

The Act was reviewed again by the Standing Committee on Legal and Constitutional Affairs in 1987 and 1994. At the request of the Attorney General, the Administrative Review Council and Australian Law Commission issued a detailed discussion paper on the Act in 1987 and 1994, with the aim of publishing a final report in December 1995 recommending changes or extensions to the Act's provisions. The Ombudsman found increased departmental opposition to the Act in the form of delays and undue confidentiality in his findings. The 1982 Act requires the responsible minister to publish information about the organization he leads, its functions and powers, arrangements allowing nonofficial persons or groups to participate in policy formulation in any form, the organization's administration, the categories of its documents, and details on access no later than 12 months after the Act's inception.

The Federal Gazette shall publish any papers, including digital records, that may be used to make decisions or recommendations on rights, privileges, benefits, duties, fines, or other disadvantages. All individuals have lawful access to all non-exempt agency and ministerial records. Access must be granted within 60 days, and any denial must be accompanied by justification. The Act contains the following notable exceptions: Documents are withheld where their revelation 'would be detrimental to the public interest,' i.e. when their disclosure 'might reasonably be expected to harm: the Commonwealth's protection or defense; international relations; or federal/state relations'. Although not widely acclaimed, the AAT has established principles to aid in the formulation of public interest. The principles aim to safeguard high-level interactions, policy-making processes, and the frankness and candour of deliberations in future pre-decisional communications.

The Department of Attorney- General has compiled a list of benefits and drawbacks to a public-interest disclosure. In reality, the Attorney General's Office couldn't find a single

instance of policy documents being released against the government's wishes. Cabinet and Executive Council records, as well as internal working documents, are excluded from disclosure as it would disclose advice or deliberations relating to the "deliberative functions of an agency or minister or of the Commonwealth Government" and would be contrary to the public interest. A ministerial certificate stating that these exemptions are in the public interest is definitive evidence. The AAT cannot appeal this judgement, however it may decide if the exemption argument has a legitimate basis. If it does not believe there is, it may request that the licence be revoked. The Administrative Appeals Tribunal has ruled that it must be wary about getting into an unfinished policy-making and negotiating process, and that the minister must be given the benefit of the doubt, even if there were very strong grounds for disclosure, if he had a valid fair basis for non-disclosure.

The exemption does not extend to reports on solely factual facts, reports on scientific or technical experts expressing an opinion on technical issues, or reports from a prescribed body or entity within an agency, Other exemptions include law enforcement, public protection, Commonwealth financial interests, records concerning unauthorised disclosure of personal information, legal privilege, trade secrets, revelation that would hurt the national economy, and revelation that would violate confidence. This last exception appears to have a quite broad scope.

Besides the exemptions mentioned above, information may be withheld if it relates to all documents, or all documents of a specified class, that contain information of a specified kind or relate to a specified subject matter and would significantly and unnecessarily interfere with the agency's or minister's other functions. While refusal must be justified, this exception appears to leave plenty of room for refusal. The subject of personal documents may apply to have their records updated under Part V of the Act. The agency's or minister's decision is reviewed in Part VI. A 1991 reform mandated that departments respond to requests within 30 days. An internal investigation will be conducted upon request within 14 days of receiving notice of the rejection. Three months isn't an insignificant amount of time. If no decision is received within 30 days, an application to the AAT may be filed. Another option is to go through the Commonwealth Ombudsman, who, though unable to review ministerial decisions, will look at the bigger picture. The AAT has the authority to review any decision taken by the agency or minister, including whether transparency will be in the public interest in certain cases. Its mission is to conduct legal and factual investigations.

If the AAT is not satisfied with the minister's certificate, it may conduct an in camera inspection of exempt documents. If a minister refuses to consider an AAT decision that is adverse to his classification, the decision is not binding on him, but he must inform the claimant and file a copy of his reasons with both Houses of Parliament. The Federal Court will hear an appeal from the AAT on a point of law. The AAT has been criticised for being too formalistic, despite its implementation to minimise formality in state-citizen conflict. Other issues are better handled by the Ombudsman. It has been determined that his reports of complaints inquiries are not excluded from a Freedom of Information Act request under section 38 of the Act. All ombudsmen would demand full confidentiality for their inquiries, which is normally covered by law, so this decision appears unusual. The Ombudsman will have to depend on the 1982 Act's general confidentiality clause and other exemptions to obtain exemption.

The courts have decided that the legislation applied to certain private institutions performing duties in the public interest, such as the law society and universities, even though the ACT properly classified documents in meetings of the University Council in comparison with the cabinet documents as exempt. The High Court of Australia held that it is not necessary to give reasons for administrative decisions for a general rule of common law or the principle of natural justice. However, another judge, who advertised this issue and Freedom of Information Act in general, mentioned the need for legislation which addresses the real issues, not symbols and preserves social democratic values. He argued that the right of information must extend from the public to the private sector. It is unreliable to cover private entities carrying out public duties. The Australian Act has been used to make some dramatic disclosures, such as disputes with the Chief Justice and the Department of the PM about indigenous land rights litigation in Australia. But Terrill considers it a serious weakness that the Act is enforced by individuals and relies ultimately on government will to enforce it.

2.7.4 Canada

The Constitution of Canada is a written federal constitution, yet it does have many aspects of the Westminster government model, especially an enhanced sense of ministerial responsibility and parliamentary government. Crown privilege and Cabinet secrecy had to be explicitly inserted into Canadian legislation; the legislation was far from independent of executive power, and the effect of the press on change was marginal.

The Access to Information Act (AIA) in Canada was drafted by the government and developed by amendments. There are eight to nine times as many exemptions in the AIA similar to the Freedom of Information Act. The Freedom of Information Act, unlike the AIA, did not provide an information ombudsman or commissioner. Americans enjoy lawsuits, and Congressmen were envious of their position as citizens' representatives.

The AIA was enacted in 1982 as part of a broader constitutional package in response to the necessity for new constitutional frameworks as Canada lost its final remnants of Westminster authority. Access to Federal Government files is provided to letters, memos, books, plans, maps, photographs, videos, microfilms, sound recordings, and computerized data, as well as any other documented information, regardless of its physical form or qualities. The Information Commissioner has ruled that it is permissible to apply by email and that bodies subject to the Act must retain email correspondence for a period of two years. It has more specific information than the Freedom of Information Act. There is an access register that provides descriptions of government documents, their proposed locations, and other information that will very certainly aid you in choosing precisely which data you wish to view. 'Instructions are provided on how to precisely identify the information sought, how to request assistance, and how to ask for access. Access coordinators are employed by government entities to provide free help. A written request is required, and there is a $25 filing fee, as well as additional fees for time spent on the request in excess of five hours, as well as information processing and copying time. Applicants had to be Canadian citizens or permanent residents at the time. Any person or company residing in America was granted the right to apply. An entity has 30 days to respond to an initial request, which may be extended if the request is particularly complex. Each head of a government agency subject to the Act is required to provide an annual report to Parliament on the administration of the Act.

If a body argues that knowledge is excluded, it must include evidence to support that assertion. Government agencies must remove exempt information from disclosable information and make the latter public. Crown commercial companies are exempted from the Act. In addition to the Act's rules, a Treasury Board Manual from 1991 allows details to be classified for internal security purposes.

Official manipulation of documents has been evidenced in order to hinder access; specifically to prevent access by Canadian peacekeepers in Somalía to documents relating to intrusive practises. Furthermore, the Act has been deemed to lack specific open-mindedness guidance.

The material excluded includes Queen's Privy Council's cabinet secret or confidences covering policy proposals, background options, and debate, private Council agenda and ministerial adviser debates, policy briefings and draught legislation. Discussion papers may be published if the decision relating to them, among other things, has been made public.

The first Information Commissioner (IC) believed that she had the right to determine if they had become public, even if the decisions of the IC could not be applied. This general exclusion was described as unjustified by the Standing Committee on Justice and Solicitor. Not all provincial statues were followed.

The Act provides for both mandatory and exclusive exemptions. Former classes omit information from municipal governments in foreign provinces, certain confidential data from the Royal Canadian Mounted Police, and information provided by third parties. The discretionary exemptions are comprehensive and cover those that can predispose or detect subversive or hostile actions or that could harm federal, provincial, international, Canadian defence, lawful or facilitate criminal offences when released. If information is released, it will jeopardise trade secrets, legal privilege, or personal safety.

In addition, exempt is the guidance or guidelines created for an agency or a minister that would reveal accounts of their liberations and meetings pertaining to negotiation plans or positions—an exception with the greatest potential for routine abuse. Third-party information, such as trade secrets, competitive abilities, contractual concerns, or other sensitive information, may be exempted from publication without authorization if it is in the public interest and related to health, public safety, or environmental protection. Safeguards ensure third-party warning and appeal.

Personal data banks may be exempt from disclosure if they contain exempt files containing principally personal information held for law enforcement or national security purposes. The Information Commissioner (IC) has been established to deal with concerns about access, and the IC has access to information that is excluded under the Act. If this provision is waived, complaints must be made within a year of the original request and must be in writing. Even though the claimant cannot bear the expense of litigation and has consented to the suit's proceedings after a department's rejection, the IC's decision cannot be enforced against departments, though the IC may select for judicial scrutiny points that require judicial interpretation. Following a denial, individuals have access to the courts. The Commissioner

will take part in proceedings initiated by others, obtain information that the complainant will not receive unless the complaint is effective, and be heard ex parte by the court. On a reasonableness basis, courts may review exemption decisions.

According to a commentator on the FOI movement in Canada in 1981, "controlled companies have tended to overwhelm them with information, and as a result, the challenge has been to build up knowledge so as to be able to analyse this mass of information." Is the information being delivered in a digestible or uncontrollable manner?

The Canadian law is less pro-disclosure than the American one, and it takes into account previous confidentiality practices.

The Canadian Bar Association, in reality, was the initial sponsor of the Freedom of Information Bill, which was much more daring and forthright than the one adopted by the government. The House of Commons Standing Committee on Justice and Solicitor-General reviewed the two Acts and made some relevant recommendations on the legislation. Cabinet confidences, in particular, should be included in the exempt categories and no longer be excluded, according to the study. This was not agreed, and the Commissioner's advice was echoed in his 1993/4 report.

In addition to the aforementioned provisions of access legislation, the Charter of Rights has been included to obtain government records, including that held by the ombudsmen.

Pakistan was the first country in South Asia to pass a Freedom of Information Act in 2002. Following Pakistan, India, Nepal, and Bangladesh enacted Right to Information laws in 2005 and 2009, respectively.

2.7.5 India

In India, the Right to Information Movement arose in the 1990s as part of a paradigm shift from a centralised to a people-centered approach to growth. However, there was a conflict between colonial Acts such as the "Official Secrets Act, the Indian Evidence Act, and the Civil Service Code of Conduct Rules, and clauses in the Indian constitution such as Equal Protection of the Laws, the Right to Equality Before the Law (Article 14), the Right to Freedom of Speech and Expression (Article 19) (a), and the Right to Life and Personal Liberty (Article 21)." Previously, colonial authorities limited people's access to knowledge.

During this time, several civil society organisations, including the "Mazdoor Kisan Shakthi Sanghatana" (MKSS), people, and social activists began calling for a Right to Information Act to fight corruption, improve access to information, and encourage good governance by well-informed citizens. The Right to Information Act, 2005 of India was passed by the parliament on June 15, 2005 in response to demands from various stakeholders from various parts of the world, with the aim of ensuring access to information held by public bodies in order to increase transparency and accountability in their operations.

2.7.6 Sweden

Far earlier in the mid-1960s, freedom of information came into its origin outside the common law world. As part of its constitution since 1766, Sweden has had a Freedom of the Press Act and now all official documents can be inspected and copied, though public companies defined as trade organisations, are excluded. In addition, internal memoranda are not available until the issue they are referring to has finally been resolved.

The papers that the authority receives or sends are subject to the provisions of the Act. National security and international affairs; the abolition of crime and illicit activities; the protection of legitimate business interests; and the preservation of personal privacy are the four areas of information exemption. The Secrecy Act includes statutory specifics of exempt items that pertain to classifications of documents rather than the contents of those documents. In the Secrecy Act, a document will be secret for a period of two years to 70 years. Since 1981, more and more attention has been given on secrecy.

Internal examination may be followed by a refusal and an appeal to the administrative courts. Taking important decisions that affect the public are usually a secret business but organised interests may seek to influence membership of investigative committees, administrative and even quasi-judicial bodies or sponsored MPs. However, the opinions of public servants and advisors are not depoliticized so far as decisions that are sometimes important do not take place with overwhelming political responsibility or at least do not have a formal responsibility. It is the responsibility of managers that must put rationality and correctness first rather than their political survival.

One author thus suggested that secrecy lies in the troubled boundaries between political and reason: the end of politics and the beginning of reason will put an end to secrecy. Politics is the way to determine what the problem is and why it is. How far secrecy extends depends on

how broadly freedom is permitted in politics. The difference is too obvious. However, the above author indicates that the political party election manifestos are the clearest and most detailed in Britain, the most secret of the country he examined.

2.7.7 South Africa

The South Africa Constitution Preamble recognised that the government system in South Africa initiated a secret and non-responsive culture before 27 April 1994, which often resulted in the abuse of power and violation of human rights in public and private bodies. South Africa passed the Promotion of Access to Information Act in 2000 to foster a culture of transparency and accountability among public and commercial enterprises and to actively promote a society in which South African residents have access to information in order to exercise their rights fully.

The purpose of the document is "to enforce the constitutional right to access any State information held by another person and any information required to be used or to protect any rights." An interesting feature is the right to access private information, since most freedom of information laws cover only government bodies. The purpose of this Act is to strengthen the constitutional right to access any information held by a State as well as any information held by another person that is necessary to exercise or protect any right; Section 8 of the Constitution allows for the horizontal application of the Bill of Rights' rights to juristic persons to the extent that the scope of the rights and the nature of the rights permit.

Section 32(l)(a) of the Constitution stipulates that everybody is entitled to access any information held by the State; Section 32(l)(h) of the constitution stipulates that a person has the right of access information held by another person, when the information is required for the exercise or protection of any rights; and National Legislation shall be enacted to grant such access.

The concept behind each act was to allow the government's official documents and other public and private authorities to be accessible to the public. The success rate in the United Kingdom, Sweden and Canada has demonstrated that proper implementation will help to develop the right of people and help make the work of the government accountable and transparent. The United Kingdom Act came into force earlier this year, following the implementation of the Indian Act. Although the countries have new and reformed acts but the concept is not new. It is the usage that defines the character of any law. The information laws

in several countries, particularly India and England, have so many similarities. This chapter presents the ideas recognised by the Right to Information as an important right in major countries.

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4. International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27
5. Mitra and Kataria, Law relating to RTI, 2012
6. Aarhus Convention - the UNECE Convention on Access to Information, Public Participation in decision making and access to justice in Environmental matters signed on 25th June, 1998 In Danish City of Aarhus. Ratifying states arein Europe & Central Asia.
7. Freedom of Information Act (FOIA) 2000, Section 3
8. Ibid., Section 3 (1)(A)
9. Ibid., Section 6
10. Ibid., Section 19
11. Ibid., Section 20
12. Ibid., Section 1(a) and Section 1 (b)
13. Ibid., Section 8(1) and (2)
14. Ibid., Section 14 (1) and (2)
15. Ibid., Sections 22, 24, 26 to 31, 33, 35 to 40, 42 and 43
16. Ibid., Section 21, 23, 32, 34, 36, 40, 41 and 44
17. There is an absolute exemption from the provisions of the FOIA if an applicant making a request for information under the FOIA is the subject of the information requested and they already have the right of ‘subject access’ under the DPA 1998. There is also an exemption from the provisions of the FOIA if the information

requested under the FOIA concerns a third party and disclosure by the institution would breach one of the Data Protection Principles

18. Freedom of Information Act (FOIA) 2000, Sections 32
19. Ibid., Section 30
20. Ibid., Section 35
21. Ibid., Section 27
22. Ibid., Section 18
23. Ibid., Section 50(1) & Section 50(3)(b)
24. Ibid., Section 51 and 52
25. Ibid., Section 57
26. Ibid., Section 54
27. Ibid., Section 59
28. Act of Sept., 6, 1966, Pub. L.No.89-554, 80 Stat.383
29. Pub. L.No. 93-502, 88 Stat. 1561 (1974). Two amendments in particular substantially strengthened the Act. First, courts were empowered to conduct a discretionary in camera inspection of disputed documents. 5 U.S.C. Section 552(b)(1). The courts are empowered to review an agency's application of Executive Order criteria even if the review requires the court to weigh foreign affairs and national defense issues against citizen rights. Cf. Zweibon v. Mitchell, 516 F.2D 594, 601-602 (D.C.Cir. 1975) (Warrant issuance may depend on national security considerations), cert. denied, 425 U.S. 944 (1976). See also Weissman v. C.I.A., 565 F.2D 692, 697 (D.C.Cir. 1977), in which the court accorded great deference to the agency, thus suggesting that although the court was empowered to act it was perhaps not competent to do so. Weissman v. C.I.A., 565 F.2d 692, 697 (D.C. Cir. 1977). Weissman has been followed by may other courts. See also Raven v. Panama Canal Co., 586 F.2d 169, 171-172 (5th Cir. 1978) (Inquiry beyond the agency's affidavits would 'require the court to…… substitute its judgment of the risk to national security for that of the agency.'); Diviao v. Kelley, 571 F.2d 538, 542 (10th Cir. 1978) ("Court applied rules set forth in Weissman); Maroscia v. Levi, 569 F.2d 1000, 1003 (7th Cir. 1978) ('Our responsibility is not to 'test the expertise of the agency, or to question its veracity where nothing appears to raise the issue of good faith" (quoting Weissman, 565 F.2d at 697),); Bell v. U.S., 563 F.2d 484, 487 (1st Cir. 1977) (Court agrees with standard applied in Weissman
30. The Freedom of Information Act, 5 USC Section 552(a)(3)(b)

31. Ibid Section. 552 (a)(3)
32. Ibid Section 552(e)
33. J. O' Reilly, Federal Information Disclosure p. 4-11 (1983) Access to any person for any reason has created a policy problem in the area of civil discovery which has troubled courts. Litigants in actions against government agencies have attempted to avoid roadblocks to discovery by requesting non- discoverable documents under the FOIA. See, for e.g. NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 242 (1978); NLRB v. Sears Roebuck& Co., 421 U.S. 132, 159-160 (1975); Title Guarantee Co. v. NLRB, 534 F.2d 484, 491-492 (2d Cir. 1976); Goodfriend Western Corp. v. Fuchs, 535 F.2d 145, 146-147 (1st Cir. 1976).
34. 112 CONG. REC. H13645 (daily ed. June 20, 1966) (remarks of Rep. Moss)('[FOIA] seeks to open to all citizens, so far as consistent with other national goals of equal importance, the broadest possible range of information'); S.REP.NO. 813, 89th Cong., 1st Sess. 3 (1965).
35. The Freedom of Information Act, 5 USC Section 552 (1982)
36. The Committee has, with the utmost sense of responsibility, attempted to achieve a balance between a public need to know and a necessary restraint upon access to information in specific instances. 112 Cong. Rec. H13641 (daily ed. June 20, 1966) (remarks of Rep. Moss). See also R. Davis, dministrative Law Treatise, Section 5:8, at 329 (2d ed. 1978) (discussing exemptions to general disclosure rule); 1123 CONG, REC. H13645 (daily ed. June 20, 1966) (remarks of Rep. Moss) ('[The FOIA] seeks to open citizens, so far as consistent with other national goals of equal importance, the broadest range of information.') S.REP.NO. 813 89th Cong. 1st Sess. 3(1965)
37. The Freedom of Information Act, 5 USC Section 552(a)(3)(b)
38. Ibid., Section 552(a)(3)
39. Ibid., Section 552(e)
40. J.O. Reilly, Federal Information Disclosure, pp.4-11 (1983), See also Weinstein, Open Season on Open government, NY times, June 10, 1979, Section 6 (Magazine) at 78.
41. The Freedom of Information Act, 5 USC Section 552(a)(1)-(3)
42. Ibid.
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47. Ibid., Section 552(d)
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49. J.O.Relly, Federal Information Discloure (1983) pp.3-16.
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52. Amendment of the national security exemption which intrudes too far into the Executive's domain, however, may create a separation of powers problem. The separation of powers doctrine gives the Executive authority over national security, National Security and the Public Right to Know: A New Role for the Courts under the FOIA, 123 U.P.A.I. REV. 1438, 1466-67 (1975) Congress has been cautious in its considerations of amending the national security exemption. See Classification Hearings; Congress is unsure of the boundaries created by the separation of powers doctrine, and it seeks to avoid a constitutional conflict.
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54. Freedom of Information Act, 5 USC Section 552(a)(1), (2), (3), (5), (6)
55. Ibid., Section 552(b)(1)-(9)
56. Ibid., Section 552(A)(4)(b)
57. J. O'Reilly, Federal Information Disclosure pp. 4-11 (1983), pp. 8-13. Commentators have praised judicial de novo review because it removes questions of disclosure from the absolute discretion of bureaucrats.
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60. The Freedom of Information Act, 5 U.S.C. Section 552(b)(1). See 128 Cong-Rec. S4211 (daily ed. Apr. 28, 1982) (remarks of Sen, Durenberger) ('judges ... have almost always [allowed] the Government to withhold information that it says should be kept secret'). Two district courts, however, have enjoined improper classification decisions and ordered the release of the documents in dispute. The Court of Appeals in Holy Spirit Ass'n v. CIA., 636 F.2d 838, 846 (D.C. Cir. 1980) affirmed a district court decision which ordered the release of assertedly classified information, but that judgment was stayed by the Supreme Court and ultimately vacated as moot when the requesters withdraw their request for the classified documents. C.I.A. v. Holy Spirit

Ass'n. 102 S.Ct. 1626 (1982). The court in Jaffe v. C.I.A. quoted portions of classified documents in the course of its discussion of what it viewed as inconsistent classification decisions by the agency. Jaffe v. C.I.A., 516 F. Sup. 576, 581-583 (D.D.C. 1981). Other district courts have ordered the release of classified information, but these orders have not survived either reconsideration or appellate review. See, e.g., Weberman v. National Security Agency, 490 F. Supp. 9 (S.D.N.Y. 1980), reversed, 646 F.2d 563 (2d Cir. 1980), on remand, 507 F. Supp. 117 (S.D.N.Y. 1981), affirmed, 668 F.2d 676 (2d Cir. 1982)

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99. Section 6 Access to Information Act "A request for access to a record under this Act shall be made in writing to the government institution that has control of the record and shall provide sufficient detail to enable an experienced employee of the institution with a reasonable effort to identify the record.
100. Section 11(1)(a), Access to Information Act.
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102. Section 4(1), Access to Information Act, See Information Commissioner v. Minister of Employment and Immigration in Annual Report: Information Commissioner (1984-5), p. 124, for a bizarre interpretation of this provision.
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107. Section 69, Access to Information Act.
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3 LEGAL FRAMEWORK OF RIGHT TO INFORMATION IN INDIA

CHAPTER STRUCTURE

- Introduction
- Disclosure of Information
- The Right to Information Rules 2012
- Non–Disclosure of Information under RTI
- Role of Central Information Commission
- The Right Information Act – Critical Analysis
- The RTI to Information Amendment Bill, 2019

3.1 INTRODUCTION

The people, as the true sovereign, appoint and dismiss governments. Information is a tool that allows people to behave more effectively as voters and elected representatives of the people. If folks are interested. They will be more alert if they are well informed, and democracy will inevitably become stronger as a result more vivacious The right to information is a necessary component of a free society. As a result, the public authority's transparency and accountability are two major concerns. The Act's goals and objectives are outlined below. As a result, its provisions are centered on society striving to empower people and make them active participants in society. The democratic procedure and The researcher aimed to discuss the positive and bad colors in this chapter, provides an overview and critical analysis of the Right to Information Act of 2005. The researcher investigated the 2005 Right to Information Act. In October of 2005, the Right to Information Act went into effect. It is proposed that the impact be assessed in terms of the project's stated goals. The Right to Information Act of 2005 is described in its preamble as "An Act to Provide Access to Information." It provided for the creation of a practical regime for citizens' right to information, as well as secure access to data under the government officials control, so as to enhance and transparency in all government organizations operations."

"Democracy necessitates an informed citizenry and transparency of government," it is claimed information that is essential to its operation, as well as the prevention of corruption and the detection of fraud. Governments and their agents must be answerable to the people. The right to information is a prized possession. Information and the right to be informed. In the hands of responsible citizens, information is meant to be a formidable tool.

To combat corruption and bring openness and accountability into the system. The RTI Act must be implemented strictly, and to ensure accountability and transparency, and to dissuade corrupt practices, all steps should be taken to bring important information to context. The Act places a strong emphasis on good governance, including the following key components. Citizens who are well-informed in order to encourage individuals to participate in the development process. Transparency, accountability, and a reduction in corruption are all important goals.

As a result, the Act main goals are:

1. Transparency in the operation of government agencies.

2. A well-informed citizenry to promote citizen-government cooperation. The government is involved in the decision-making process.

3. Improving the government's accountability and performance

4. Corruption in government departments is being reduced.

The increased awareness of participatory democracy and the innate urge to participate Knowledge and participation in matters involving the country or one's own self have reached a tipping point. It was a new height that paved the path for it to be determined and ensured by enforcing the goal of accountability and transparency in the administration at workplace. In the international arena, the second chapter concentrated on international perspectives. The necessity to disclose information was perceived strongly enough that the first RTI statute was enacted. In Sweden, it was founded in 1766, specifically in response to parliamentarians' eagerness for access to data held by the king. The United States later followed Sweden's lead Norway, which passed its first statute in 1966, followed suit in 1970. The laws of western democracies were enacted independently. "When a culture chooses to accept" As a creedal faith, democracy requires that citizens understand what democracy entails, what their government is up to." 176 Justice P.N. Bhagawathi The right to information is a metric for measuring a country's growth and development. Citizens in India had no access to any information handled by a government agency until 2005. It was difficult for a politician to deal with issues of public concern.

Acquiring knowledge on the common man As a result, without obtaining pertinent information, it was difficult for citizens to discern whether or not they should join in any social, political, or economic activity. The Freedom of Information Act applies to offices of public authorities that have been created. The federal government as well as the Union Territories Administration both own as well as strongly funded by the state governments that encompasses panchayats, municipal governments, and various other forms of local government). Any organ that is owned, controlled, or largely controlled. These governments' funding is also provided. This law will apply to all non-governmental establishments which are heavily funded by them, either directly or indirectly governments. Information about a private body that is available to the public The RTI Act covers any authority granted under current law.

3.2 DISCLOSURE OF INFORMATION

Section 2(f) of the RTI Act of 2005 specifies the term "information" to promote accountability. This section aids in determining what data is available to the general public.

3.2.1 Meaning of Information

Section 2 of RTI Act define 'information,' that involves the word "record" (f). As per Section 2(i) (a), a "record" is any kind of file, document, or manuscript. The operational definition of a 'file' can also be noticed in the Central Secretariat of Indian Government Handbook of Office Procedure. 'Notes' and 'appendices to notes' are included in the Manual's definition of 'file.' The CIC ruled that "file noting are not immune from disclosure as a matter of law." The CIC ruled that "file noting are not immune from disclosure as a matter of law." As a result, file notes can be made public under the Act. Documents, manuscripts, files, microfilms, and facsimile copies are all examples of records. Any image replication or other content created by a computer, or any another gadget.

3.2.2 Categories of information

1. As per Section 3 of the RTI Act, each citizen has a right to information contained in and under the public entity control which falls in to the either the 1st or 2nd classification.

2. There is also a second type of information that falls under the 1st. Suomoto disseminate and share information is just a particular role of individual authorities. Transmit information in such a way that it is conveniently and quickly available to the public without the need to use section 6 to gain access to them of the RTI Act

3. There is no requirement to disclose or disseminate the other information.

4. Information in the 3rd category is outside the scope of the RTI Act.

Within every state, more than one government agency has been notified. Department throughout all tiers, from secretariat to district as well as sub-district. Every single one of these a public authority will indeed be aimed to create its very own pro-active disclaimer documents until it starts to develop itself. Information Handbooks that are specific to the organization's authorities, activities, and areas of operation.

The purpose of Section 4 (1) (b) is to ensure that government agencies focus on providing precise information. At every level of operation, information which is important to the public is provided willingly. It should be highlighted that, if correctly executed, section 4(1) (b) will lower the number of people who are arrested. Public authorities' and officials' workloads in relation to the demand of supplying information about demand. As it is due to the fact that the material is updated on a frequent basis. They can get the information they need without having to go through a process. Making a specific request is a process. The necessity to print 'manuals' reveals Section 4 (1) goals (b) for every public authority to be proactive in disclosing information, which is certainly to generate and circulate essential information in a timely manner in a simple language and layout. Sections 4(3) and 4(4) of RTI Act make information easily accessible and understandable to the general public.

Section 4(1)(b) contains 17 subsections that define the kind of information that a public authority must develop and proactive communication via booklets, bulletin boards, electronic and print media, and so on. It's possible that the information necessary to be released proactively under this section is already available inside the government, but in a dispersed fashion. These will have to be gathered and compiled to meet Section 4(1) requirements (b). Numerous officials of government are overjoyed. Section 4(1)(b) will help the others to simplify their own record-keeping. Procedures for observing and recording after the data has been collated and disseminated. It will be simple to update if it is in an appropriate format. Furthermore, not every public facility is available. The authority may be required to obtain information under those groups listed in section 4(1) (b). For instance, the finance department of a state is also not going to issue any bonds. Concessions or permits are two different things. The Finance Department does not conduct these activities since it is not responsible for them will not be held liable for failing to include this type of information in its Public Database. In a directory of information, with one of its letters the CIC addressed itself to all Agencies and Ministries (dated 10.05.2006). It is indicated by the departments that "it is in the public interest to make sure that the public authorities make sure that the public authorities make sure that the public authorities make sure that the public authorities make sure that the public, citizens access to all 17 manuals, which is anticipated to minimize the volume of paperwork requests for information pursuant to the RTI Act." If management information is available. Departments use data and information to design and manage systems. Communication technology, information preparation for publication at Changing levels on a yearly basis is a straightforward process.

3.2.3 Dissemination of Information under Section 4(1)(b)

Under Section 4 (1) (b) notice boards, newspapers, public service press releases, broadcasts in the media, Internet, and so on shall be used to distribute information. The Act requires all public authorities to keep their documents updated. Annually, the state and federal governments, along with their departments, will then be authorized to send specific guidelines again for quick and efficient upgradation of all types of information, such as formats of publishing, under Section 4(1)(b). It is essential to release up-to-date information about its operations. It is suggested that as much information as possible be printed under Section 4(1)(b) only within time limit and highly circulated to demonstrate that general authority/department is significant about imposing the laws and regulations. It's something that anyone can do. Section 18 (1)(f) of the Act allows you to file a complaint with the appropriate Information Commission. The Commission has the right to control the government to reimburse the survivors. Any kind of harm or any loss incurred by the complainant. It's worth noting that the Information Commission has the authority to do so in Section 19(8)(a)(vi) to obtain an annual compliance report from a public authority in relation to paragraph 1 of Section 4 (b). Essentially, the citizens will be informed regarding the situation through the system of reporting. Whole actions of conduct and exclusion must be reported to the Information Commission. In relation to proactive disclosure, there is an omission. Every year, the proactive disclosure must be updated. This information ought to be helpful and easy to access to the PIO in digital form as much as feasible, for free or even at the expense of the form of media or able to print as mandated by the constitution.

3.2.4 Designation of Public Information Officers

Each public entity shall appoint most of its officers as public information officers (state/central) throughout all offices or units of administration under its direct authority. The APIO is not the PIO's personal assistant. A state/central APIO (based on the circumstances) may well be recognized as an area in which a public authority could function only at the level of sub-district or subdivision. Section 5(2) states that you must not have an administrative or office unit. The APIO designation is especially advantageous to the Interior Departments. Departments below the district level are uncommon in the Government of India. This has been consented that the CAPIOs of the Department of Posts will however serve as CAPIOs for other Central Government Public Authorities without a physical place or a webpage. There is also an administrative division at the sub-divisional or sub-district level. These

CAPIOs are a type of CAPIO. On behalf of the Central Postal Service, (of the Department of Posts) will receive inquiries. Government public authorities as well as forward them to the CPIOs that are in charge of them. PA will appoint Assistant Information Officers to receive and forward information. Petitions or appeals to the PIOs or the Information Commissioner under the Act commissions 5 days must be added to the 30 day timeframe in order to achieve.

3.2.5 Powers and Duties of the Officers

PIOs are responsible for dealing with requests from applications and providing appropriate assistance. For the proper fulfilment of his or her duties, PIOs may request the aid of any other officer; any officer whose assistance is asked shall offer all necessary support. Assistance to the PIO in question, as well as any failure or violation of the rules. The PIO is responsible for enforcing the Act forbids the denial of an application solely on the basis of its subject matter. There are a lot of documents. Information must be given in accordance with Section 7 (9). Unless it would 'disproportionately' divert resources, the form in which it is requested the authority of the state. A PIO has the authority to summon the applicant to his or her office. inspecting the needed documents or files in person The PIO, on the other hand, must notify the applicant of the date and time of the inspection. The PIO must identify and defend what it means to "disproportionately allocate resources." A candidate can ask 20 to 30 variety of information applications in the very same application but will not be needed to re - apply. If the information published under Section 4 (1) (b) of the Act is appropriate and useful information policies are in place. Even if an application wants a large number of pieces, the database must be kept up to date to allow for such publication. Without much difficulty, the similar information is presented to the candidate. Suitable system of record-keeping must also be implemented. The RTI Act explicitly says that PIO does have the power to exchange information whereas if application (or a portion of it) relates to information belonging to 3rd party [Section 6 (3)]. The request will be routed to the proper PIO. The applicant must be notified of the transfer immediately (within 5 days). The APIO responsibility under the RTI Act is limited to sending the information. Within five days, send a request to the PIO concerned.

3.2.6 Request for Obtaining Information

An individual who wants to obtain data under this Act, must make an electronic or written application to PIO in Hindi, English, or region's official language wherein the request has

been made, together with the suitable charge, portraying the particulars of the data requested or Section 6 of the APIO (1). When the application cannot be conveyed in written work, it'll be handled by the PIO. It must give all possible notice to the person who makes the verbal proposal, even if the person who makes the formal statement keeps insisting on obtaining the very same thing in written form. A request also isn't allowed to declare why it has been demanding the relevant data or any personal information until they are mandated for just a particular purpose such as contacting him Sec.6 (2). Deemed Refusal is a legal term that refers to a refusal that is deemed. If the PIO does not respond to the request for information within the timeframe specified in Sec 7. The PIO is assumed to have declined the request beyond the time period indicated (2). Where a public authority is involved, the information must be delivered free of charge to the requester fails to adhere to the deadlines set out. Section 7 (6) once it is chose to announce data about every method of funding. The PIO will send an additional charge to cover the cost of supplying the information notification to the requester, detailing additional fees, calculations, etc. requiring that he deposit the payments as well as information about his or her rights with in order to appeal the judgement on the amount of fees paid or the type of access provided supplied, including the appellate authority's details, the time limit, the procedure, and any other types. The time between the date on which the said intimation was sent and the date on which the said intimation was received. Payment of fees is not taken into account while determining the thirty-day period. If the person to whom access is to be granted has a sensory impairment, the PIO will assist in gaining access to the material, including by giving any other help that may be required for the inspection Section 7 (4). The candidate shall pay any fee that may be imposed. The charge should be reasonable, and no such fee will be made, shall be levied against those who fall below the poverty level. Section 7 (5). If a public request is made, the information must be provided to the recipient at no cost. The authority fails to meet the deadlines set forth Section 7 (6). In most cases, the documentation will be produced in the layout demanded. Even if it would reroute a significant portion of the public authority resources or expose the security or protection of the documentation in query, Section 7 (9).

3.3 THE RIGHT TO INFORMATION RULES 2012

On July 31, 2012, the Central Government published the Right to Information Rules, 2012. They went into effect on July 31, 2012. According to Rule 3, under the RTI Act a proposal for information should be done in written form and preceded by a fee of five rupees. The rule

stipulates that the application must not exceed 500 words, excluding any annexures and the PIO's addresses as well as the applicant's. The PIO, on the other hand, should not reject an application based solely on its content. The fact that it comprises almost 500 words. People living in poverty a person who is poor does not have to pay the application cost. He/She "A copy of the certificate issued by the appropriate Government in this case" must be enclosed "to make such a fee waiver claim."

In fees for Information Provision, the following is the fee for giving information: The current amount of a large-format paper is Rs. 2 per document in A-3 or smaller size. Experimentation or real-world cost designs of Rs. 50 for diskette or floppy disc.

A piece of writing: The price for excerpts is fixed at Rs. 2 per document of photocopying.

The following is the fee for inspecting records: The very first hour of evaluation is free. Then after, Rs. 5 per hour (or percentage of its use).

Cost of postage: The costs of delivering information to the public will be covered by the government requester. When the postal charge exceeds Rs. 50, however, the requester must pay the remaining amount.

Persons living in poverty: A person living in poverty is exempt from paying any of the following:

Fees charged for the provision of information. Inspection of records is subject to a fee.

Cost of postage: "A copy of the certificate issued by the appropriate authority," the requester must include. In this regard, the government" to claim a fee waiver.

Payment method: Fees may be paid in any of the following ways under these rules:

(a) In cash, against a proper receipt, to the public authority/PIO;

(b) Through a demand draught, bankers' check,

(c) Make the Indian Postal Order chargeable to the Accounts Officer of Government of India;

(d) Electronically to the Public Authority's Accounts Officer: if available. The public has access to a system for obtaining fees via electronic means authority.

W.P No. 33290 of 2013 Avishek Goenka vs Union of India Calcutta High Court When it comes to post boxes, the court should not insist on the location of the requester. There is a phone number provided. If they insist on personal information, it is the responsibility of the employer to provide it authority to keep such information hidden from the public. The second appeal is as follows:

The appeals process is governed by Rules 7–15. The regulations' appendix contains a list of the format of the 2nd plea to the Central Information Commission is as follows: CIC is unable to reject an appeal "simply on the basis that it was not submitted in the prescribed format". Such an appeal, however, shall be "supported by documentation as provided in rule. 8". The appellant should authenticate and verify the attachments.

Preconditions: Prerequisites for filing a second appeal with the CIC include:

1. An appeal should have been filed with the 1st Appellate Authority by the appellant.
2. Either the 1st Appellate Authority should have issued a final order or the First Appellate Authority should have issued a preliminary injunction.

A period of 45 days should be allowed from the day on which the appeal was filed. There has been a lapse in time. If web conferencing is accessible, the applicant may appear prior to actually CIC in person, through with a legally authorized representative, or through web conferencing. Conferencing is feasible during the commission's proceeding on the appeal. A public authority's spokesperson or officer could well be authorized to make a plea its lawsuit. Section 10(2)(b) of the RTI Act designates the PIO as the decision-making authorization. Availability to documents which may encompass excluded information is restricted. Though, if only a portion of the material is provided, the PIO is required to provide more information Give good justifications for your decision. He must also state his name and address. Decision-making power and the claimant's right to a judicial review, such as the AO's specific details, specific time, and process. Just the portion of the document which does not encompass any important information is being used and that's excluded from disclosure and therefore can be appropriately kept separate from every part which is capable of disclosing exempt data

3.4 NON–DISCLOSURE OF INFORMATION UNDER RTI

Sections 8, 9, and 24 describe the data which can be excluded from disclosure under act, whereas sections 2(f), 2(i), as well as 2(j) specify the data which can be revealed under act, and the execution as well as the Central Information Commission's explanation of such 2 components. The RTI Act of 2005 makes information available to the entire community. However, there are a variety of instances in which public information is useful. The term "authority" is a highly sensitive term that cannot be released under the RTI Act as all these data may jeopardize the dignity as well as sovereignty of a nation. The supreme authority is well-defined as sovereignty; sometimes when this is not the case where the data or documents are associated with the Supreme Court or Preamble of Constitution. Authority of India should be kept secret, and if it isn't, it might be used against the country endangers the country's sovereignty. There are other instances, such as the information connected to a third person.

3.4.1 Exemptions under Section 8 (1) of the Right to Information Act

The right to privacy is harmed by information about a third party of the persons is referred to as the Constitution Fundamental Right, and under the constitution of the United States, it is illegal to infringe on people's basic rights. Exemptions from the RTI Act's requirement to provide information have been removed. Sections 8 (1) and 9 of the Act provide for this. Only if the government acts responsible manner and can demonstrate that the requested information tends to fall into one of excluded segments. It would have been obliged to disclose the information under such groups, as well as the justifications for refusal of applications for data would also have to be appropriately mentioned. Section 8 (1) of the RTI Act takes precedence over all other legislation since it is a non-obstante provision. RTI Act's provisions a public authority is not subject to the RTI Act under Section 8 (1) (a) responsibility to provide useful information whose publication would have a negative impact.

India's sovereignty and integrity, as well as its security, geopolitical, scientific, and economic interests. Interests of the state, as well as relationships with foreign countries, might lead to incitement to commit a crime. Sovereignty entails freedom from all external influence or control dominance. The term integrity is used in Clause (a) of Section 8 (1) to refer to the whole or undiminished state of being while The authority of the state is not in jeopardy. Responsibility to reveal information that may have a negative impact on sovereignty. India's integrity The term "security" has a broad definition that includes political, economic, and

social factors. The economic, environmental, social, and human components, among others, all have an impact on the economy. The idea of security Information pertaining to India's national security may be disclosed. If it is made public, it will truly injure people. If information is released to the public, it may cause serious harm to India's national security. Information that causes concern or jeopardizes the quality of life is made public. Because human existence has the potential to jeopardize state security, the same must not be publicly disclosed.

Documentation on able to intercept notifications in the title of national and sovereignty protection. Section 8(1)(a) of the RTI Act may exempt information from public publication Act. The RTI Act's definition of information clause 8 (1) (a) includes information on military movements and operations, as well as information about ammo given to cops for a particular amount of time, strategic defense Plans kept under wraps, information released during a battle, and so on. This, moreover, will not be the situation. It is legally sound to be using this context into account conceal popular trade information. Because it is related to defense, data regarding exchange rates or currency is publicly disclosed. Rates, interest rates, banking, insurance, and financial regulation and supervision of Institutions of finance, proposals of borrowing or expenditure, and foreign currency. In rare situations, investment could be harmful to the national economy, particularly if it has been discharged too soon. Lower-level economic and financial data, such as financial statements and contracts. This exemption should not be used to withhold departmental money. The connection between countries can be sensitive at times, necessitating candid evaluations and analyses. Other countries' and policies' actions could easily offend, causing harm. India's own international interests177 As a result, information that could be immune from prosecution if it is viewed as being offensive to good ties with foreign powers. Unless the interest of public in disclosing exceeds the state economic interests, data on non-performing bank assets as well as cumulative gross investments done by every investor of multinational institution in India might well be excluded from disclosing.

The value of knowledge outweighs the risk to protected interests. Any kind of information release. It is capable of inciting even the most ordinary person to commit a crime exempted. As a result, knowledge dissemination that is capable of enthralling even an exemption may be granted to a modest person who commits an offence. As a result, information about Intercepted messages may be used to prevent incitement to commit a crime. The RTI Act's

Section 8(1)(a) excludes information may be disclosed. The Delhi High Court issued its decision in Delhi Metro Rail Corporation Ltd. Although all drawings of structures of both pile and steel reinforcement characteristics are shown in the framework and structural system. Details, technical calculations, and soil testing for the cantilevered bracket of the Engineers, contractors, subcontractors, and others were granted Metro Pillar No. 67. There having been earlier revelation of similar information to those working in the field. As a result, section 8(1)(a) Act is applicable. The disclaimer and access to information wasn't really enticed, as well as the data cannot be used to damage the state's economic and scientific interests. The Central Information Officer had already declined to remove statistical reports pertaining to a litigation. The Bharatiya Nabhikiya is building a prototype fast breeder reactor. In the case of Union of India vs. Central Information Commission and Anr.180 Disclosure, the plaintiff was the Union of India. Contains all the letters written to the United Nations by India's former president, Shri K.R. Narayanan Between February 28th and February 15th, 2002, Shri A.B. Vajpayee, the then Prime Minister, a document from March 2002 referring to the "Gujarat riots" was sought. Throughout this particular instance, the U.S. Supreme Court issued a decision. According to Delhi, only those content over which ministerial recommendation was centered should be delivered, as the city appreciates protection from disclosing, such as in cases filed under RTI Act. If a public benefit in having to know regarding bank non-performing assets as well as total annual costs incurred by every international institutional investor in India exceeds the damage to protected rights, the data may well be excluded under state's financial interests. Any material that has the potential to incite even a simple individual to conduct a crime may be exempted. As a result, material that could entice even the most ordinary individual to commit a crime may be excused. As a result, under section 8(1) (a) of the RTI Act, data intercepted for the purpose of preventing inducement to commit an offence may be protected from publication.

The High Court of Delhi held in Delhi Metro Rail Corporation Ltd. vs Sudhir Vohra, 178 that Architects, engineers, and contractors have had access to every design specifications for both the pile foundation as well as the structural system, such as all steel reinforcement specifics, base information, engineering calculations, and soil tests relating to the cantilevered bracket of Metro Pillar No. 67 wasn't really enticed because disclosure of information and requirement would not jeopardize the state's economic and scientific interests. The Central Information Officer denied the Bharatiya Nabhikiya Vidyut Nigam Ltd. request for economic information about a prototype fast breeder reactor under construction, claiming that specific

costs for the fuel and core would reveal what's really going on within the reactor or who are its elements. Union of India vs. Central Information Commission and Anr.180 is a case where the government of India vs. the Central Information Commission and Anr.180. It was requested that all letters sent by India's previous president, Between February 28 as well as March 15, 2002, Shri K.R. Narayanan wrote to then-Prime Minister Shri A.B. Vajpayee, requesting that information about the "Gujarat riots" be publicly disclosed. The Delhi High Court governed throughout this particular instance that almost all material that the ministerial recommendation was centered is excluded from publishing, including in RTI hearings. Under Article 74(2) of the Constitution, the RTI Act, which was enacted by the Legislature under powers granted by the Constitution, could not repeal, alter, modify, or remove the bar. As a result, the RTI Act should be interpreted in light of the Indian Constitution's provisions. As a result, even under the RTI Act, certain types of documents are entitled to constitutional protection from disclosure due to their inherent nature, which comes perfectly within the definition of "classified papers." Section 8(1)(b) of RTI Act excludes from disclaimer material which has been expressly prohibited from publication through any Legal proceeding or Tribunal, and also information for whom the disclosure might comprise contempt of court. The Contempt of Courts Act of 1971 governs cases of contempt of court. There are 2 kinds of contempt of court: criminal and civil. Civil contempt is defined as intentional defiance to a court's decision, proclamation, guidance, request, writ, and other procedure, or willful breach of even an endeavor offered to a judiciary. Criminal contempt is described as the journal of every issue or the performance of any conduct, either through written, words, or spoken, visible or signs depiction, or otherwise, which scandalizes or lessens the authority of every judiciary, or preconceptions, disrupts with, or impedes the judicial process in some other manner. The public entity must first decide that what information will indeed comprise obstruction of justice prior to enforce this provision of RTI Act. Providing information about pending lawsuits, on the other hand, also isn't considered obstruction of justice until there is a specific order prohibiting it.

Specific rights are bestowed mostly on parliament and state Legislatures or their individual people in order to successfully perform their tasks efficiently without any obstacle or intervention from every quarter under Article 105 of the Constitution that pertains to the authority, advantages, and protections of Parliament and its representatives, and Article 194 of the Constitution. Sir Thomas Erskine May defined parliamentary privileges as *"the total of the peculiar rights enjoyed by each house collectively as a constituent part of the High Court*

of Parliament, and by members of each house individually, without which they are unable to discharge their functions, and which are greater than those possessed by other bodies or individuals." According to Section 8(1)(c) of the RTI Act, the public authority also isn't asked to disclose information which might jeopardize the special rights of parliament or the state legislature. Freedom of speech in parliament, protection from hearings in every court on behalf of everything responded by saying or any vote offered over him in Parliament or even any committee thereof, protection from hearings in every court in respect of the publishing of every study, newsprint, or vote by or under the power of either House of Parliament are just a few of the rights indicated by the Corporation.

Moreover, hardly any officer or member of Parliament with powers to enforce process, operate a business, or retain request in Parliament could be held responsible to a court for executing those authority, and no one can be found responsible in every court for printing a considerably true document of hearings of either House of Parliament in a news publication. This protection also needs to apply to the reports of radio telegraphy or communication systems. Moreover, this protection doesn't really pertain to the publishing of House hearings during a closed hearing. This privilege, even if section of the legislation, is an exception to particular legal system in certain aspects. In Sajjan Singh vs. State Public Information Officer and Ors.185, the Rajasthan High Court (Jaipur Bench) held that perhaps the behavior of rejecting copies of some of these articles stored in the Yatinder Singh-Removal of Pay Anomaly committee Report is accepted under Section 8(1) (c) of the RTI Act on the basis of being under inquiry. Commercial trust, trade secrets, and proprietary information which would jeopardize a third party's competitiveness are excluded from disclosing under section 8(1)(c) of the RTI Act, only if the appropriate government determines that disclaimer would be in the interest of the public. To evaluate whether Section 8(1)(c) of the RTI Act pertains, first specify the nature of the case, so if the nature of the data is private particularly in relation to the matters of a private organization which is not needed to be positioned throughout the public realm, take into account if its disclosure might be detrimental to 3rd parties. If the information relates to the preservation of a right, certain data maintained by numerous private firms must be made public. Companies should, however, be entitled to preserve their trade secrets, which is currently identified by law. Prior to the conclusion of a contract, trade secrets include quotations, bids, and tenders. While disclosing information, care should be made to lessen the harm to a company's competitive commercial interests.

The nature of commercial confidence includes details of loan account information, reports on the market value of immovable assets, and information on the borrowers' securities and properties. Because the Bank is required to keep such information confidential, it is exempt from disclosure under Section 8(1)(d) of the RTI Act if the data is unrelated to every public interest or activity. In India, Supreme Court governed that section 8(1)(d) of the RTI Act doesn't really follow the Law since it does not restrict or prevent the exchange of examination papers, model answers, queries solutions, and guidelines, if any, to assessors and mediators after assessment and evaluate of response files is completed, as long because it does not impact any 3rd party competitor situation at the moment. Tax returns and data given to income tax authorities during the duration of evaluation and consequent hearings are excluded under Section 8(1)(d) of the RTI Act.

The High Court of Delhi declared in Naresh Trehan versus Rakesh Kumar Gupta,187 that assessment proceedings are not public hearings in which anyone can join and contribute their opinion to the proceedings. This has the potential to interfere with the evaluation process, and hence must be regarded in the public interest. Intellectual property data which may jeopardize a third party's competitiveness is also exempt from disclosing under section 8(1)(d) of the RTI Act. The term "intellectual property" relates to the ownership of thoughts. The high Court of Madras bodies of water, Kaiveli and Uppankazhi lands at Thiruporur and 9 other villages in Chengalapattu Taluka for inspecting appropriateness of such land areas for establishing information Technology as well as other industrial sectors could be rejected in Electronics Corporation of Tamil Nadu Limited vs Tamil Nadu Information Commission,189 so the larger interest of the public warrants disclosing of these land areas. Available information to an individual in a fiduciary position is excluded from disclosing under Section 8(1)(d) of the RTI Act if the governing body defines which divulging the data would be in the interest of the public.

A fiduciary is traditionally defined as someone who maintains a sense of responsibility throughout the eyes of another, forcing him to behave in the latter's best interests within the context of that relationship. When one person places their trust in another, a fiduciary relationship is formed, which leads to a transaction in which the person in whom the trust is placed has a conflict of interest and responsibility. A "fiduciary" is someone who discharges or owes a responsibility to represent the interests of yet another individual while demonstrating good faith and honesty, and when the other person places exceptional

confidence and trust with in individual who owes or performs the obligation. The term "fiduciary relationship" refers to a transaction or situation where a recipient places complete trust in another person to handle his or her dealings, relationships, or business. In dealing with the beneficiary or the beneficiary's property, the fiduciary is mandated to act reasonably and fair treatment, and to start behaving in confidence and for the advantage and benefit of the beneficiary. When the beneficiary entrusts something to fiduciary, the fiduciary is expected to act in confidence, and may not disclose information or thing to 3rd party. There are however some situations in which both parties must operate in a fiduciary role and consider others to be a beneficiary. For example, a partner vs some other partner as well as an employer. Employee with vis-a-vis in the course of his work, An worker who obtains business or trade secret information, or sensitive material about company, is asked to perform as a fiduciary or is not permitted to disclose it to outsiders. Similarly, Even when an employee provides private information to his company, the official superior, or the head of a department at the employer's, the official superior's, or the head of a department's recommendation, the employer, the official superior, or the head of a department is believed to maintain these private information confidential as a fiduciary, being used. Subsection 8(1)(e) of the RTI Act provides for security check and protection of sensitive and confidential information given access as an outcome of a fiduciary relationship. This exclusion is indicative of the fact that the documentation be revealed if another competent authority defines it is in the interest of the public to do it again.

The High Court of Bombay, Bench at Goa held in Public Information Officer, Joint Secretary to the Governor, Goa and anr. vs Manohar Parrikar and anr., and Special Secretary to the Government of Goa V. State Chief Information Commissioner and Anr190. that the president of India's relationship with the governor of state is not fiduciary. As a result, a copy of the report submitted by the Governor to the president through the Home Minister pursuant to Article 356 (1) of the Constitution is not exempt from disclosure under section 8(1) (e) of the RTI Act. It can only be claimed by the recipient and cannot be claimed by a person who is an author of the information or who provides the information. The Supreme Court held in Central Board of Secondary Education and Anr. vs Aditya Bandopadhyay and Ors191 that the exemption under section 8(1) (e) does not apply to examining bodies with regard to evaluated answer-books because the information is not available to them in their fiduciary relationship. In this case, the Supreme Court found that the examining body, as the examiner, did not have a fiduciary connection with the analysed answer books. Although all

relationships include an element of trust, they cannot always be categorised as fiduciary. The High Court of Delhi held in UPSC versus R.K. Jain192 that public employees' opinions/advice could be obtained under the RTI Act if they were not given in confidence/secrecy and in trust to the authority concerned, i.e. in a fiduciary relationship. The Supreme Court of India held in Institute of Chartered Accountants of India versus Shaunak H. Satya and Ors193 that anything given and taken in confidence with the expectation of confidentiality would constitute information available to a person in a fiduciary relationship. As a result, instructions and answers to questions communicated by the examining body to examiners, head examiners, and moderators were information available to them in their fiduciary relationship, and thus exempt from disclosure under RTI Act section 8(1)(e).

Section 8(1)(e) of the RTI Act relates to the information received from a foreign government in confidence is not subject to disclosure. Section 8(1)(f) of the RTI Act covers information gathered in confidence from foreign entities, but not data given by the Government of india to foreign entities. The said clause prohibits the public authority from revealing personal information acquired from a foreign government, including negotiation process or diplomacy communications. Section 8(1)(g) of the RTI Act addresses contexts in which a public authority is not required to even provide details which might endanger a human being's life or personal wellbeing, or expose the information source or support offered in confidence for law enforcement or safety reasons. The word "life" appears in Article 21 of the Constitution and this has been interpreted broadly to include, among many other things, the right to reputation, the right to live in dignity, the right to basic requirements, and the right to shelter. Consequently, the word "life" in section 8(1)(g) of the RTI Act must have been discussed in the context that are largely equivalent. The term "physical safety" refers to the likelihood of an individual's physical existence getting jeopardized. One component covered by this section is the availability of information which might endanger the existence or physical safety of the individual, while the other one is the detection of the origin of private information or assistance provided for law enforcement or safety reasons. If data is relevant to determine a person's security or freedom, this should not be disclosed; for instance, whistleblowers' identifications must be kept safe because they may face discrimination and even violent acts unless their identifications are publicly disclosed. The Sexual Harassment of Women at The place of work (Redressal, Prevention, and Prohibition) Act of 2013 forbids the release of data pertaining to the components of people complaining, the identifications and addresses of outraged women, defendant as well as spectators, information pertaining to

investigation and conciliation, suggestions of the Inquiry Committee, and action being taken by the relevant authority. However, the mentioned section permits public release of relevant information to a sexual assault victim having received justice without disclosing the outraged name, identity, address, or any other related data of a woman which might result to the outraged identity of a woman as well as witnesses. In CBSE and Anr. vs Aditya Bandopadhyay and Ors194, the Hon'ble Supreme Court observed that even if examinees need to be granted permission to analyzed books of answers, whether through certified copies or investigation, of that kind access should be restricted to the fraction of answer book that does not encompass any sign, data, initials, or sign of the assessor.

In Bihar Public Service Commissioner vs Saiyed Hussain Abbas Rizwi and anr195, the Supreme Court decided that revealing contact details or personal marks offered by interviewers or participants of the selection panel would've been contrary to the teachings of Section 8(1)(g) of the RTI Act since the representatives would've been put at risk of their human life. The Supreme Court also has governed that now the disclosure which is aimed to be preserved in this way do not include the disclosed, however the revelation of personal names seems hardly fundamental to the field of openness or the proper usage right to information inside the Act's constraints. Under Section 8(1)(g) of the RTI Act, government bodies are not asked to disclose information which would impede the inquiry, apprehension, or investigation of crime. The word "investigation" as used in section 8(1)(h) of RTI Act must be broadly interpreted and liberally. The RTI Act does not recognize the technical term of "investigation" used in criminal law. The RTI Act gives people the right to know what's going on in their lives. It is not permissible to withhold information about public authorities' transportation costs on the basis that this is private information, not a public activity, as well as uses no interests of the public and so on. Travel must have occurred as aspect of and in fulfillment of official duties, as well as the documents relating to the same have become government information, which any citizen can obtain.

Under Section 8(1)(j) of RTI Act, copies of appointment orders, promotion orders, and transfer orders are not excluded from publication. Salary details including statutory as well as non-statutory deductions, memos copies, show cause notices, and the entire investigation process pertain to personal information that'd be an unjustified incursion of the person's confidentiality but would have no linkage towards any public interest or activity, and therefore could be rejected under Section 8(1)(j) of the RTI Act. Findings of item-by-item as

well as value-by-value specifics of presents acknowledged by a person, investment or other relevant transactions, return of assets and liabilities, particulars of movable and immovable features, as well as personal income tax returns also are excluded from disclosing under Section 8(1)(i) of the RTI Act so the data attempted identifies as private details as represented in section. Suitable commands could also be released if a Appellate Authority's Central Public Information Officer or State Public Information Officer decides that wider public interest validates the disclosure of such information, and while specific details could be tried to claim as a factual matter. The Supreme Court ruled in Dev. Dutt vs. Union of India and Ors. 205 that perhaps the RTI Act's primary objective is to provide accountability and transparency to functioning of all government entities, and also that yearly confidential findings to relevant person could be denied. In view of Supreme Court's decision, the Central Information Commission ordered that the records in the yearly confidential documents be conveyed to the complainant for the time period specified in his RTI proposal. In its verdict, the Commission stated that this will not indicate that offering a scanned copy or a written statement of the annually private documents to a government servant has always been beneficial; similarly, somebody can request a yearly confidential report from someone as a factual matter. These publishing would've been allowed unless the greater public interest demanded it. In R.K. Jain vs. Union of India and Anr.200, the Supreme Court has ruled that investigation of information pertaining to a Member's Yearly sensitive information Report of the Customs, Excise and Service Tax Appellate Tribunal, such as negative listings inside the Yearly sensitive information Report as well as follow-up action being taken within it on a query of credibility, cannot be given since such data comes under Section 8(1)(i). Without prejudice to the provisions of Section 8 of the RTI Act, the Central/State Public Information Officer could deny a proposal for information access since it includes a violation of a copyright person holds apart from the State.

In the situation of ICAI vs. Shaunak H. Satya and Ors.201, the Supreme Court of India ruled that offering assessors as well as moderators with data regarding guidelines and alternatives to queries approved by ICAI over which Institute of Chartered Accountants of India has copyright did not represent copyright infringement. Since the ICAI is a statutory body established by the Chartered Accountants Act, 1948, it is not permitted to seek exemption from transparency under Section 9 of the RTI Act.

According to Section 8, information excluded under clause (I) or excluded under the Official Secrets Act of 1923 could be revealed if the interest of the public in disclosure exceeds the damage to the interest protected (2). To give proper definition to section 8(1) of the RTI Act, the term "public interest" should be described in its totality To prove rejecting a regulatory exempt status under the RTI Act, the word "public interest" must always be defined strictly, including all exclusions. The Supreme Court ruled in Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi202 that the statutory exclusion provided under Section 8 of the RTI Act is the law, and also that data will only be revealed in exceptional cases of significantly larger interest of the public. It's also been concluded that perhaps the term "public purpose" should be specifically defined, and also that the word "public interest" should be developed in such a manner that rights to privacy and information are balanced.

Whatever documents relevant to every incidence, event, or matter which took place, happened, or eventuated twenty years well before date of every proposal would be revealed under Section 8(3) of the RTI Act, based on the terms of Section 8 paragraphs (a), (c), and I. (1). Subject to the ordinary appeals provided for in the RTI Act, the Central Government decision on the date from which the abovementioned period of 20 years must be calculated shall be final. Thereby, substance which is usually excluded from disclosing under Clauses (b), (d), (e), (f) (g) (h), and (j) of Section 8 (1) of the RTI Act will no longer be excluded twenty years after the date of event to whom the statement was made. Besides that, the information requested will also remain excluded, and no person will be required to even provide it under the RTI Act, even after a twenty-year duration.

1. Information that would jeopardize India's sovereignty and integrity, as well as the nation's economic interests, security, scientific, strategic, or its dealings with international nations, and could lead to the incitement of a crime.

2. Information that would constitute a breach of Parliamentary or State Legislative privilege; and

3. Cabinet files, such as documents of discussions by the Secretaries, Council of Ministers, as well as other officers, if a decision has been made or the issue has indeed been resolved.

It is important to note that the previously mentioned sub-section exempts the requirement to keep detailed records or data for a period of 20 years. The record or information should be

preserved in accordance with the appropriate public authority's record preservation rules and regulations Section 8(3) does not prohibit the damage of every file or required information to be crushed prior to the expiry of the twenty-year duration under laws or rules of a public entity. Section 8 (3) of the RTI Act doesn't really supersede any public authority laws or guidelines specifying the duration for preserving a document, record, or details.

A legal interpretation on the RTI Act exclusions from disclosure requirements. The preface to the RTI Act says clearly that Act primary objective is to equalize two conflicting preferences: the first is to enhance accountability and transparency through allowing access to information which is held by the public authorities, and the other is to make sure that disclosure of information doesn't really interfere with the other interests of the public, like effective government operational activities. Sections 3 and 4 of the Act seek to achieve the very first objective, whereas sections 8, 9, 10, and 11 try to achieve the second. Consequently, so if Section 8 excludes particular item from disclaimer, it must not be interpreted as a limitation on the right to information, except as an extremely valuable requirement protecting other interests of the public important to the restoration and realization of democratic ideals.

A few High Courts have decided that Section 8 of the RTI Act is the exception to Section 3 of the Act, that also bestows people the right to information obtained from freedom of expression, and also that Section 8 must be understood rigorously, essentially, and rigidly. In Central Board of Secondary Education as well as Anr. vs. Aditya Bandopadhyay and Ors., the Supreme Court rejected the whole method. The Supreme Court decided that the RTI Act tries to find the right balance among them, that is important for maintaining democracy, and also that courts as well as data commissions enforcing the RTI Act specifications should take a deliberate method. Consider taking a balanced and reasonable strategy to trying to interpret section 8 and another sections of the Act in order to align the Act two objectives. The Supreme Court further held a certain unjustified and unrealistic requirements or instructions under the RIT Act for both the disclosure of all and sundry data irrelevant to accountability and transparency throughout the role of various officials as well as the elimination of corrupt practices would've been detrimental as they would damage administration efficiency and contribute to the executive being fraudulent.

The act "does not apply to some organizations," it says. Nothing about this Act applies to security and intelligence agencies listed throughout the Schedule 2, that are organizations established by Central Government, and to any details given by these agencies to the Central

Government: Provided that material pertaining to bribery and violations of human rights isn't really excluded from such a sub - sections: Provided, however, a certain data tried to seek in relation to accusations of violations of human rights shall be given just after permission even by Central Information Commission, as well as, despite Section 7, these data shall be given within 45 days of request receipt. This rule states that information relating to intelligence and security agencies is not to be shared with the public in general. The 2005 Right to Information Act does not applicable to security and intelligence institutions. The Act 2nd schedule shows a collection of organizations which are exempt from giving relevant data.

However, the Section also states that data concerning with the charges of bribery and violations of human rights cannot be withheld in order to prevent the act's primary goal from being achieved. This section prohibits organizations from disclosing information that must be kept confidential and secret, despite the fact that the regulations of this section help the citizens in gathering information whenever the data influences the rights of the citizens. Since this information is very important to charges of fraud as well as violations of human rights. Such a data should be presented in less than 45 days of the request's receipt. Under the RTI Act while giving data, the public authority must closely comply to these sections. In the case of CPIO CBI vs Kariara205, the petitioner has filed a petition challenging a Central Information Commission (hereinafter 'CIC') order dated October 31, 2012, in which the CIC ordered the petitioner to furnish the information requested by the petitioner. In this situation, the defendant has made an appeal to gather data on the CBI. Nevertheless, the governing body rejects and provide the data because the CBI is mentioned in the Act's second schedule and therefore also excluded from giving relevant data under section 24(1) of the Act. Moreover, the attorney contended that proviso must be construed closely, which only content pertaining to corruption charges entailing a public body, in this particular instance the CBI, must be exempted from context of Section 24(1) of the Act. The Judge mentions the situation of CPIO, Intelligence Bureau v. Sanjiv Chaturvedi, decided on August 23, 2017, wherein the Judge decided: "The plain reading of the proviso demonstrates that the exclusion is applicable to any information." Any type of information would be covered by the term "any information." If the material is related to charges of corruption or human rights violations, the proviso applies. The proviso is unqualified and only applies if the material is related to exempt intelligence and security entities. Excluded security and intelligence organizations can provide data if it has been associated with accusations of fraud or violations of human rights.

3.4.2 Ground for Rejection Section 9

Under certain situations, connectivity may be denied for a variety of reasons. Without bias to section 8, a Central Public Information Officer or a State Public Information Officer, as when the incident may be, could deny a request for information unless granting access will lead during a breach of anyone other than the State copyright. This provision establishes that material whose copyright is held by the public may not be released since doing so would infringe on a person's copyright. This provision further specifies that the states cannot release information whose copyright is not held by them under any circumstances. This is not a conditional exemption; rather, it is a blanket exception. It's a step toward preventing government agencies from abusing the RTI Act of 2005, particularly in cases of copyright infringement.

The exclusion clause would not apply to them. The caveat "Provided that information relevant to allegations of corruption and human rights breaches shall not be excluded under this sub-section" should be read alongside the prior phrase "or any information supplied to that Government by such organizations." Whenever the provisions are interpret together, only one outcome which can be reached is that when the data pursued refers to charges of fraud as well as violations of human rights, it'll be excluded from exemption clause, irrespective as to whether the data refers to excluded security and intelligence institutions and the Intelligence Bureau officer. As a result, the information in this case cannot be disclosed since it falls within the exemption to furnish information. In the case of Director General of Security and Anr vs Harender, the respondent before this Court is associated with the Cabinet Secretariat's Aviation Research Centre. The respondent asked the Cabinet Secretariat's CPIO for printed copies of the hearings as well as minutes of the DCPs kept from 2000 to 2009, and also document noting and communications linked to a previously mentioned DPCs. The Cabinet Secretariat's Chief Public Information Officer reacted by asserting that the Right to Information Act of 2005 did not submit an application inside the Cabinet Secretariat. Although it was added to the RTI Act 2nd Schedule, it is known as the EA-II Section. The CPIO's position was upheld by the first appellate authority as well. Even though he began to feel he had been mistreated, the defendant went to Central Information Commission. The CIC, in granting the appeal, made the following findings, among others. "The Respondents repeated the same points during the hearing. The public authority from which the information

was sought has been included in the second schedule, which is true. Normally, it would be subject to the provisions of the Right to Information Act.

3.4.3 Section 24 in the Right to Information Act

All information linked to allegations of corruption and human rights violations will be given under the first proviso to Section 24 (1) of the RTI Act. In this case, the Appellant, a Schedule Caste member, claimed that the public authority was exceedingly unjust to him in terms of promotion, and that it refused him advancement for a long time without explaining why, thereby breaching his human right. We are inclined to treat this case as covered by the proviso to Section 24 (1) of the RTI Act and allow the information to be disposed in the special circumstances of this case, where the information seeker is a member of the SC community alleging to have been deprived of his rights in a matter of promotion at work. As a result, require the CPIO to furnish the requested information to the Appellant within 10 working days of receipt of this order." The Aviation Research Centre, the Directorate General of Security, the Director's office, as well as the CPIO of the Cabinet Secretariat have filed a writ case before this Court, claiming to be aggrieved by the CIC order.

To the extent that it is appropriate, section 24 of the RTI Act states: "Act not to apply to certain organizations – (1) This Act has no application to the intelligence and security agencies listed in the Second Schedule, which are organizations formed by the Central Government, or any information provided to that Government by such organizations. Provided, however, that material relating to charges of corruption and human rights breaches is not exempt from this sub-section:" To be fair, the respondent was only employed at the Aviation Research Centre. As a result, the RTI Act provisions would not apply to the aforementioned organization save in the case of allegations of corruption and human rights violations.

The information sought by the petitioner was from several DPC held between 2000 and 2009, and it had nothing to do with charges of corruption or human rights violations. Promotion, disciplinary measures, salary increments, retrial benefits, pension, gratuity, and other service-related issues are all free of human rights violations. As a result, the Commission was manifestly incorrect in instructing the respondent to receive said material. The CIC disputed order dated 29.3.2011 is quashed for the reasons outlined above. However, it is made plain that the quashing of the aforementioned order would not prevent the respondent from

exercising any of the remedies available to him under the applicable service legislation or any other law in force at the time for venting his grievance. The Right to Information Act (2005) is a tool for providing information to Indian citizens. Every Indian person has the right to obtain the information they require, but each right comes with its own set of limitations. If exemptions are not provided, the nation may experience difficulties in terms of one citizen's right interfering with the rights of others. There is no reason to think that increased government transparency will indeed result from the right to information. People will be informed about a variety of topics, promoting government openness, enhancing efficiency by holding authorities responsible, as well as eventually reducing, if not completely eradicating, corruption. It is a resource created to assist the country's citizens, as every person requires data from government at some point so as to preserve the rights and lives. There is, however, another side to the coin. The Act contains a number of exemptions that state that information cannot be supplied in certain circumstances. The state is trying to withdraw as much detail as possible under the exclusion clauses of sections 8, 9, as well as 24 of the Right to Information Act of 2005. Consequently, the right to know takes on more significance in terms of making available all of the information that individuals require in order to become educated people. The RTI is an instrument that enables both for disclosing information as well as information non-disclosure. With exceptions, any information can be shared. The Right to Information Act of 2005, on the other hand, has found to be useful.

3.5 ROLE OF CENTRAL INFORMATION COMMISSION

The RTI Act of 2005 is unquestionably a significant step forward for the government in laying the groundwork for a better democracy by encouraging the government and its agencies to operate in a fully responsive manner. The value of the Central Information Commission's contribution cannot be overstated. The said chapter addressed the concept of CIC in the effective execution of the RTI Act, 2005. The CIC role in the execution of RTI act could assist people who were not able make submission of RTI application forms to the State Public Information Officer or the Central Public Information Officer, blocking the escape route used by government officials to hide behind RTI exemption clauses without explaining the basis for invoking the exemption, promoting transparency, and helping individuals who were not able make submission of RTI application forms to the State Public Information Officer or the Central Public Information Officer, promoting transparency and assisting those who have been unable to "Central Public Information Officer" refers to the Central Public

Information Officer chosen in section 5 sub-section (1), as well as a Central Assistant Public Information Officer chosen in section 5 sub-section (2).

3.5.1 CIC Composition and Appointment

The Right to Information Act (2005) established the Central Information Commission, which took effect on October 12, 2005. The Commission's jurisdiction extends across all Central Public Authorities. In areas 18, 19, 20, and 25 of the RTI Act of 2005, the Commission has specific forces and capacities. These mostly relate to data arbitration in the second interest; record keeping, suo motu revelations accepting and probing into a protest on impotence to document RTI, and so on; enforcement of punishments; and checking and recording, comprising a yearly report preparation. The decisions of Commission is concluding and compulsory.

Under Section 12 of the RTI Act 2005, the Central Government set up the Central Information Commission, which will then be declared inside the Official Gazette. The Central Information Commission will indeed be comprised of Chief Information Commissioner (CIC) and however numerous Central Information Commissioners as considered necessary, and no more than 10.

The RTI Act of 2005, Section 12(3), states:

(i) The Prime Minister, who would also preside over the board.

(ii) The Leader of Opposition of Lok Sabha.

(iii) The Prime Minister will appoint a Union Cabinet Minister.

3.5.2 Powers and Functions of CIC

The Information Commissioners as well as Chief Information Commissioner will have been people in the public eye with wide experience and knowledge in technology, science, and law, administration, social benefit, documenting, comprehensive communications, as well as administration, as per RTI Act 2005 of section 12(5). The Information Commissioners as well as Chief Information Commissioner might not have been a Parliament member or a Legislature member of any Union Territory or State, as even the instance could be, or retain anyone else office of advantage, or even be related with any kind of political get-together,

bring forward any commercial enterprise, or continue pursuing any calling, as per RTI Act 2005 of section 12(6).

The Chief Information Commissioner would then function for just a duration of 5 years from the date of his appointment, as per RTI Act 2005 of section 13, and therefore will not be qualified for re - appointment. As per RTI Act 2005 of section 13(5), the wage levels as well as allowances payments made to the Chief Information Commissioner, and the various durations and states of administration, are closely related to those of the Chief Election Commissioner (a).

According to Section 13(2) of the RTI Act 2005, the IC will serve for a period of 5 years from his appointment date and will not be suitable for re-appointment in any situations. Information Commissioners voted in favour. Given that each IC shall be qualified for arrangement as the Chief Information Commissioner upon emptying his office within this sub-area in the manner decided in sub-section (3) of section 12 of the RTI Act 2005: The rate of salary and stipends payable to IC, as well as the different terms and states of administration, are the same as those of Election Commissioners, as per the RTI Act 2005 of section 13(5)(b). Obligations on Public Authorities are covered under Section 14 of the RTI Act 2005. To keep all of its records, including the organization's details, functions and responsibilities, powers, the followed procedures of decision-making, performance of its operations, etc. in a fair amount of time and according to resource availability.

18th section (1) Under the Act, the CIC or SIC will, in general, be required to facilitate and request the securing of information sought by the appellant. Who has made a notable demand to a State Public Information Officer or Central Public Information Officer, all things considered, whichever since no such officer has been assigned in such Act, or due to the State Assistant Public Information Officer or Central Assistant Public Information Officer has, on the whole, declined to acknowledge his or her application?

(a) Is it true that someone has been denied access to any information demanded in this Act?

(b) Who hasn't even got a feedback to a data request as well as access to information within the scope of this Act?

(c) Who's been compelled to pay a certain amount which he or she considers to be extreme?

(d) Who appears to believe he or she has received incorrect, deceptive, or dishonest data as a result of such an acknowledgement?

(e) With regard to another problems regarding obtaining or requesting documents in this Act.

(f) If the CIC or the SIC, as even the instance could be, decides that there have been good reasons to resolve the issue, an application may well be initiated.

(g) In general, the CIC or SIC will have forces that are indistinguishable from those conferred in a common court while pursuing a suit under the Code of Civil Procedure, 1908, in relation to the following issues, to be specific:

- ❖ Inviting and enlisting people's participation, as well as urging them to give oral or written confirmation of their pledge and deliver the archives or items;
- ❖ Reports must be made public and reviewed;
- ❖ Obtaining proof in the form of witness;
- ❖ Obtaining copies of any open record or duplicates of any open record from any court or office;
- ❖ Allotting summonses for spectators or records to be examined; and
- ❖ Any additional topic that could be endorsed.
- ❖ Regardless of anything else to the conversely in some other State Legislature or Act of Parliament, the CIC or the SIC may, in general, no database to which this Act is relevant which is now under the influence of various associations specialists may well be deliberately demolished.

3.5.3 Implementation of Section 18

The RTI Act of section 18 of outlines the controls and responsibilities of the RTI Officer. CIC has Information Commissioners. This clause serves as a source of IC and CIC powers.

The efficient execution of the RTI Act was aided by the easy application of section 18 (Duties, Powers, and Functions). The Act was effectively implemented due to the successful functioning of IC's tasks and powers. If the appellant has difficulty obtaining information on the application, he or she has the option of making a petition with the CIC against the government entities, and the IC is responsible for hearing the complaint and disclosing the requested information. Under this procedure, the IC acts as a civil court with all of the rights and authority of a civil court judge. As part of their commitment to the efficient execution of the RTI Act, 2005, the CIC appropriately implements these clauses.

3.6 THE RIGHT INFORMATION ACT – CRITICAL ANALYSIS

The Right to Information Act (RTI Act) is a significant citizen's charter that has been enacted in Indian Constitution. It has managed to bring transparency, accountability, as well as authority to the way the government works that has been mostly impervious to demands of openness since the colonial yoke began. Considering the RTI Act accomplishments over the last 14 years, it appears that it has come a long way, yet there are still significant gaps in its effective management and outreach.

It necessitates a detailed appeal procedure. After successfully completing 30 days from the request date submitted in the application, a requester can appeal to the appellate authority based on the judgment of the State Public Information Officer or Central Public Information Officer, or in the absence of their decision. He does not need to wait for the Public Information Officer's conclusion. The appellate authority under the RTI Act of 2005 can accept and decide the appeal. However, there are no procedural guidelines for deciding the appeal in the Act. Or imposed any obligation on the appellate body for rejecting the appeal and failing to provide any reasons for the refusal. It should be re-evaluated, with the required procedural instructions for dealing with appeals included. It also needs a requirement that no grounds be given for the rejection of the appeal.

Examine the Courts' Jurisdiction Bar. The courts are barred from hearing any litigation or other process based on orders or decisions made under the Act provisions, as stated by section 23 of the RTI Act, 2005. They can, however, challenge the orders or decisions to the appellate authority established under the Act. The Act makes no indication of the requester's next steps after the decision or order of the higher appellate body. It is a significant shortcoming because all concerns brought before the CIC or the SIC are solely concerned

with public law. In public jurisprudence, the Constitution of India empowers the High Courts and the Supreme Court to hear any infringement of basic rights committed by public officials under Articles 32 and 226 of the Constitution.

Information from a third party in section 6 of the RTI Act of 2005 allows anyone to seek information. Except for information relevant to the nature of the authority, which is listed in Section 24 of the RTI Act, 2005, there are no previous restrictions on accessing information under the Act. Under Section 8 of the Act, the Public Information Officer has the option to disclose or not reveal third-party information. The Act gave the PIO the authority to utilise it only when there was a public interest in disclosure. However, there are clear opportunities to abuse this discretion in practise. To prevent the public information officer's judgement from being abused, classified material should be available prior to releasing information on the request. The statute also outlined the steps that the Public Information Officer must take in order to release third-party information in response to a request. It will undoubtedly take more time to complete the disclosure. The information can be delivered quickly if the third-party information that is available has been classified beforehand.

The term "proactive disclosure" refers to making information readily available through accessible channels. It is one of the most important steps in placing the RTI Act of 2005 into practise. In Section 4(2) of the RTI Act of 2005, the following is an example of proactive information disclosure:

"It shall be the constant endeavour of every public authority to take steps in accordance with clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including the internet, so that the public has minimal recourse to the use of this Act to obtain information." Proactive disclosure has a variety of characteristics that help it achieve the Act's goal. It has the ability to deliver information without collecting a price. It also provides the information without following any of the Act's procedures. Only this feature allows for instant information to be delivered. Only with this proactive disclosure can the public authority save time by avoiding vexatious requests filed under the Act.

The Prime Minister, Dr Manmohan Singh is quoted as saying: "Knowledge is aided by information. Information is also a source of power. Without a question, information is a valuable economic asset. The spirit of the Right to Information Act will be upheld if a

proactive disclosure policy is implemented. Information gathered at great expense with tax payer money should be made available to the broader public without the need for them to request it. The data will be subjected to educated public assessment, which will increase its quality." Proactive disclosure under the RTI Act of 2005 has not implemented in an acceptable manner since its commencement. To properly achieve the Act goal, the principle of proactive disclosure necessitates hauling up.

Records Management in the electronic age, each public body should maintain all its documents appropriately catalogued as well as indexed in such a manner and structure which involves the right to information under this Act, as well as make sure that certain documents which are suitable to be computer based are automated and linked within such a given timeframe and subject to availability of resources. Connectivity to certain documents is made possible by a network spanning the nation and consists of several systems. A single-window agency exists only at district level. A Single Window Agency must be formed in every district. This could have been done by identifying a cell in a district-level office and naming a representative as Assistant Public Information Officer across all government agencies presented by Single Window Agency. The Zilla Parishad or Deputy Commissioner or District Collector office are the ideal locations for every cell. All states must finish this within six months.

Non-Governmental Organizations (NGOs), Organizations that undertake public duties that are normally conducted by the government or its agencies, as well as those that have a natural monopoly, might be brought within the jurisdiction of this Act. Any establishment or body which obtains 50% of its annual operating costs, or a total amount equal to or higher than Rs. 1 crore, from government in any of past three years is regarded to be have obtained "substantial funding" for such timeframe and intention of these financing. Any information that would be subject to disclosure under the legislation if it were retained The certain data that'd be relevant to disclosure under the laws unless maintained by the government must also be relevant to disclosure unless transmitted to a non-government institution or organization. This can be done by altering impediments under Section 30 of the Act.

Authorities in the Public Sector, The Department of Personnel and Training has been designated as the focal department for the implementation of the RTI Act at the level of the Indian government. This nodal department should contain a comprehensive list of all Union Ministries/Departments that serve as government agencies. Each Union Ministry/Department

should also maintain a comprehensive list of all public authorities that fall under its jurisdiction. Each ministry/public department's authorities should be divided into the following categories: I constitutional bodies, (ii) line agencies, (iii) statutory bodies, (iv) public sector undertakings, (v) bodies created under executive orders, (vi) bodies owned, controlled, or substantially financed, and (vii) NGOs substantially financed by government. A current list of all public authorities must be maintained under each category.

At the following level down, each public authority should have the details of all public authorities that are subordinate to it. This should be repeated until the final level is reached. All of these facts should be made available in a hierarchical format on the websites of the relevant governmental authorities. States should follow suit and implement a similar scheme.

Requests that are both frivolous and vexatious. Subsection (10) of Section 7 could be added as follows:

"If a request for information is plainly frivolous or vexatious, the PIO may decline it. With the prior consent of the appellate authority, such a refusal must be informed within 15 days after receipt of the application. All such refusals shall be submitted to the CIC/SIC, as the case may be, and the CIC/SIC shall dispose of the case as if it were an appeal under section 19(3) of the RTI Act." It may be stated that information can be withheld if the work required to process the request would significantly and unreasonably divert the public body's resources. With the prior consent of the appellate authority, such a refusal must be informed within 15 days after receipt of the application. Furthermore, all such refusals shall be referred to the CIC/SIC, as applicable, and the CIC/SIC shall dispose of the case as if it were an appeal under section 19(3) of the RTI Act. This can be accomplished by removing obstacles or establishing proper rules.

Those who seek to make frivolous or vexatious requests under the Act will face severe penalties, according to the Commission. The Supreme Court of the United Kingdom. The applicant who submitted a vexatious request for personal information of a public employee under the Right to Information Act was fined heavily in H.E. Rajashekarappa v. State Public Information Officer. The appellant had filed five applications to the railway authorities in the matter of S.K. Lal v. Ministry of Railways209, seeking for "all the records" covering the various services and types of workers in the railroads. However, the government did not furnish him with the information he asked. Although the RTI Act permits citizens to request

any information other than the ten categories exempted under Section 8, the Central Information Commission noted that this does not imply that public agencies are obligated to consider all frivolous requests. The Central Information Commission ruled that requesting "all the records" about various railway services and groups of employees "amounts to a mockery of the Act."

Keeping Records and Organizing Information, Suo motu disclosures should also be made available in the form of a printed, fee-based publication in the official language that is updated on a regular basis (at least once a year). A free copy of such a publication should be available for reference. In terms of electronic disclosures, the NIC should create a single portal via which all public authorities under relevant governments' disclosures may be accessed, making information more easily accessible. By unifying and reforming the many entities currently involved in record keeping, Public Records Offices should be established as an autonomous authority in the GOI and all States within six months. This office will serve as a repository for technical and professional skills in public records management. It will be in charge of overseeing, monitoring, controlling, and inspecting record keeping in all government departments. The Public Records Office would report to CIC/SIC for overall supervision and guidance. As a one-time step, the Government of India should set aside 1% of all Flagship Program monies for the next five years to update records, improve infrastructure, create manuals, and establish Public Records Offices. (A portion of this should be used to raise awareness, but not more than 25%.) The Government of India may establish a Land Records Modernisation Fund as a one-time step to survey and update all land records. The amount of aid given to each country would be determined by an assessment of the circumstances on the ground. All organisations with control over an area equal to or greater than a district should be financed and mandated to complete the digitization process by the end of the year.

By the end of 2011, all level of sub-district organisations must have completed this duty. Within six months, the controlling Departments or Ministries at the State and Union levels shall draw out a clear road plan with well-defined milestones for this purpose, so that it could be included as a primary consideration in the 11^{th} 5-Year Plan.

Increasing Accessibility, in addition to the current methods of payment, suitable government agencies must amend the regulations to comprise postal orders like a method of payment. States may be compelled to create application fee rules that are consistent with the federal

rules. It must be guaranteed that the cost does not become a deterrent in and of itself. Fees (such as supplementary expenses) might well be reorganized by suitable government agencies in fractions of Rs 5/-. Rather than charging Rs. 2/- per additional page, a payment of Rs. 5 per 3 portion or pages thereof could be favourable. State governments could issue appropriate stamps in appropriate denominations like a procedure of payment details. Such stamps will be used to apply to government authorities under the authority of state and local governments. Since all post offices throughout the nation are permitted to function as APIOs in support of Departments or Union Ministries, they could be ready to accept payments through cash as well as deliver an invoice with the request.

The most significant impediment to the successful implementation of the RTI Act is an inadequate infrastructure, properly qualified staff, and effective systems for voluntary basis releasing documents subject to the provisions of the RTI Act. Irrespective of the routine method for submitting an Application form and the necessity that the CPIO or SPIO also provide necessary endeavours to the information seeker, the structure still includes a candidate to be fairly well aware and experienced about data he seeks to acquire, in which he can procure it, as well as how to achieve. There've been numerous instances in which data has been rejected under pretense of "not information" or if the required information has still not been mentioned appropriately. The Act's section 6 (3)210 stipulates. Section 6 of 210 (3) when an application for dat is chosen to make to a public body—(i) which is kept by some other government agency; or (ii) that is more directly connected with the features of yet another public body. Whenever a request is submitted to a public institution which keeps record, the assumption of thorough research on the part of the information searcher becomes more stringent, particularly given the variety background and different of information users, most of whom are impoverished and unknown with the framework.

Misuse by the RTI requester: Many petitioners have recently utilised the RTI statute, which is a no-frills method of obtaining information, to pursue factual information which is less to do with legitimate interest of the public and more with deceptive private interest. Private and personal information disclosure queries. Requests for revelation of spouse private and personal information, coworkers, supervisors, inspecting officers, as well as others, and their usage as a tool for extortion, retaliation, or harassment are prevalent. Another concern is repeat RTI applicants who continue to jam the channels of information with vexatious and frivolous applications of RTI. Such activities are both unjust to the system and to the

information provider because they place a significant strain on the system's time, labour, money, and other resources. An adequate system of checks and balances is required to ensure that information routes are not choked by levity or flippancy, and that the true information seeker may obtain the information.

3.7 THE RTI TO INFORMATION AMENDMENT BILL, 2019

Along with passage of the RTI Act, which has empowered the common to question their rationality or existence of an apprehension in their minds of such a hiss if they erred, the common to blindly follow what the law makers and bureaucrats did in discharge and performance of their governance and execution respectively has come to an end. It may have helped India reach the top of the world economy if not for the murky areas in implementation and knowledge. However, apart for the acknowledged autocracy, both have been significantly minimized. Whichever public body receives such a framework must transmit the request, and any aspect of it, to some other public body and promptly inform the candidate of these transition: Obtaining information request. The request has been fulfilled. An request here under the section should be transferred as quickly as possible, but still no subsequently than 5 days after it has been obtained.

The Supreme Court of India ruled in the particular instance of Anjali Bhardwaj & Ors. vs. UOI (Feb. 15, 2019) that perhaps the RTI Act was intended not only to represent but also to safeguard freedom of speech and expression. Good corporate governance, which would be a vital aspect of any democratic society, could be achieved if indeed the act is effectively carried out. One of visions of the constitution is to accomplish effective governance. It has a substantial effect on the advancement of the nation.

The standouts of the suggested RTI Amendment Bill for 2019 are as follows:

Term: As per RTI Act of 2005 in sections 13 as well as 16 that formed a 5-year time period for Information Commissioners, Central Chief Information Commissioner, and State Chief Information Commissioners are the primary goals of the bill (or till the age of 65, with whatever comes first). The amendment, nevertheless, specifies that perhaps the appointment would be with such a duration as the federal government could clearly state.

Salary: The CIC received the very similar remuneration as the Chief Election Commissioner, the SCIC, and the ICs received the similar remuneration as the Election Commissioners, and

the SIC received the similar remuneration as that of the Chief Secretaries. Notwithstanding, throughout this suggestion, it is suggested that the RTI Act, 2005 be modified to provide that the tenure and remuneration, perks, as well as other conditions of service of CIC as well as ICs, and the SCIC and SIC, must therefore be as recommended by the RTI Act, 2005.

Deductions: The suggested amendment bill also wants to repeal the necessity because when CICs as well as ICs are selected, they should inform the government whether they are obtaining a pension or even other pension benefits from the government. Their pay will be lowered by an amount equal to that pension if they had previously worked for the government.

Aspects of the bill that are unfavourable: Because everything would be decided by the government, it will give the centre more authority. As a result, the independence of information commissioners would be harmed, making them government "More Loyal". They would then behave as government workers, so if they wish, they would be able to control information that will help the government. The first law defines words such as tenure, salary, and appointment. The provision is interpreted as allowing the government to decide on tenure, salary, and appointments on a case-by-case basis. The suggested amendment reduces the IC, CIC, as well as SCIC standing in contrast with that of a Supreme Court Judge, restricting their power to issue instructions to high ranking officials. Since this Centre will also be able to determine on their tenancy, terms, as well as compensation packages, the proposed change would then jeopardize the autonomy of the SCIC, CIC, as well as ICs. As a result, the independence of the particular commission is jeopardised. The proposed measure has been developed and implemented without consultation procedure, limiting publics' access to information. Besides legislations to be effective, consultation process is needed, and laws cannot be signed merely by elected representatives. The information commission forced the government to divulge substantial information on matters such as NPAs, demonetisation, and the Reserve Bank of India, among others—if there is anything it could only do when it has power as well as autonomy. It seems to be an attempt to subjugate the Central Information Commission to the central government's complete control. The IC and CIC signify with powerful assigned interests, particularly among senior bureaucrats. It is crucial that they become self-sufficient. This change will minimize accountability by granting the central government the authority to make major decisions that will essentially undermine the RTI's central idea as well as framework.

The government argument for amending the statute is as follows: The administration claims that these revisions invalidate the equivalency made between the Election Commission of India and the Central and State Information Commissioners. It aims to simplify and strengthen the Act while also increasing openness. The Indian Election Commission is a constitutional body. The Central and State Information Commissioners, on the other hand, are statutory bodies established under the terms of the RTI Act, 2005. They are both established under Article 324 of the Indian Constitution. As a result, their status needs to be justified. The CIC has been accorded the same status as a Supreme Court Judge, although its decisions can be contested in the High Courts. The purpose of these adjustments is to reinforce the overall RTI structure. The major goal of the RTI Act of 2005, which was to promote transparency and accountability in the workings of all public authorities, as well as citizens' right to secure access to information, is being harmed by this amended bill. This is an attempt to stifle the free flow of unbiased information by putting filtered information from governmental authorities in front of the general public in order to appease the government. The administration has undermined the sunshine law without offering a convincing reason for doing so, which will obstruct the Information Commissioners' ability to act independently. They no longer have the independence, transparency, position, or authority that they once did, and will instead act as one of the departments reporting to the central government. The commission's and their flow of information have been harmed by the common's half-baked knowledge. With the latest modification, the commissions will be armed with teeth to cheerfully reject any information in order to gain the government's favour at the expense of transparency, which is unjust for healthy governance.

Among the most influential legislation created in independent India is the Right to Information Act. It is one of the very liberal as well as motivating pieces of legislation. The regulations requiring proactive disclosure by public bodies throughout the local dialect, the prerequisite that claimant provide no justification or individual contact information for obtaining the data, the necessity to discuss problems of life and personal liberty within 48 hours, as well as the non-obstante provision which necessitates revealing details without postponement all are distinctive to RTI Act, 20. In last couple of years, this Act was a crucial factor in the success of ordinary citizens as well as whistle-blowers for promoting accountability, reducing corruption, enacting effective governance, safeguarding individual freedoms, and successfully implement public assistance initiatives. It seems to have been a useful weapon in encouraging people to take part throughout the nation's democratic system.

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AIR All India Reporter

ALD Andhra Legal Decisions

ALT Andhra Law Times

ALT Andhra Legal Times

CRLJ Criminal Law Journal

IBR Indian Bar Review

SCC Supreme Court Cases

SCJ Supreme Court Journal

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4 RIGHT TO INFORMATION AND PROTECTION OF WHISTLE BLOWERS

CHAPTER STRUCTURE

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4.1 INTRODUCTION

Whistleblowing is a term used to describe when a person discloses illegal, immoral, or improper conduct to the public or within an organization. In India, a current or former employee who discloses information about alleged corruption, misconduct, fraud, or a violation of corporate norms and legislation may be considered a whistleblower. In recent years, whistle-blowers have exploited the Right to Information Act of 2005 to collect and disseminate pertinent material relating to any illegal or unethical behaviour. Using RTI as a tool, whistle-blowers can reveal the administration's fraudulent behaviour. Many of them are RTI activists whose goal is to promote system transparency.[1] This information can be used effectively to raise public understanding of government operations and may even be considered as a solution for individuals. On the other hand, these activists have had to deal with the consequences of a lack of protection, with the number of RTI activists dead in the last decade on the rise. As a result, the current structure of information search and disclosure methods presents various issues. When it comes to finding information, many people face a number of challenges. One of the main causes for this issue is that whistle-blowers and information finders are denied privacy, but the RTI is available to anyone. People have threatened or even attacked them on numerous occasions since the information they seek may cause difficulty for the officials to whom they have inquired. This could also play a role in the assassination of truth seekers like Rajendra Prasad Singh, who exposed unethical practises in recruiting and health policies by local government police in Bihar, and Amit Jethwa, who utilised RTI to expose illegal mining in Gujarat's Gir Forest. This new generation of whistle-blowers was dealt the final blow. The Whistle-blowers Protection Act of 2014 states that it is the government's responsibility to protect whistle-blowers and keep their identities protected. Whistleblower protection is critical for encouraging the reporting of wrongdoing, fraud, and corruption. There is a considerable increase in the probability of corruption in circumstances where mistakes are not rewarded or defended. This is true in both the public and private sectors, particularly in cases of bribery: Whistleblower protection in the public sector allows the discovery of passive bribery and misuse of government funds, as well as waste, fraud, and other forms of corruption. Whistle-blower protection in the private sector makes active bribery and other forms of corporate malfeasance more easily disclosed.

[1] Pande, Suchi. "Dying for information: Right to information and whistleblower protection in India." *U4 Brief* (2015).

Whistleblowing can also assist authorities in monitoring compliance and uncovering anti-corruption violations, particularly when sufficient legal protection and clear reporting instructions are provided. Effective whistle-blower protection fosters an open and organisational culture in which employees not only know how to report but also trust procedures. It also assists businesses in detecting and avoiding bribery in commercial dealings. To combat corruption, foster public sector accountability and integrity, and create a clean corporate environment, public and private whistle-blowers should be protected from retaliation for purportedly reporting acts of corruption and other misbehaviour in good faith. Whistle-blower protection legislation is an important component of an efficient anti-corruption system mandated by international treaties to combat corruption.[2] The UN Convention Against Corruption, the 2009 OECD recommendation of the Council of Further Combating Bribery from International Business Officials (Council for Foreign Business Officials, Recommendation on International Business Transactions, the 1998 OECD recommendation on improving public-service ethics, and the Council of Europe Rules of Procedure all include provisions for the protection of whistle-blowers. Such measures bolstered the international legal framework and aided states in enacting strong whistle-blower protection legislation. This section aims at comprehending the concepts whistleblowing and the protection that has been granted to them within the scope of Right to information.

4.2 DEFINITION OF WHISTLE BLOWING

A whistle-blower is someone who tells the public or a higher authority, such as employees of a corporation or a government agency, of any wrongdoing, such as fraud, corruption, or other types of malfeasance.[3]A whistleblower is someone who shares information about any wrongdoing that he or she believes is taking place within the organization or in a specific region. An employee, contractor, or supplier who becomes aware of illegal behaviour is referred to as a whistleblower. Whistleblowers are protected from being fired or otherwise harmed by legislation. Most companies have a policy in place that outlines how such an incident should be reported. A whistleblower may initiate a criminal investigation within the organization or agency, file a lawsuit, or file a complaint with higher authorities. There are two types of whistleblowers: internal and external. Internal whistle-blowers are employees

[2] Nidhi, Aditi, and Nideesh Kumar Tv. "Right to Information and Whistle Blower: A Journey from Theory to Practice." *Shanlax International Journal of Arts, Science and Humanities* 8.1 (2020): 127-137.

[3] Near, Janet P., and Marcia P. Miceli. "Whistle-blowing: Myth and reality." *Journal of management* 22.3 (1996): 507-526.

who report misconduct, fraud, or disciplinary action to top company officials such as the Head of Human Resources and the CEO. External whistle-blowers are those who report wrongdoings to those outside the organisation, such as the media, government officials, or the police. Proposal 2015 amends whistle blowers' Protection (amendment) The Whistle-blowers Protection Act, 2014. The Whistle-blower Protection Act of 2014 was passed to allow anybody to report acts of defilement, wellful abuse of power and discretion, or criminal offences committed by public authorities to the Competent Authority. The prime minister or chief minister are competent authorities in the event of ministers, the chairperson or chairman of the House or state legislatures, the chief judge of the district court magistrate, and the federal or state supervisory board for government employees. The Bill modifies this arrangement by prohibiting a person from disclosing information obtained from public officials about corruption or other abuse in one of ten categories. These classifications include information on India's sovereignty, science, economy, and security, as well as Council of Ministers procedures, violations of the benefit of the legislature, intellectual property, and an assessment system. The disadvantaged classes were shown in the ten classifications of information that cannot be revealed under the Right to Information (RTI) Act, 2005, according to the Statement of Objectives and Reasons of the 2015 Bill. This comparison, however, may not be sufficient.[4] The RTI Act was enacted to enhance transparency and accountability by making publicly held data available to the public. There may be times when it is inappropriate for public entities to reveal all types of information to all individuals or residents. Surprisingly, the Whistle-blowers Act empowers the Competent Authority to receive information on defilement. In all cases, the competent authority must be a high-ranking constitutional or legal position. This information is not made public, and the charges must be kept confidential, with the identity of the complainant, the public official, and the accompanying papers remaining unpublished. It should be mentioned that the RTI Act empowers the public to request information or data: (i) that falls into one of the 10 categories of data exempted from the Act, and (ii) information contained in the Official Secrets Act of 1923, if the public interest in knowing the information outweighs the risk of harm to the interests protected. Furthermore, while the Law exempts 22 security and intelligence organisations, all evidence relating to defilement charges must be supplied. In addition, the Act establishes a two-step procedure for appealing a decision to retain data or

[4] Somers, Mark, and Jose C. Casal. "Type of wrongdoing and whistle-blowing: Further evidence that type of wrongdoing affects the whistle-blowing process." *Public Personnel Management* 40.2 (2011): 151-163.

information sought. Such provisions are not included in the Whistle-blower (Amendment) Bill 2015. According to the Bill's Statement of Objects and Reasons, major amendments were made to the Whistle-blowers Protection Act 2014 during the legislative session. However, the revisions were not advanced because the bill was requested to be examined on the final day of the 15th Lok Sabha. These enhancements are likely to be included in the 2015 draught bill. The proposed revisions in 2013 exempted only two types of data from the Act: (i) data relevant to India's sovereignty, logic, scientific or commercial interests, foreign language, or criminal convictions; and (ii) Ministerial Council meetings. The 2015 Bill, on the other hand, limits the sharing of eleven different types of information. Because the Act do not restrict the sharing of any type of information, the process of determining unlawful communications is irrelevant. According to the Bill, after the disclosure is made, the competent entity will forward it to a governmental authority. The organisation in question must formally determine whether the disclosure is prohibited. Concerning issues that are not identified during the examination of a whistleblowing complaint, the Act states that no one is required to divulge information once a whistleblowing complaint is accepted and investigated if the complaint falls into one of five categories: (i) national security, (ii) international affairs, (iii) public order and morals, (iv) court disdain, and (v) terrorism. According to the bill, the five classes are eventually replaced by more than ten information classifications.[5] Others argue that the Bill is being exploited to undermine the Act's effectiveness. The change is intended to undermine the original Act's viability by expanding the conditions under which information must not be provided. There are numerous whistleblowing components. It can be used as a form of free speech, an anti-corruption tool, and a system for resolving internal conflicts. This has resulted in a plethora of interpretations. "There is an act of a man or a woman who believes that the public interest surpasses the interests of the organisation that it serves to whistle the organization's involvement in corrupt, criminal, fraudulent, or destructive actions," said US consumer campaigner Ralph Nader in 1971. Whistleblowing is a voluntary act of disclosure to an external entity with the ability to correct the situation by a person who has or has had privileged access to an organization's data or information about illegal or other wrongdoing involving or under the control of that organization, whether real, suspected, or anticipated.

[5] Verschuuren, Pim. "Whistleblowing determinants and the effectiveness of reporting channels in the international sports sector." *Sport Management Review* 23.1 (2020): 142-154.

4.2.1 International Background of Whistleblowing

Whistleblowing is an important instrument in the anti-corruption struggle. Employees and individuals knowledgeable with and able to notice corruption in the inner workings of an organisation may be more ready to report these problems to those who can rectify them, or more broadly to the public, if they are promised that their rights would be defended. Whistle-blowers are frequently punished severely for their acts. They are sacked or stigmatised because of their actions. Some are charged with breaking the law or violating job agreements. They may sustain bodily harm if exposed to extreme environments. More than 30 countries have enacted legislation to encourage these critical disclosures and protect whistle-blowers from retaliation. Many international anti-corruption treaties and accords, such as the Council of Europe's and the Convention against Corruption, now include obligations on nations to pass similar legislation. Many organisations also have internal regulations to encourage disclosure. Whistle-blower legislation will only be effective in a democratic society that supports it. Transparency, disclosure, and accountability are all critical components. An informant who wishes to remain anonymous Bribery, corruption, and favouritism networks can thrive in an illegal government dominated by secrecy, terror, retaliation, and death. Whistle-blower legislation must be viewed in the cultural context.[6] They are not suitable for export to hostile environments. Whistle-blower legislation requires the rule of law, including an independent legal system and judiciary. Transparency International is a global non-governmental organisation (NGO) anti-corruption alliance based in Berlin that collects and disseminates data and information on global governance and corruption trends. Recent investigations have revealed that Argentina, Germany, Ghana, Guatemala, Indonesia, Italy, Kenya, Panama, the Philippines, Ukraine, and Venezuela do not have, or do not have complete, whistle blower legislation. Brazil, Mexico, Namibia, Nigeria, Portugal, Russia, Turkey, and Zimbabwe are not mentioned in the report. This relates to Transparency International's Corruption Index. Many jurisdictions have enacted legislation to protect both the public and private sectors in various cases. Australia, Canada, France, India, Japan, New Zealand, South Africa, the United Kingdom, and the United States have private sector employees who reveal public interest. It is frequently referred to as the "Law establishing proceedings for the disclosure of misdeeds in the public sector, including the protection of

[6] Verschuuren, Pim. "Whistleblowing determinants and the effectiveness of reporting channels in the international sports sector." *Sport Management Review* 23.1 (2020): 142-154.

people disclosing misdeeds" or "promoting compliance with laws and regulations on the protection of life, body, property, and other citizens' interests, and thus contributing to the stabilisation of rights" (Canada), etc (New South Wales). These unique whistle blower regulations also cover legislation relating to anti-corruption, audits, competition law, corporate law, occupational health and safety, and workplace relations and employment law. Many public issues, such as anti-terrorism legislation and child abuse, necessitate mandatory reporting. Common law contains whistle blower laws, such as those relating to accountants and bankers. Article 806 protects employees of publicly traded firms who provide proof of fraud, which was introduced by the Sarbanes-Oxley Act USC (2002) to restore public trust in corporate America after major corporate and accounting scandals. Auditor independence, corporate responsibility, better financial disclosures, and analyst conflicts of interest are among the SOX categories. Because of this disparity in rules, an employee of a worldwide organisation may be permitted to blow the whistle in one country for mismanagement, but not in another for the same malfeasance in that organisation but in a different competency.[7] Whistle-blower protection is an essential component of a comprehensive anti-corruption strategy that includes other measures to foster an ethical culture in the public and financial sectors. Due to the interaction between public and private bodies in the event of corruption, whistleblowing strategies can be mutually beneficial in the private and public sectors. For the purposes of this study, the financial industry serves as an excellent illustration of how specific private-sector adjustments and laws are proposed to resolve issues. The protection of whistle-blowers is an issue that must be addressed. The International Labour Organization's (ILO) Committee of Experts for the Implementation of Conventions and Recommendations (CEI) emphasised the importance of "qualified and motivated personnel, as well as a vibrant and depoliticized public administration and management culture with an ethical focus on the fight against administrative corruption." Corruption or whistle blower protection emphasises the need of creating a workplace culture that values and protects whistle-blowers, backed up by appropriate legislation.

The Inter-American Convention against Corruption

The Organization of American States (OAS) Inter-American Convention against Corruption came into force in 1997 and presently has 33 signatories. It was not only the first

[7] Somers, Mark, and Jose C. Casal. "Type of wrongdoing and whistle-blowing: Further evidence that type of wrongdoing affects the whistle-blowing process." *Public Personnel Management* 40.2 (2011): 151-163.

international anti-corruption pact, but also the first to have a whistle-blowers clause. The Convention requires Member States 'to establish, maintain and strengthen systems for the protection of public servants and individuals who, in good faith and in line with their constitutions and fundamental principles of the national law, report corruption, including the protection of their identities'.[8] In terms of who should be safeguarded by the disclosure of information, the Convention asks Member States to protect "public authorities and private people" from reprisal. Article III. 8 of the Convention establishes a wide meaning in this regard for the word whistle blower, because it enables not only government employees but also ordinary persons who believe they have appropriate information to report and get protection. The principle is extremely clear that persons who are entitled to report are only protected if they report in good faith acts of corruption.

The Council of Europe (CoE)

The study of regional whistleblowing organisations would not be complete without discussion of the work of the Council of Europe (CoE) on two of its instruments to address corruption: civil law and the Convention against Corruption. The Convention against Corruption and Recommendation CM/Rec from the Council of Europe. The Convention on Civil Law states in Article 9 (Protection of Employees) that "in their own law each Party shall provide adequate protection from any unjustified penalties of employees who have reasonable grounds for alleging corruption and who report their suspicion to responsible people or authorities in good faith." When the Convention was founded, the CoE felt that only one kind of individual was "entitled to report": employees. At first sight, the understanding of the term "whistle blower" by the CoE seems to correspond to one of the OECD's. This is probable because the CoE states the existence of the "reporter" and "reported" working connection in this section and the need of reporting in good faith. Before looking into the second document, it should be noted that the CoE's perspective on a wide range of questions, including corruption, has been heavily influenced by human rights principles over the last two and a half decades, particularly the work carried out under the European Constitutional Convention (ECHR) in 1950/53. (ECHR) (ECHR). Whistle-blower protection is frequently paralleled in 'Freedom of Expression' under Article 10 of the ECHR. The article says that "everyone is entitled to freedom of expression" and that "this right

[8] Park, Heungsik, John Blenkinsopp, and Myeongsil Park. "The influence of an observer's value orientation and personality type on attitudes toward whistleblowing." *Journal of business ethics* 120.1 (2014): 121-129.

includes the freedom to express opinions and receive and to convey information and thoughts without fear of consequences." As we can see, the CoE's approach to whistleblowing evolves from the Civil Law Convention on Corruption to the aforementioned recommendation and extends to the groups of individuals entitled to report. At the same time, the 2014 recommendation has yet to be adopted by the CoE Member States.

The United Nations Convention against Corruption

The United Nations Convention Against Corruption (UNCAC) was signed in 2005, and it currently has 181 signatories (UNODC, 2017). The UNCAC is defined by U4 as "a global response to a global problem," as it has been endorsed by the majority of countries worldwide (U4 Anti-Corruption Resource Centre, 2013). The UNCAC is the result of a process in which the international community recognised the need to take a strong stand against corruption on a worldwide scale and established a convention that is unique in both geographical scope and breadth of provisions.[9] The wording reflects the UNCAC's broad scope, which includes a section on whistle blower protection procedures. According to UNCAC Article 33, "Protection of Reporting Persons," "each State Party shall consider incorporating relevant measures into its domestic legal system to ensure protection against any unjustifiable treatment for any individual who reports in good faith." Any facts about offences established in line with this Convention must be reported to the appropriate authorities in good faith and on reasonable grounds.

The African Union Convention on Preventing and Combating Corruption

The African Union Convention on Corruption Prevention and Combat (AU Convention) came into force in 2006 and now has 38 signatories. In order to strengthen the rule of law and good governance, the Convention addresses corporate and governmental corruption by encouraging openness and accountability. Whistleblowing is addressed in Article 5.6 of the Convention, which calls on States Parties to "take measures to ensure citizens reveal corruption without fear of repression."

[9] Mechtenberg, Lydia, Gerd Muehlheusser, and Andreas Roider. "Whistleblower protection: Theory and experimental evidence." *European Economic Review* 126 (2020): 103447.

The Arab Convention to Fight Corruption

19 states signed the Arab Convention to Combat Corruption in 2010. It is based on Islamic values, the League of Arab States Charter, the Charter of the United Nations and all of the regional and global corruption treaties approved by Arab States, including UNCAC. The Arab Convention on Battle Corruption affirms that fighting corruption is not limited to official authorities but also plays a vital role for citizens and civil society.

4.3 TYPE OF WHISTLE BLOWING

Whistle-blowers are individuals who report wrongdoing in an organisation or group of people. He could be an internal employee, a contractor, or a client who is aware of or detects illicit activity within the organisation. Such activity includes fraud, corruption, misconduct, employee disappointment, insolence, purposeful misuse of power, illegal behaviour, violations of health and safety, noncompliance with rules, and so on.[10] One of the most important characteristics of a whistleblower is that his primary motivation for his activity is in the public interest. In other words, the activity should be conducted in the public interest, exposing illegal behavior by a government agency or authority.

A person who is aware of the wrongdoing can inform a senior officer within the organisation or an external authority, such as the media. There are two types of whistle-blowers, depending on the reporting authority:

1. Internal Whistle-blower
2. External Whistle-blower

1. Internal Whistle-blower

These whistle-blowers bring the company's wrongdoings to the attention of a higher authority inside the company. For example, an employee may report to a co-worker the CEO or the head of human resources fraud. Several organizations have policies and procedures in place to report such incidents and the procedures associated with them. Many businesses also have an internal hotline or tip line to help internal whistleblowers report wrongdoing within

[10] Gökçe, Asiye Toker. "Prospective teachers' attitudes toward whistle-blowing according to type of intelligence." *Mediterranean Journal of Social Sciences* 4.4 (2013): 11-11.

the organization. In the case of internal whistleblowing, there is no formal investigation or actual disagreement. The corporation, with no involvement from any external authority, carries out the main measures internally. However, in certain cases, the corporation discloses such errors for a formal investigation to the relevant governmental authorities in order to avoid more severe consequences if the government itself admits such errors.

2. External Whistle-blower

Whistle-blowers expose corporate malfeasance to outside authorities such as law enforcement, media organisations, regulators, senior executives, and so on. A contractor, for example, can report a large swindle to the government agency itself. When a corporation's or organization's private or classified information is made public in order to bring more public attention to any fraud, criminal behaviour, or other misconduct that occurs within the firm or organization. As a result, it may be subject to external monitoring and constraints. These kinds of incidents frequently end up in court. When the internal system fails to handle organizational problems due to the involvement of its own authorities or the rewards they can gain from such fraud or criminal behaviour, people frequently resort to external whistling. These policies are frequently motivated by the desire to protect the general welfare.[11] Blowing the whistle or filing a complaint with a competent authority about a firm's misbehaviour benefits the public. Anyone can register a complaint in writing or via e-mail.

Aside from these two types of whistle-blowers, the United States of America (USA) recognises a third type of whistle blower: the anonymous whistle blower. Whistle-blowers are important in the area of cybersecurity. They safeguard consumers and employees against internet threats such as hacking, cloud storage breaches, and harmful behaviour.

Whistle-blowers, on the other hand, may suffer as a result, and the public report they make may be detrimental to their own interests, necessitating the need for a suitable whistleblowing structure and protection. Certain firms are required by Section 177 of the Companies Act 2013 to develop a whistleblowing method to report misconduct or other unethical behaviour to management. The Whistle-blower Act also protects whistle-blowers from being fired or harmed. In ***Avinash Kumar vs. Aruna Assaf Ali Government Hospital***, GNCTD, the Central Information Commission determined that the Whistle-blowers Protection Act of 2011, which

[11] Barman, Arup. "Whistle blowing exercise in Indian corporation: does it really blow?." *Available at SSRN 1733865* (2011).

was enacted in 2014, provides a way to prove accused public employees' wrongdoing and misuse of authority. It urges everyone to report any type of fraud, corruption, or maladministration. It protects whistle-blowers or those who make a revelation in the public interest regarding a public official's act of corruption, misuse of power, or criminal law violation. Following multiple instances of bullying or harassment by whistle-blowers, such as Satyendra Dubey, who was murdered in 2003 for whistling in corruption charges involving the Indian National Highway Authority's Golden Quadrilateral Project, this Act was enacted. A whistle blower may submit a complaint anonymously, and even if he files a complaint in his own name, his identity will not be revealed under this act. This provision was designed to keep him from being fired or otherwise harmed. Section 16 of the Act imposes a maximum prison sentence of three years and a fine of Rs 50 000 on anyone who divulges the identity of the complainant. In the United States, whistle-blowers are protected under Section 806 of the Sarbanes-Oxley Act of 2002.

4.4 DIFFERENCE BETWEEN WHISTLE-BLOWER AND INFORMER

Whistle-blowers are individuals, generally employees, who report unlawful, illegitimate or unsafe information or conduct, as well as waste, fraud, or misuse of taxpayer funds, to private, public, or government agencies. Whistle-blowers can make facts or claims public or internal. More than 83 percent of whistle-blowers disclose issues to a supervisor, human resources, compliance, or impartial third party, who is expected by the organisation to address and fix the issue. A whistle blower may report claims made outside the firm to a third party, such as the media, government, or criminal enforcement. The most common sort of retaliation found is sudden termination. Several more behaviours, such as a quick increase in workload, a significant reduction in hours, difficult task completion, or the employment of other bullying methods, are considered retaliatory.[12] As a result, a variety of laws has been enacted to protect whistle-blowers. Whistle-blowers can be protected by third-party organisations, although their protection is limited. Whistleblowing can also be classified as either public or private. The classifications differ depending on whether the whistle blower works for a public or private entity. Both can provide different outcomes depending on a variety of factors. Around 20% of whistleblowers are successful in avoiding criminal conduct, usually with the help of the legal system and a whistleblower. To "prove" such

[12] Lamba, Payal. "Whistleblowers at risk: Need for protection of anti-corruption crusaders." *Journal of Politics & Governance* 2.1/2 (2013): 228-234.

charges and hold corrupt companies or government organizations accountable, the whistleblower must have substantial proof to back up the government's or regulatory agency's statements that it can use or investigate. A whistleblower case would never be prosecuted or covered in the news if there was no solid and convincing evidence. Informants frequently engage in illegal activity and use information sharing, either freely or under duress, to reduce their responsibility. They must obey or be penalised if they are subject to the body or person to whom information is communicated. In contrast, whistleblowing laws have no effect on the liability of those who engage in criminal activity. The misinterpretation of whistle-blowers as slanderous informants might result in serious miscommunications between the parties involved. One of the most crucial distinctions to make is whether the individual who provides the knowledge is guilty or not. Informants are frequently involved in illegal activity and use information sharing to lower their own accountability, either freely or under pressure, in order to reduce their own responsibility and reduce their own liability. If they are subject to the authority of the entity or person to whom the information is being provided, they must comply or face the possibility of being penalised by the entity or individual.[13] People who make disclosures are held accountable to a greater or lesser extent by policies that protect whistle-blowers, on the other hand. Despite the fact that the informant is in a difficult moral position and is disloyal, the focus is placed here on his difficult moral situation and disloyalty rather than on his doubtful usefulness as a witness. In particular, it examines the applicability and ramifications of a highly specialised law enforcement tactic that pays informants by absolving them of their criminal action. It is this sharing of information and accountability that distinguishes criminal snitching from other types of snitching, in part because it takes place between informants and law enforcement authorities, rather than between individuals. This type of whistleblower is not compensated for exposing official disloyalty. As a result of this decision, other charges against him have been dropped. Another significant difference is that informants frequently seek favors or monetary incentives in exchange for their disclosures. Whistleblowers frequently receive nothing in exchange for their exposes, with the exception of the opportunity to maintain the status quo in the future. Individuals who provide information about corruption may be eligible for rewards under certain anti-corruption legislation. These awards are typically granted as part of a

[13] Apaza, Carmen R., and Yongjin Chang, eds. *Whistleblowing in the world: Government policy, mass media and the law*. Springer, 2017.

settlement agreement. In the course of investigating corruption, money has been taken in court and placed in trust.

4.5 NEED FOR LEGISLATION FOR PROTECTION WHISTLE BLOWERS

In India, the Whistle-blowers Protection Act of 2014 protects whistle-blowers. The legislation protects their identity and imposes tight limits to prevent them from being victimised. For instance, an organisation cannot sue a whistle blower until the allegations are investigated. Comparable portions of the Firms Act have been adopted for publicly traded firms in accordance with the Securities and Exchange Board of India's governance recommendations. All publicly traded companies and government bodies should adopt a whistle blower policy describing the techniques and remedies available to complainants. India has a dismal track record when it comes to dealing with insider trading.[14] The Market Regulator has added a tipping mechanism to boost success rates. The SEBI would provide prizes of up to one crore for information leading to successful prosecution of insider traders. Additionally, it has a "cooperation and confidentiality" provision, which means that anyone who has breached securities laws is exempt from prosecution and held in secret if they cooperate with the primary inquiry. Whistleblowing can be used to settle personal disputes or, in extreme cases, to manipulate the stock market. To avoid this, the audit committee reviewing the claims will verify their veracity. If a lawsuit is deemed frivolous, the plaintiff could face up to two years in prison. Traditional procedures such as internal audit or examinations may make it difficult to detect fraud and other misconduct due to the sophisticated structure of corporate transactions, the high volume and magnitude of transactions, insufficient data integration across enterprises, and obsolete internal controls. In other instances, workers or third parties involved in the circumstance can raise the first alarm by reporting suspicious behaviour. Both the Businesses Act of 2013 and SEBI (through amendments to paragraph 49 of the Listing Agreement) have mandated that certain types of corporations establish processes for receiving complaints or concerns expressed by firm directors or employees. Additionally, the whistle blowers Protection Act 2014, introduced last year by Parliament, aims to incentivise individuals to report suspected corruption and fraud in government organisations through disclosure. On the other side, the Law prohibits anonymous complaints, raising concerns about the safety of whistle blowers whose identities

[14] Gupta, Bhavya, and Kumar Rishabh Parth. "Protection of Whistle-Blowers in India: A Need?." (2021).

are revealed. Numerous instances of corporate and government agency repression of whistle blowers have been reported, and several whistle blowers have been killed in the fight against fraud and corruption. The government must prioritise these concerns, while leading private-sector organisations permit anonymous complaints and establish safeguards to protect whistle blowers' identities and the confidentiality of the inquiry process. The Whistle-blowers Protection Act, 2011, is an Indian Parliament Act that sets a structure for investigating allegations of defilement and abuse of authority by community workers, as well as safeguarding anyone who reports such misconduct in government bodies, activities, and workplaces. Abuse or misbehaviour can manifest itself in the form of deception, defilement, or botch. The Indian Cabinet endorsed the Act as part of an effort to eradicate corruption from the country's administration, and the Lok Sabha ratified it on December 27. It became an Act on February 21, 2014, after the Rajya Sabha passed the Bill and the President approved it on May 9, 2014. Individuals did not have easy access to information until the 2005 passage of the Right to Information Act. Due to a lack of understanding, individuals were unable to participate in any conversation or criticise the decision-making process, despite their suffering. The Official Secrets Act of 1923, which served as a reliquary for British colonialism, kept everything hidden. Ordinary persons lacked a legal right to get information about government programmes and expenditures.[15] Citizens elected to manage the bodies charged with policymaking and funding public activities were denied access to essential information. Because of this concealing culture, a fertile ground for corrupt behaviour evolved. Because of constraints on the free flow of knowledge, citizens faced feelings of impotence and alienation. Under these circumstances, the public and a number of non-governmental organisations (NGOs) wished for increased access to government-controlled information. In response to the demands, the government enacted the Right to Information Act in 2015. The Right to Information Act was enacted to empower civil society and increase government accountability. Transparency is the cure to corrupt behaviour, and as government institutions become more transparent, corruption will diminish.

4.6 RECOMMENDATIONS BY LAW COMMISSION OF INDIA

The Law Commission suggested that laws be enacted to protect whistle blowers in order to combat corruption in December 2001, and forwarded his Public Interest Divulgation Report,

[15] Fasterling, Björn. "Whistleblower protection: A comparative law perspective." *International Handbook on Whistleblowing Research*. Edward Elgar Publishing, 2014.

along with a suggestion, to Arun Jaitley, then Minister of Law, Justice, and Public Affairs. In January 2003, the public interest disclosure was made. The assassination of Satyendra Dubey in 2003 as part of the NHAI injustice discovery, and the accompanying public and media controversy, prompted calls for the passage of a bill. Following the incident, the Supreme Court ruled in 2004 that equipment should be deployed until laws dealing with whistleblowers was established. In May 2004, the Indian government passed a resolution allowing the Central Vigilance Commission to investigate allegations of corruption by central government officials. The Right to Information Act was announced in October 2005. The 2006 Public Services Bill (Draft) said that the government must implement processes to protect whistleblowers within 6 months of the Act's adoption. In its 2007 report, the Second Committee on Administrative Reforms urged for the development of a dedicated Statute to protect whistleblowers. Since 2005, India has ratified the United Nations From Wrongdoing Convention, which requires countries to make it easier to report corruption by public officials and to protect witnesses and experts from retaliation. On August 26, 2010, Prithviraj Chavan, Minister of State for Staff, Public Grievances, and Pensions, introduced the Whistleblower Bill, a public disclosure bill for disclosure and protection, in the Lok Sabha. In India, at least 12 RTI activists have been killed while seeking information "to promote transparency and accountability in the activities of all public organisations" since 2010. Ms Shehla Masood, a notable RTI activist from Bhopal, Madhya Pradesh, was assassinated on August 16, 2011. The Lok Sabha passed the Bill, along with the suggested changes, on December 27, 2011.[16] The most recent was the murder of Premnath Jha on February 26, 2012, in Mumbai's Virar neighbourhood. His life was sacrificed for the sake of Vasai-Virar development projects. He allegedly uncovered numerous instances of corruption and was regularly intimidated. On March 8, 2012, a tractor loaded with illegal stems in an attempt to thwart the mining mafia in Banmore, Madhya Pradesh, killed IPS Officer Narendra Kumar. On March 25, 2012, Anna Hazare staged a Dharna on Jantar-Mantar in support of the passage of a strong whistleblower protection law. On April 23, 2012, the Delhi High Court opened an investigation into the assassination of Ravinder Balwani, an RTI activist, in a suspected hit-and-run case in Delhi. He has been an assistant to Team Anna and a member of Arvind Kejriwal's Parivartan NGO since 2005. In accordance with the measure's goal, the law established a framework for receiving and investigating complaints involving allegations of corruption, willful abuse of

[16] Eisenstadt, Leora F., and Jennifer M. Pacella. "Whistleblowers Need Not Apply." *American Business Law Journal* 55.4 (2018): 665-719.

power, or deliberate discretion with public employees. It also includes safeguards against the victimisation of a complainant and the prosecution of a fatal criminal. The bill's main objective is evidently to collect and examine complaints, and it makes no mention of specific punishments. It applies to officials, as well as enterprises and organisations owned and administered by federal or state governments. The Bill is broken into 30 sections and 7 chapters. The third chapter goes over how the reporting investigation will be conducted. It delegated the complainant's authority to the relevant authorities to reveal the identity of the department or organisation in question for comment, explanations, or reports. However, the department head may not reveal the complainant's identify under any circumstances. When the investigation's grounds are insufficient, the relevant authorities must close the case. No disclosure shall be considered if the relevant authority wishes to revisit any previously resolved problem or matter. Under the Public Officers Inquiries Act of 1850 or the Commission of Inquiry Act of 1952, no information about an inquiry will be obtained.[17] The reporting period has been extended from five to seven years. According to Section 6(4) of the Act's primary interpretation, this had an overriding effect on the Official Secrets Act of 1923, preventing officials from claiming immunity from being held confidential during the disclosure of the information or document, provided it does not threaten the entire person's interest. The rules in Chapter Five protect whistle blowers from victimisation by stating that a relevant authority may, following receipt of a claim that claims of victimisation or suspects of victimisation, order the relevant government to protect and prevent victimisation. Section 11 protects the complainant, the public servant, the witnesses, and the investigators. It is critical to recognise that the Statute distinguishes between victimisation protection and police protection. Only the complainant is shielded from victimisation.

4.7 LACK OF WHISTLE BLOWER PROTECTION POLICY

Whistle blowers are protected under Indian law; however, they are not as successful as they are in the United States, where similar cases are handled by another organisation. The Businesses Act of 2013 mandates the formation of an audit committee to investigate complaints made by whistle blowers against stock exchange businesses. It also safeguards against victimisation, but no defence mechanism is in place. The safeguards are largely based on the policies made by the companies. The whistle blowers Protection Act of 2014, which

[17] Ahmad, Syahrul, George Smith, and Zubaidah Ismail. "Internal whistle-blowing intentions: a study of demographic and individual factors." (2012).

was announced on May 12, 2014, is still in the works. The Ministry of Human Resources, Public Grievances, and Pensions has stated that the bill may need to be changed further before it is put into effect. The law protects anyone who discloses alleged wrongdoing in government bodies, initiatives, and offices by creating a framework in which public personnel can investigate alleged corruption and abuse of authority, as well as anyone who discloses alleged wrongdoing in government entities, projects, and offices. An informant who has reported public wrongdoing to police without endangering national security should remain anonymous. Whistle blowers requesting data through the RTI must provide their basic identifying information in order to obtain it. The TRI is an abbreviation for the whistle blowers are primarily government officials who seek to expose our country's corrupt administration. If an error or fraud is discovered within the government, it is brought to the public's attention through the media or online sources in order to throw light on issues.[18] This is a concern because whistleblowers who exposed the administration did not jeopardize our nation's security; however, their lives were jeopardized. Due to the nature of RTI, those in power are prone to follow the activists. When they do, they receive perilous calls, constantly jeopardizing their families and lives as a result of the government's influence. This demonstrates the law's flaws, as the purpose of the Right to Information Act is jeopardized despite India enacting the Whistleblower Protection Act. The right to information (RTI) must be used to promote transparency in our country's administration. The legislation is compartmentalised, but it is violated when informants seeking redress through it die because these activists are not recognised in the framework and are regarded as any other information seeker.

4.8 ETHICAL PERSPECTIVE OF WHISTLE BLOWING

Knowing what constitutes ethical whistleblowing might be a challenging issue to grasp. Fairness and dedication are two moral values that are violated when someone comes forward with information about a crime. In many cases, fairness and equity for example, elevating an employee purely on the basis of his or her talents are at odds with loyalty for example, promoting a long-serving but unskilled employee. When whistleblowing is carried to its logical conclusion in terms of loyalty, it is possible to endure agonising conflicts. This might entail violating the trust of co-workers who have committed wrongdoing, as well as

[18] Vandekerckhove, Wim, and David Lewis. "The content of whistleblowing procedures: A critical review of recent official guidelines." *Journal of Business Ethics* 108.2 (2012): 253-264.

jeopardising one's "team player" identity by going against the grain in an organisation that supports unethical conduct. Even though loyalty is an ethical value, it should never take precedence over the ethical commitment to act responsibly and be accountable for one's actions, which includes exposing misconduct when doing so serves the organization and its stakeholders best. Making public a decision to blow the whistle is taken by someone who believes that remaining silent will cause more harm than good. A virtuous whistleblower is one who, if she truly believes she has a responsibility to protect the public interest, conducts herself in a moral and ethical manner. This individual is willing to accept the repercussions of her actions and go on with her life after them. Another way of putting it is that she is ultimately responsible for her decisions.[19] Characteristics of an ethical individual include having strong character traits based on courage and being guided by the concept that ethical decision-making is founded on honesty. Even when pressured by higher-ups to remain silent, a potential whistle blower maintains his or her moral character and integrity. Not because there is the possibility of obtaining a reward for becoming a whistle blower, but because they want to protect themselves and their families. For her part, the whistle blower holds on to her convictions about ethical behaviour and lives her life in accordance with those convictions. Taking the end purpose of the whistle blower into consideration when deciding whether he or she has acted ethically should be a priority when making a determination. Because greed is a significant factor in determining whether to disclose financial misbehaviour, it is critical to acknowledge this reality. The vast majority of people agree that exposing wrongdoing and having strong corporate governance are necessary; however, it is possible that external influences will have an impact on acceptance and perception of these values. As workplace views spread to the streets, it is a chicken-and-egg situation: if businesses promoted solid corporate governance for all, whistleblowing would no longer be viewed negatively or as the exclusive domain of company or community leaders. Given the fact that a bureaucratic organisation is formed of such a diverse set of individuals, it is possible to argue that personal allegiance to it is irreconcilable with human nature. When working in a dehumanising atmosphere, a whistle blower's perception of their own worth and ability to effect change may be skewed, which can diminish their sense of responsibility and motivation to come forward with their information. Whistleblowers should be confident in their reasons and trust the system, but they should not be afraid to provide information they believe is important. It

[19] Singh, Vijay Kumar. "Whistle Blowers Policy Challenges and Solutions for India with Special Reference to Corporate Governance." *GNLU JL Dev. & Pol.* 3 (2013): 5.

is preferable if they are content with the knowledge that they are helping to create a more ethical organizational environment for all stakeholders, who stand to benefit from fair treatment as well as trustworthiness, responsibility, and accountability. Despite the fact that hotlines are available, it is critical from an organizational standpoint that the company does not become complacent in its use of them or its interactions with customers. Companies that do not receive a high volume of whistleblower complaints should avoid making the mistake of assuming there is nothing to be concerned about in the first place. The benefits of the service are also greatly decreased if firms do not make use of the information obtained from their reports in a structured and methodical manner e.g., by examining patterns, investigating and addressing concerns, etc. Businesses that fail to act on information provided by whistle blowers will face ramifications from the broader public because of their failure. It is essential to establish an ethical tone at the top of a company's organizational hierarchy, which will then seep down and become an imposed standard. When senior executives declare their support for an ethical code while violating that code in their personal lives, it is one of the most damaging things that can happen in a company.

4.9 NEED FOR WHISTLE-BLOWERS

In an ideal world, all businesses and their leaders would be proud of their high level of integrity and would never require employees to report wrongdoings or misconduct, but in our society, it is impossible to hold our bodies and say it with any confidence. Given the concerns we have addressed, it's reasonable that if people are aware of wrongdoings, it's crucial to recall the bigger picture – and, while it's an undeniably intimidating procedure to go through, you must consider the best interests of the firm or the wider public.[20] It is critical to emphasise that when we discuss the need for fraud and the benefits, safeguards, and rewards available to whistle blowers, we are referring to federal programmes as well as federal and state whistle blower regulations. Corporations are increasingly instituting internal "whistleblower" programs, ostensibly to provide employees with a safe haven in which to raise their fingers against fraud. Internal disclosures, on the other hand, all too often fail to provide whistleblowers with minimal legal protection and no assurance of remuneration for jeopardizing their employment. Because of the existence of these landmines, correctly declared fraud becomes even more crucial in order to stop corporation crimes for whistle

[20] Alleyne, Philmore, et al. "Perceptions, predictors and consequences of whistleblowing among accounting employees in Barbados." *Meditari Accountancy Research* (2017).

blowers. It is critical to exercise caution when blowing the whistle. Internal reporting through "whistle blower" methods established by the corporation may have far-reaching consequences. Whistle blowers assist in exposing wrongdoing that might otherwise go unnoticed. When they decide to report fraud, they are not only defending themselves from the perpetrator, but also serving the rest of us publically, because we all paid a price for it. Fraud is a serious offence. Whistle-blowers in the pharmaceutical and medical industries have found ways to fraudulently boost Medicare's patient care payment, such as charging for operations or delivery without authorization. Payments to medical physicians or hospitals from pharmaceutical companies or others in exchange for marketing or purchasing medicinal products – known as kickbacks – as well as the promotion of drugs and health equipment are all examples of health fraud that benefits Big Pharma at the expense of public health.[21] False claims in defense contracts can take a variety of forms, including providing the government with defective components, inflating the price of government contracts, and others. Inadequate quality control or inadequate testing of property for defects or safety hazards are both examples of government defense and building fraud. Additionally, investors are victims. Each year, the number of reported financial fraud, insider trading, Ponzi schemes, and outright theft and mistreatment increases. Whistleblower tips uncover a wide variety of wrongdoing, and individuals accused of fraud or false government accusations should understand their particular circumstances. Consult an attorney prior to filing a whistleblower claim if you are unsure whether the whistle is blowing.

4.10 LEGAL DEVELOPMENT OF WHISTLE BLOWER PROTECTION SYSTEM

There is no whistleblowing legislation in India, and whistle blowers are not protected. The 2013 Company Act contains provisions for whistleblowing and corporate governance in India, as well as for fraud prevention through effective monitoring mechanisms. Articles 206 to 229 of the Companies Law of 2013 define inspection, inquiry, and inquiry. Under Section 208 of the Act, an inspector is authorized to investigate corporate records and make recommendations regarding the conduct of investigations. According to Section 210, the Central Government may order an investigation into the corporation's affairs in the following circumstances:

[21] Devine, Tom, and Shelley Walden. "International best practices for whistleblower policies." *Government Accountability Project* (2013).

- Upon receipt of a report from the company's Registrar or Inspector.
- Upon receipt of notification, a firm's affairs must be investigated in line with a specific resolution made by the company.

Section 211 of the Act establishes the Serious Wrongdoing Investigation Office (SFIO) as a statutory agency with the authority to apprehend any suspected fraud within the firm. If auditors have cause to believe that a fraud has occurred or is being perpetrated against the company, they are required to report it to the central government. Draft companies, undertakings that accept public deposits, and undertakings that borrow more than Rs. 50 crore from banks or public institutions must have a whistleblowing policy and a vigilance mechanism in place for directors and staff to report genuine concerns, according to Article 12.5 of the Company Act, 2014 and Article 177 of the Companies Act, 2014. (9). A monitoring committee must be formed to guarantee that the company's vigilance mechanism and whistle blower rules are effectively enforced. It updated the Securities and Exchange Board of India's Corporate Governance Principles in 2003. (SEBI). Indian corporations must now implement a whistle blower policy in compliance with Clause 49 of the Listing Agreement. Employees may use a reporting system to report unethical behaviour, actual or suspected fraud, or violations of the corporate code of conduct or ethical policy. Companies, on the other hand, are not required to have a whistle blower policy in place at this time. The Whistle-blower Protection Act of 2011, which replaced the Government Resolution of 2004, remains in force. The project tries to strike a balance between the need to safeguard honest officials from undue pressure and the need to protect those who reveal public interest. A firm's flaws or wrongdoings may result in the loss of its goodwill and capital. Any company should have a whistle blower policy in place to protect both the company and its employees. A corporation must have a customised corporate lawyer whistle blower policy to encourage employees to report misconduct and seek the appropriate authority. The whistle blower policy must include processes to protect the informant's confidentiality and anonymity. The policy should also include provisions for the formation of an internal committee comprised of members from each management level to deal with potential whistle blowers. The development and proper implementation of precise laws can considerably lower the danger of corruption and fraud in a company's internal transactions. Whistle-blower policies must ensure not only that the firm's interests are safeguarded, but also that an open communication channel is built within the company so that employees do not hesitate to voice their

grievances and concerns about the internal organisation. In India, however, even if a whistleblower has reported a fraud or if a whistleblower policy is in place, the perpetrators of the fraud or higher management are generally attempting to silence the whistleblower and are also concerned that if they report fraud, they will lose their job, because employees report the majority of fraud within an organization. Although procedures are in place to protect whistleblowers, deciding between professional and organizational responsibility is never easy. There were whistle blower incidents in India in which not only employees but also middle and senior management were whistle blowers and corporate malfeasance was disclosed. Whistleblower policies and protection encourage and motivate whistleblowers to expose fraud. If the problem is reported promptly, the organization can avoid a major setback. Prior to the passage of the Right to Information Act in 2005, individuals did not have easy access to information. Despite their suffering, people were unable to participate in any conversation or criticize the decision-making process due to a lack of knowledge. The Official Secrets Act of 1923, which served as a reliquary of British colonialism, kept everything secret. Ordinary citizens had no legal right to enquire about government programmes and spending. Citizens chosen to govern the bodies responsible for policymaking and funding public activities were denied access to critical information. As a result of this culture of concealment, a fertile foundation for corrupt conduct flourished. Citizens experienced emotions of impotence and alienation because of restrictions on the free flow of knowledge. In such circumstances, the general people and a number of non-governmental organisations (NGOs) wished for greater access to information under government control. The government responded to the demands by enacting the Right to Information Act in 2015. The Right to Information Act was introduced as a significant step toward empowering civil society and increasing government accountability. Transparency is the antidote to corrupt behaviour, and as government agencies grow more transparent, there is no room for corruption. People have an important role in exposing misconduct in a corrupt system. By exposing corruption in their businesses, these individuals assume a huge risk. Consider Satyendra Dubey, an honest and genuine Indian whistle blower who has dedicated his life to the National Highway Authority (NHAI). As a result, the Supreme Court established the Central Vigilance Commission to protect whistle blowers. The National People's Right to Information Campaign, which was critical in passing the RTI Act, requested that the Whistleblowers Protection Bill of 2011 be passed as soon as possible. The Whistle blowers Protection Act, 2011, is an Indian Parliament Act that establishes a

framework for investigating charges of defilement and abuse of power by community workers, as well as the protection of anybody who reports such misconduct in government bodies, activities, and workplaces. Abuse or misconduct can take the form of misrepresentation, defilement, or botch. The Act was approved by the Indian Cabinet as part of an effort to eliminate corruption in the country's administration and was passed by the Lok Sabha on December 27. It became an Act after Rajya Sabha passed the Bill on February 21, 2014, and the President approved it on May 9, 2014.

4.11 THE PUBLIC INTEREST DISCLOSURE AND PROTECTION TO PERSONS MAKING IS CLOSURE BILL, 2010

The Public Interest Disclosure and Protection for Persons Making Disclosures Bill, 2010, which was introduced by the Indian government, will protect individuals who make disclosures in the public interest and will protect those who do not (the Whistle blower Bill). A public consultation period began immediately after the Bill was published in the Indian Journal of Legal Studies and the Standing Committee on Human Resources, Public Grievances, Law, and Justice of Parliament requested public feedback on its substance. The Centre for Human Rights and Worldwide Cooperation (CHRI) undertook and published a comparative analysis in which the Bill was evaluated in light of international best practises, which may be seen here. The India Law Commission conducted a comparison between the Whistle blower Bill and the Public Interest Disclosure and Protection of Information Bill (LCI Bill) of 2003, which was passed in the same year. It was found that the Whistle blower Law fell short of the most recent worldwide best practises as well as those outlined in the Law Commission's draught bill, according to the Center for Human Rights in International Affairs. Corruption will occur as long as a country has a government, according to the history and experience of the majority of countries. Officials will take advantage of their positions for personal benefit, no matter how advanced a country is. In a country, providing efficient governance can be a difficult undertaking to accomplish. Economic prosperity is only one measure of a country's success; other measures include competent governance and transparency in government administration. The ideals of openness and good governance are inextricably linked and cannot be separated. For a development process to be effective, it is vital to enhance governance at the outset. Corruption, according to some, can be minimised by systemic governance reforms such as increased engagement, greater openness, higher accountability, and greater administrative accountability. Furthermore, the right to good

governance is regarded as a crucial component of the government's commitment to granting citizens' rights, and as such, it is prioritised. To address citizens' concerns about the quality and dependability of government services, the government has launched a number of programmes to incorporate residents' complaints into policy creation. In order to achieve these goals, policies such as a citizens' charter, the Right to Information Act, electronic government, and a recently proposed whistle blower protection law are all examples of policies that can be enacted. The development of a whistleblower statute, which protects those who come forward with information, has been a significant step forward in India's quest for improved governance and transparency. Whistleblowing is the act of informing others about illegal or unethical behaviour by an employee or other third party in the workplace. People who are committed to eradicating corruption in both the public and private sectors must be legally protected and able to defend their positions, which is critical.

Corruption is a societal affliction that has the potential to impair a country's ability to achieve healthy, balanced economic and social development. It is one of the most difficult obstacles to eradicating corruption in government and public sector enterprises that plaintiffs do not have adequate protection when they report corruption or wilful misuse of power or discretion that results in evidence that public officials have lost their authority or that they have committed a criminal offence. It was suggested by the Indian Law Committee in its 179th report to enact "Public Interest Disclosure (Informers' Protection) Bill, 2002," which encourages public officials to provide information about corruption or maladministration while also offering protection to those who file complaints. A number of recommendations were made by the Second Administrative Reform Commission, including the creation of laws to protect whistle blowers, in its fourth report on Ethics in Governance. The Central Vigilance Committee was established by the Government of India in Resolution No. 89 of April 21, 2004 as the official organisation responsible for reviewing written complaints from whistle blowers and for enforcing the law. The recently passed Resolution also protects whistleblowers from harassment and keeps their identities hidden from the public. As a result, those who report corruption, a deliberate abuse of power, or a deliberate use of discretion risk losing evidence to the government. As well as the commission of a criminal offense by a public servant, have a legal right to statutory protection, as the protection provided by the aforementioned Indian Government Resolution is insufficient.

4.12 THE WHISTLE BLOWERS PROTECTION ACT, 2011

The Whistleblowers Protection Act of 2011 is an Indian Parliament Act that establishes a system to investigate allegations of corruption and misuse of authority by public servants. It was later renamed the Whistleblowers Protection Act of 2014, but the Whistleblowers Protection Act of 2011 is still in effect. Deception, corruption, and incompetence in the administration of justice are all examples of criminal misbehaviour in the legal system. According to the new legislation, complaints that are either affirmative or frivolous will be prosecuted. A purging of bureaucracy is being carried out in India, according to the Indian Cabinet, and the Lok Sabha passed a bill enacting the Act on December 27, 2011. The Rajya Sabha passed the bill on February 21, 2014, and President Barack Obama signed it into law on May 9, 2014, according to official records. a mechanism for the disclosure of allegations of corruption, wilful misuse of power, or voluntary abuse of discretion against any public servant, to examine or inquire into such disclosures, to provide adequate safeguards against the victimisation of the complainant, and to address matters pertaining to and incidental to such disclosures.

4.12.1 Object of the Whistle Blowers Protection Act, 2011

Corruption is much more likely in environments where reporting wrongdoing is neither encouraged nor protected. Those who work in the public sector and have access to current information about their employers' hiring practices are frequently the first to suffer the consequences. Because victims of corruption are frequently difficult to identify, reporting on them is critical in the process of exposing a hidden crime. Traditional procedures for reporting wrongdoing or crimes to authorities are ineffective when dealing with corrupt individuals or organizations because corruption is inherent in practice. Furthermore, because corruption is essentially occult, it is incredibly difficult to identify and detect. Once corruption is detected, it usually occurs after a large length of time has transpired and the statute of limitations has run its course. Whistle blower protection is essential for facilitating the revelation of wrongdoing, fraud, and corruption in government and business. It is essential for the protection of the public interest, as well as the development of a culture of public accountability and workplace integrity, that an organization's culture of openness be backed by effective protection. Those who reveal misconduct may be concerned about retaliation from co-workers or superiors, which could include dismissal, intimidation, harassment, and physical violence, based on their previous experiences. Whistleblowing is

strongly stigmatised in some nations and is associated with traitorousness or espionage, among other things. Because of this, it is vital to support and defend those who speak out against wrongdoing. In order to report actual or alleged misbehaviour within the public sector, public sector officials must be informed of their legal obligations as well as their legal rights. These should consist of clearly defined norms and practises that authorities can easily implement, as well as a formal responsibility line between officials, according to the OECD. Employees in government should be aware of the safeguards that are available to them if they become aware of misbehaviour that has been revealed. According to the Act, law protects individuals who divulge information of public interest in connection with a corruption case, abuse of authority case, or criminal offence committed by a public official. Any public servant or other individual, including a non-governmental organization, who becomes aware of such a violation may notify the Central or State Vigilance Commissions, as applicable. Each complaint must include the name and address of the complainant. Unless the department head deems it necessary, the Vigilance Commission will not reveal the complainant's identity. Anyone who divulges the complainant's identity runs the risk of facing legal consequences. Willful falsification of complaints is made a crime under the bill.

4.12.2 Salient Features of the Act

- A primary goal of the Act is to protect whistle blowers and anybody else who comes forward with information about a public servant's wrongdoing, misuse of power, or criminal violation.
- Any public servant or other individual, including a non-governmental organisation, has the authority to make such a disclosure to the Central or State Vigilance Commissions, respectively.
- Each complaint must include the complainant's name and address, which must be provided with the complaint.
- The Vigilance Commission will not reveal the identity of the complainant unless it is deemed essential by the department head to do so
- Anyone who has revealed the identity of the complainant will be liable to the repercussions of their actions.

- False charges made with the intent to deceive are punishable under the Act's provisions.

4.12.3 Overview of Whistleblowers Act

Whistleblowing is the act of providing information within an organisation about illegal or unethical behaviour by an employee or other party. In 2001, the Legislative Commission of India proposed legislation to protect whistle blowers in the battle against corruption. In addition, in its report, it developed a bill. In 2004, in response to a plea filed in the aftermath of Satyendra Dubey's murder, the Supreme Court ordered the construction of a framework for dealing with whistle blower concerns until legislation was established. The government passed a resolution in 2004 authorising the CVC to investigate complaints made by whistle blowers. Whistleblowers have filed 1,354 complaints with the CVC since 2004. Since 2005, India has signed (but not ratified) the United Nations Convention Against Impunity, which mandates states to encourage the revelation of wrongdoing by public officials and to protect witnesses and experts from retaliation. The plan overturns a 2004 government decision and establishes a mechanism for receiving claims of corruption or wilful misuse of authority by public workers. It also protects the complainant from becoming a victim. The bill seeks to strike a balance between the need to protect honest officials from undue harassment and the need to protect people who reveal public interest. It penalises anyone who files a false complaint. It does not, however, penalise the victimisation of a complaint. A government resolution from 2004 authorised the CVC to accept disclosures of public interest. Each year, only a few hundred complaints are filed. The Bill's provisions are comparable to the language of the resolution. As a result, the number of complaints is unlikely to fluctuate significantly. The CVC's authority is limited to making recommendations. There is likewise no authority to impose sanctions. This is in contrast to the powers of the Karnataka Lokayukta and the Delhi Lokayukta. The proposal merely provides a broad definition of disclosure and no concept of victimisation. Other countries, such as the United States, the United Kingdom, and Canada, have a more broad definition of disclosure and victimisation. The Draft differs from the Law Commission's bill and, in certain ways, from the report of the 2nd Administrative Reform Commission. Two examples are the refusal to admit anonymous claims and the absence of repercussions for officials who persecute whistle blowers.

Disclosure of Public Interest

- Any public official or other individual, including an NGO, may make disclosure of public interest to a competent body defined as the Central or State Vigilance Commission.

- A "disclosure" is defined in writing or electronically as a public servant complaint about (a) an offence attempted or committed under the Corruption Prevention Act of 1988; (b) wilful misuse of power resulting in demonstrable government loss or gain to the servant; or (c) a public servant attempting or commissioning a criminal offence.

- A 'public servant' is someone hired by the federal or state governments, as well as any firm or society owned or managed by the federal or state governments. However, no public interest revelation against defence, police, or intelligence employees will be tolerated.

- Each disclosure must be accompanied by a complete set of details and supporting papers. The Vigilance Commission will not accept anonymous complaints.

Procedures for Investigating

- Before dissimulating a complaint, the Vigilance Commission must first confirm its identification. Following that, the Committee will decide whether the individual should be tried based on the revelation or after a quiet inquiry. If it decides to investigate, it will seek an explanation from the organization's leader. The Vigilance Commission will not reveal the identity of the complainant to the organization's management unless it deems it necessary. The complainant's identify cannot be revealed by the organization's leader.

- If the Vigilance Commission determines that the complaint is frivolous or that there is insufficient evidence to proceed, the case will be closed. If the poll reveals evidence of corruption or abuse of power, it will make recommendations to public authorities. Some of the methods followed include filing criminal charges against the public official, attempting to collect the government's losses, and bringing criminal charges before the appropriate authorities.

- Every public authority must have a process for investigating disclosures. The Vigilance Commission will oversee the procedure.

- The Vigilance Commission may seek the aid of the Central Bureau of Investigation or police authorities in conducting investigations or gathering information.

Exemption from investigation

- If a Court has settled a case or Tribunal, an investigation has been ordered, or a complaint has been filed five years after an action, the Commission of Vigilance will not hear the complaint.

- The Bill exempts the disclosure of Cabinet debates when India's sovereignty, security, friendly relations with foreign countries, public order, decency, or morals are likely to be jeopardised. The Federal or State Secretary must certify that exception.

Persons' Disclosure: Protections

- No one shall be victimised or prosecuted only for making a disclosure or providing assistance in an investigation. The Vigilance Commission's directives are binding in this regard.

- The Vigilance Commission may issue guidelines to a public worker or authority concerned to protect a complainant or witness, upon request or on its own information. It could order that the official who made the disclosure be reinstated in his previous position.

- When the Vigilance Commission determines that a plaintiff, witness, or anyone helping an investigation requires protection (whether based on the plaintiff's request or its own information), it shall issue directions to the government agencies concerned to safeguard such persons.

- Unless otherwise determined or directed by a court, the Vigilance Commission will protect the plaintiff's name and the documents in question.

Penalties

- The bill establishes penalties for a variety of offences. The Vigilance Commission will be fined up to Rs 250 per day for failure to report till the report was submitted. The total penalty, however, cannot exceed Rs 50,000. The penalty for releasing the complainant's identity recklessly or maliciously is up to three years in prison and a Rs 50,000 fine. The penalty for making false or misleading declarations is up to two years in prison and a fine of up to Rs 30,000.

- Anyone who has complained about a Vigilance Commission order that imposes a sanction for failing to submit reports or revealing a complainant's name has 60 days to file an appeal with the High Court.

According to Indian law sources, the bill has received a lot of opposition because it only applies to government workers and covers only people who work for the Indian government or its agencies; it does not include government employees. On the other hand, the proposed clause protecting whistleblowers is viewed positively. When ministries propose drafted legislation, they typically conduct a public consultation to allow the public to weigh in on its components. In such a case, the public was denied and the opportunity was squandered. The proposed law does not provide financial incentives to whistle blowers, does not address corporate whistle blowers, and does not extend its jurisdiction to the private sector in light of the Satyam scandal. The Directorate of Income Tax Intelligence and Criminal Investigation is one of the few agencies that provides whistle blower protection. The law attempts to strike a balance between the need to protect honest officials from harassment and the need to protect those who reveal public interest. It specifies the consequences for filing fraudulent complaints. It does not, however, include a punishment for contesting a complaint. The government in 2004 to address public interest disclosures established the Central Vigilance Commission (CVC); a few hundred complaints are filed each year. The bill's provisions are comparable to the language of the resolution. As a result, the number of complaints is unlikely to fluctuate significantly. The CVC's authority is limited to making recommendations. It cannot impose punishments, unlike the Lokayuktas in Karnataka and Delhi. The proposal merely provides a broad definition of disclosure and no concept of victimisation. Other countries, such as the United States, the United Kingdom, and Canada, have a more broad definition of disclosure and victimisation. In a number of ways, it differs from the Law Commission's draught Bill and the Second Administrative Reform

Commission's report. Two examples are the refusal to admit anonymous claims and the absence of repercussions for officials who persecute whistle blowers. The whistleblower protection law, when fully implemented, will aid in the detection of corruption, improve the flow of information, and pave the way for effective prosecution of corrupt individuals through transparent and protected procedures. The Indian public, on the other hand, has little faith in combating corruption due to fear of vengeance and intimidation of complainants.

4.13 CORPORATE INDIA'S RESPONSE TO WHISTLE BLOWING

Different stakeholders have an impact on corporate organisations all over the world, and their interests are critical to their lives. Shareholders expect not just a reasonable return on their investment, but also the safety of their assets. It is the responsibility of management to defend the interests of shareholders as they are allocated. Because the management (the board) acts as its representatives, there is a conflict between the shareholders' and management's interests. Good governance protects the money of shareholders. Corporate Governance (CG) is thus a combination of systems, conventions, regulations, and laws that control the operation of a business. It establishes standards for directing and supervising the activities of a company in order to serve and protect the individual and collective interests of all shareholders. When the interests of a large number of people are at stake, whistleblowing essentially means informing them about wrongdoing within or outside the organization. Noise's primary function is to alert others to wrongdoing or misappropriation. The warning should be issued to raise awareness rather than to instill fear. It is sometimes regarded as particularly destructive due to the nature of the revelations. Before issuing an alert, a whistleblower must ensure that certain factors are considered. Whistleblowers must ensure that the information they provide is accurate and not rumour. Otherwise, it may result in avoidable conflicts amongst stakeholders and fail to take into account the personal risks posed by a whistle-blower's activity. This is frequently the most difficult portion of the procedure.[22] However, dealing with future issues will be much easier as a result. The whistle blower policy in India is intended to protect the interests of the general people. Internal whistle blowers are employees who disclose fraud, corruption, or maladministration to upper management. External whistle blowers are individuals that expose fraud or corruption in the media, the general public, or law enforcement. The Whistle blower Protection Act protects

[22] Jacob, Devakumar. "Collateral Damage: An Urgent Need for Legal Apparatus for Protection of the Whistleblowers & RTI Activists."

whistle blowers in India. Complete transparency in internal and external affairs is required for effective company governance. Strong management and policies can help to ensure transparency in the organization's activities. A disclosure system must be utilised to discover internal fraud and wrongdoing in the organisation and to deal with it appropriately. If a company does not have such a system, it may be exposed to future whistleblowing. When a company is faced with such a situation, Indian law provides no solutions. Politics has an impact on such policies, if they exist at all. When a complaint is filed, the nature of the problems presented is often reviewed and tested. These complaints enable a company to anticipate a problem and take corrective action before a regulator arrives at its door. Although the company's management is primarily responsible for implementing fraud prevention and detection policies, processes, and controls, the board of directors/audit committees are also in charge of fraud prevention and detection management. A corporation's directors have an obligation to act in the best interests of the company, its employees, shareholders, and the community, as well as to protect the environment. As a result, the necessary disclosures must be made as soon as possible. Depending on the severity of the issues, even the investigating team may be changed. There is no one-size-fits-all solution. The lawyer, who will then coordinate the legal privilege with the relevant forensic teams, can also carry out such research and the statutory auditor's request for information has also been adjusted. The statutory auditor rarely demands the corporation or even the investigating team to submit a detailed explanation to confirm that the charges have been thoroughly probed. Where the statutory auditor was dissatisfied, they returned and refused to sign the books until the acts they specified were completed. In response to a whistle blower complaint, the Bombay Stock Exchange requested clarification because the LODR Regulation 30 made no disclosure. Following that, the company published a statement asserting that a disclosure under Regulation 30 of the LODR was not needed until the review of the generic accusations in the complaints in response to the BSE's request was finished. In January 2020, the IT behemoth reports that the Audit Committee has completed a thorough investigation and found no evidence of wrongdoing on the part of the firm or its managers, including the CEO and CFO. This announcement also contained an outline of the study's scope and main findings. Several well-known publicly traded companies have lately received and addressed whistle blower complaints. The Prime Minister and the Minister of Finance were recently informed that the bank's then-CEO made a loan to a company whose head is related to his spouse.[23] This was

[23] Aswani, Jitendra, N. K. Chidambaran, and Iftekhar Hasan. "Who benefits from mandatory CSR? Evidence

one of the most widely publicized allegations leveled against the then-chairman by multiple law enforcement agencies, including the Enforcement Directorate, the Central Investigation Bureau, and income tax agents. Obviously, India will need time to develop a mature whistleblower protection structure that is trusted by both employers and employees. Although India is not yet "there," with legal progress and increased business expertise, the need to resolve whistleblower complaints and protect whistleblowers is growing.

4.13.1 The Companies Act, 2013

Under the 2013 Company Act and related guidelines, some enterprises are required to develop a "vigilance mechanism" in order to report genuine concerns. Furthermore, under corporate law, such a system must be complemented with sufficient safeguards to prevent those who utilise it from being victimised by others. The mechanism's parameters must also be made public on the company's website and in the Board of Directors' annual report. If a director or employee makes a high number of bogus complaints, the audit board or a director designated to serve on the audit board may take appropriate action against the director or employee, which may include criticism, according to the Power Rules for 2014. Companies that are required to form an audit committee must use the audit committee to carry out the vigil mechanism, and if one of the committee members has a conflict of interest in a specific problem, they must withdraw from the committee and the remaining committee members must handle the situation. In the case of other businesses, the audit committee director will act as a notification system for other managers and employees to express their concerns. It includes adequate safeguards to prevent employees and directors from becoming victims of the Vigil system, as well as direct access to the Audit Board Chairman and the director appointed to act as the Audit Board in exceptional circumstances. The presence can be successfully dispersed throughout the organization once the mechanism is developed. The details of the Vigil Mechanism's formation must be made public on the corporation's website, if one exists, and in its annual report, if one exists. If a director or employee regularly files false complaints, the audit committee or its appointed head may take appropriate action against the director or employee, which may include reprimanding the director or employee. As a result, the organisation must implement tight protocols encouraging employees to report unethical or unlawful behaviour, as well as training for

from the Indian Companies Act 2013." *Emerging Markets Review* 46 (2021): 100753.

supervisors and managers on how to create an open environment. Some organisations have already established a whistle blower policy as part of their strong corporate governance, and most are beginning to develop one in order to comply with Section 177 of the Companies Act 2013 and its accompanying guidelines.

4.13.2 Securities and Exchange Board of India (SEBI)

The Indian Securities Exchange Board mandates that all listed companies maintain a whistle blower policy ("SEBI"). Use this form to report unreported price sensitive data leaks. 6 This system will incentivize 'Informants' to disclose insider trading offences, and will go into effect in December 2019. The source of the information will be disclosed under the new plan, but the informant's identity will be kept confidential. Insider trading is described as trading on equities with non-public price sensitive data (UPSI). "If the information disclosed results in a dilution of at least Rs 1 Crore," the Securities and Exchange Board of India (Sebi) noted.[24] The agency established the Information Protection Entity (OIP) to receive and process voluntary requests for information (VID form). Intermediary between regulator and legal counsel or informant. For any infraction of insider trading law, the informant should willingly provide the OIP with original material via a VID form. If the informant provides the information directly, his identity should be revealed when the VID form is submitted. If a lawyer provides the information, the lawyer's identity must not be mentioned on the VID form. The identity of the informant must be revealed before any reward can be granted, the statement said. A code of conduct must give reasonable protection against discharge, termination, deprivation, suspension, threats, coercion, direct or indirect harassment, or discrimination for anyone filing a VID Form. The PIT (Prohibition of Insider Trading) legislation was amended in September to add a new informant policy chapter, which will take effect on December 26, 2019. The creation of an independent Office of Informative Protection (OIP) separate from the investigation and inspection wings was also discussed. This discussion led to a December 2019 change.

Good Reporting Practises

New amendment compels whistle blower to submit Voluntary Information Disclosure Form (VIDF) to SEBI's Information Protection Office through a legal representation, or to appear

[24] Mahadeo, Powar Sonali. "The role of securities and exchange board of India SEBI in capital market." (2013).

physically to confirm identification and validity of information. Assuring the confidentiality of the informant's identity and existence is the legal agent's responsibility when submitting information in the prescribed format. It may also establish an Information Protection Office to help with the reception or registration of VIDF, keep a hotline for possible informants, preserve the legal representative's secrecy, and issue press releases and rewards to informants (PITR'15 Regulation 7C(2)). It must also file an annual report with the SEBI. Information Protection Office forwards the informant's papers to the appropriate SEBI wings for examination and action.

Informant Privacy

The rule handled this as well. A regulatory or self-regulatory agency, law enforcement agencies, and the public prosecutor in criminal proceedings may be required by law to have access to the informant's information (Rules 7H, PITR'15).[25] An informant's name and existence shall remain anonymous throughout the investigation, examination, and all proceedings before the SEBI, until their testimony is required. However, the regulator may request that the informant's name be kept secret in other cases. The informant's identity is similarly safeguarded under the 2005 RTI Act. Every publicly traded corporation must also avoid retaliation and persecution of the informant (PITR'15 Regulation 7I).

Whistle Blower Immunity

As an informant, you are not inherently immune from earlier wrongdoing, notably in securities (PITR'15 Regulation 7K). The 2018 SEBI (Settlement) Regulations allow the informant to resolve his charges in secret. SEBI has broad discretion in assessing an informant's penalty, including the ability to weigh the informant's assistance.[26] However, we believe that the informant should be granted amnesty in order to encourage more whistleblowers to report PITR'15 violations, and that only the wrong benefits should be recovered.

[25] Basant, Rakesh. "Comparative study of Securities & Exchange Board of India with developed market regulators." (2018).

[26] Nanjunda, Devajana Chinnappa. "A Quick Look On New Companies Act 2013 Act Focusing Corporate Social Responsibility." *Sankalpa* 6.2 (2016): 75.

The Source was Identified

If monetary fines are collected or recovered, the SEBI may reward the informant (PITR 15 Regulation 7D (1)). An interim reimbursement of up to Rs 10 lakhs would be made when the SEBI publishes its final order. It must create an Investor Protection and Education Provide to fund incentives. Whether or not the informant alerted the SEBI through an institutional channel is irrelevant (PITR'15, Regulation 7E(3)). A prize may be refused when the information is provided by law or is not original. The application may also be denied if the applicant presents fraudulent information refuses to assist with the inspection and investigation, or if the SEBI files a criminal case against them. The regulator can, however, waive any of these disqualifications.

A more favorable method, which may also be used in India, is to award the whistleblower a portion of the fund, as is done in the global market. However, it is critical to investigate the extraterritorial application of certain laws, such as anti-corruption or privacy regulations, especially for multinational corporations operating in multiple jurisdictions, in order to ensure compliance with these rules through their internal whistleblowing mechanisms. It can also be perplexing in the context of multi-jurisdictional cross-border transactions. As a result, it is critical for Indian enterprises that are part of a global corporation to ensure that their policies and domestic compliance procedures conform with international law where applicable.

4.13.3 Protection of Whistle Blowers

In India, the Whistleblowers Protection Act 2014 protects them. The law protects their identity and outlines ways to avoid victimisation. For example, a company cannot sue a whistle blower without first investigating the charges. The Securities and Exchange Board of India's Governance Guidelines have included the Company Act's similar clauses. Companies and governments must adopt a whistle blower policy that details the complaint process and remedies. It can be used to quiet personal revolts or manipulate the stock market. To avoid this, the Audit Committee investigates the claims. A frivolous plaintiff faces up to two years in prison. Proposal 2015 changes the Whistle blower Protection Act 2014. By reporting acts of defamation, wilful abuse of authority or judgement, or criminal offences perpetrated by government employees, the Whistle blower Protection Act allows anybody. In the event of

MPs or state legislatures, the relevant authorities are the Chief Justice of the Court and the Central or State Vigilance Commission.[27] The Bill alters this process by prohibiting public servants from disclosing information regarding corruption or other forms of misbehaviour. On the one hand, there is a section on the Council of Ministers and a section on intellectual property. The rejected classifications were included in the 10 categories of information that cannot be supplied under the 2005 Right to Information Act. However, this may not be enough. The RTI Act was created to increase public access to information and enhance government transparency. Occasionally, public organisations may desire to restrict access to certain types of information. Deliberate disclosure of harmful information is permitted under the Whistleblowers Act. In all cases, the competent authority has constitutional or legal significance. The claimant's identity, the public servant's name, and the related documents must remain anonymous. The RTI Act enables the release of information or data to a competent public authority provided the public interest in knowing the information outweighs the risk of harming safety interests. While the Act exempts 22 security and intelligence agencies, all supporting documentation must be made available. The Act also established a two-stage process for challenging a retention determination. The Whistle blower (Amendment) Bill 2015 lacks this protection. The Whistleblowers Protection Act was amended significantly in 2014, according to the Bill's objectives. They were not implemented because the Bill was scheduled to be considered on the 15th Sabha's final day. These changes are likely in the 2015 legislation now being drafted. A breach of Indian sovereignty, logic, scientific or commercial interests, international terms, or persuasion to conduct a breach was accepted from the Act as proposed in 2013. However, the 2015 Bill bans the sharing of 11 types of data. The method used to determine prohibited disclosures contradicts the Act's prohibition on all disclosures. According to the bill, the competent authority must notify a government-authorized organisation of a finding. This body must formally rule on the disclosure's legality. The Act stated that no one should divulge information if the whistle-blowing complaint fell into one of three categories: (i) public order and morals, (ii) disappointment, criticism, and temptation to commit an offence, and (iii) cabinet proceedings. Others claim the Bill is being used to mitigate the Act's impact. The amendment weakens the original Act's validity by limiting the grounds for refusing to furnish information.

[27] Levintow, David. "A Positive-Sum Game: Why a Qui Tam Provision in the FCPA Would Benefit Both Whistleblowers and Covered Entities." *Bus. & Fin. L. Rev.* 4 (2020): 65.

4.14 SUPREME COURT AND HIGH COURT NEXUS WITH WHISTLEBLOWERS

With nearly a billion people, India is the world's largest democracy, and its government has influence over some of the world's most powerful institutions. In India, the judiciary is always taking advantage of the populace.[28] There aren't many courageous people who are willing to speak out against injustice. A few "whistle blowers" or warriors who have committed their life to combating an illegal and inhumane system are profiled here, along with their stories.

The Vyapam Scam was Decoded by Three Different Sources

In spite of a lengthy history of inappropriate behaviour at the Madhya Pradesh Professional Examination Board (MPPEB), often known as the Hindi Vyapam, the first serious complaint was lodged in 1995, and the first formal complaint was filed in 2000. Several master's and government degrees are offered through Vyapam, which administers a large-scale competitive test to determine eligibility. In the Vyapam hoax, test operators, government officials, and brokers all worked together to obtain high test scores and gain government employment by passing the exam. Prashant Pandey, 36, a 2-year-old Madhya Pradesh law enforcement agency digital forensics engineer, Dr. Anand Rai, an Indore government hospital clinical officer, and Ashish Chaturvedi, 26, a Gwalior social work student, fought a massive scam in July 2013 in which 20 people were arrested from various hotels in Gwalior. By the time the scam was discovered in June 2015, approximately 2000 people had been arrested as a result of it. Many of those involved in the fraud died mysteriously, and three activists were both threatened and protected as a result of their activism. On February 13, 2017, the Indian Supreme Court issued an 83-page decision in which it ruled that 634 degrees were invalid.

The Golden Quadrilateral is a Special Case

At the National Highway Authority of India (NHAI) in Koderma, Jharkhand, Satyendra Dubey is a Project Director who entered the Indian Engineering Service in 2002 and rose through the ranks to become Project Director. NH-2 is a massive Golden Quadrilateral project initiated by the Indian government under the leadership of Atal Bihari Vajpayee, with Satyendra Dubey in charge of completing a segment of the highway that will connect all

[28] Nigam, Shalu. "The Right to Information Act: Ten years of Transparency or a Decade of Ambiguity." *Available at SSRN 2653596* (2015).

major Indian towns with four- and six-lane highways (GT Road).[29] Larsen and Toubro, a subcontractor, had acquired a contract from the Indian government and had passed it on to smaller contract gangs that were incapable of handling such an enormous project. He was shocked to learn of this. He went on to claim that during the construction of the road, customary norms and regulations were not followed. After receiving no satisfactory response from the NHAI's management, he went straight to Prime Minister Atal Bihari Vajpayee in a personal letter. However, the letter was forwarded to the Ministry of Road Transport and Road Transport, along with his profile information, despite his request that his identity be kept hidden. On his way back from a wedding in the nearby city of Varanasi, he was assassinated in the town of Gaya, Bihar. Two of the three suspects were found guilty and sentenced to life imprisonment in a special CBI Court presided over by Raghvendra Singh.

Indian Oil Corporation is an Example of a Circumstance that Occurs at the Point of Sale

He was working for the Indian Oil Corporation Limited in Lakhimpur Kheri, Uttar Pradesh, when he was slain. He was a graduate of the Indian Institute of Management. Mr. Smith was assassinated because he had shuttered two gas stations that were selling tainted gasoline. He had planned an unannounced raid to evaluate the quality of the fuel after the petrol pump had re-opened a month after it had been shut down. He was shot six times in 2005, and his body was discovered in the backseat of his stolen car. When this statement was made, it sparked widespread outrage in the media and across the country. All eight suspects were found guilty and sentenced to life in prison, with one executed and the other seven sentenced to life without the possibility of parole. The High Court, on the other hand, overturned one of the defendants' death sentence and found the other two not guilty. It was announced in 2015 that six people had been condemned to life in prison, and the Supreme Court upheld their sentences.

4.15 MURDER OF WHISTLEBLOWERS/RTI ACTIVISTS

As a result of their efforts to "promote transparency and accountability in the functioning of all public organisations," some RTI advocates, including police officials, have been harassed or even killed in India. Several hundred people are attacked on a regular basis, and the

[29] Fasterling, Björn. "Whistleblower protection: A comparative law perspective." *International Handbook on Whistleblowing Research*. Edward Elgar Publishing, 2014.

number of victims is increasing. Those who seek information from the grammar panchayat and local governments express a concern regarding social marginalisation. Following the filing of an RTI request for information on MNREGA scams, a number of campaigners were slain. Many threats and attacks go missed by the media because they are too small (even murder). Approximately 300 incidences of citizen harassment or attack were identified in the information collected under the Right to Information Act, as well as at least 51 homicides and five suicidal situations. Maharashtra is the state with the most number of attacks against RTI applicants, followed by Gujarat. RTI advocates are some of India's most vulnerable human rights defenders, according to the government (HRDs).[30] For the most part, unlike other HRDs, RTI activists do not work in a group; they frequently work alone and are driven by the rage of corruption and other wrongdoing in their communities. Activists for the Right to Information (RTI) are in risk because they live in the same neighbourhoods as public officials and politicians who are refusing to provide any information about their activities. Human rights advocates are often only featured in the media when they have been killed or seriously injured in their efforts to protect human rights. As a result of RTI activists' filing of formal complaints, law enforcement officers (who frequently collaborate with corrupt authorities) fail to take appropriate action. Whistleblowers are not fully protected by the Right to Information Act of 2005, which was passed in 2005. It is not the responsibility of the Central Information Commission and the State Information Commissions to respond to such threats or attacks or to offer protection for those who are subjected to them. Despite repeated requests from many information commissions and state governments to protect RTI users, the attacks on the website continued. The assassination of M Sreenivas, a 44-year-old RTI activist, occurred in Vishakhapatnam, Tamil Nadu, in June 2019 by an unnamed assailant. After Sanjay Dubey was assassinated in Ghatkopar (Mumbai) in May, the two became two of the 84 Right to Information (RTI) activists who died because of using RI to expose the unjust activities of powerful people who do not want their deeds disclosed. Speculation among the opposition, RTI activists, and members of the public that the Right to Information (Amendment) Bill, 2019 will weaken the RTI.[31] It is widely considered India's most powerful tool for combating corruption, has been fueled by the government's passage of the bill in the Lok Sabha only three days after it was introduced in the House of Commons.

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30 Banerjee, Shivaji, and Shaunak Roy. "Examining the Dynamics of Whistleblowing: A Causal Approach." *IUP Journal of Corporate Governance* 13.2 (2014).

31 Eisenstadt, Leora F., and Jennifer M. Pacella. "Whistleblowers Need Not Apply." *American Business Law Journal* 55.4 (2018): 665-719.

Despite this, any proposed amendments to the Bill will be looked at sceptically in light of the countless corruption scandals and controversy that have been brought to light. Since the passage of the Right to Information Act in 2005, 84 RTI advocates and whistle blowers have been killed as a result of suspected attacks by individuals who have been exposed as a result of RTI. On the other hand, the government does not keep track of the number of whistle blowers and RTI advocates who have been killed, beaten, or threatened because of their activities. RTI supporters who have been slain, abused, or threatened have been documented by the Commonwealth Human Rights Initiative (CHRI) in a Tracker titled "The Hall of Shame-Mapping Attacks Against RTI Users." As reflected in the Global Right to Information Rating Map, published by the Centre for Law and Democracy, India ranks eighth in terms of the RTI Act that allows citizens to obtain information from government agencies and institutions.[32] The right to information (RTI) must be protected at a time when its usefulness is being questioned; if we are unable to ask questions, leaders will be free to do whatever they want, and the people of our country will never know the truth.

4.16 WHISTLE BLOWERS PROTECTION (AMENDMENT) BILL, 2015

Despite resistance, the Lok Sabha (the bicameral lower chamber of the Indian parliament) passed a proposal altering the Whistleblowers Protection Act of 2011. (as passed by the parliament in 2014). The Bill has now been submitted to the Rajya Sabha for consideration (the upper house). It was claimed that the Bill was utilised to mitigate the impact of the Act. Under the Act, anybody, including a public official or an NGO, may transmit a public interest to a competent authority. This would be true regardless of the provisions in the Official Secrets Act of 1923.[33] Section 8 of the Act prohibits revelation of information that could jeopardise India's sovereignty and integrity, security of the state, friendly relations with other states, public order, decency, or morality, and/or information concerning contempt of court, defamation, or criminal incitation. such as the release of the Cabinet of the Union Government or any Cabinet action committee. Such as the revelation of the proceedings of the State Government's Cabinet or any such Cabinet Committee. Several justifications for exempting material from disclosure are included in the amendment proposal. Except as provided for the complainant under the Right to Information Act 2005, information relating

[32] Kaur, Arshi Pal. "The Whistleblowers Protection (Amendment) Bill, 2015: A Critical Analysis." *History Research Journal* 5.5 (2019): 2140-2151.

[33] Lipman, Frederick D. *Whistleblowers: Incentives, disincentives, and protection strategies*. Vol. 575. John Wiley & Sons, 2011.

to commercial confidence, trade secrets, or intellectual property would jeopardise a third party's competitive position. Unless the complaint has acquired such information in line with the Right to Information Act of 2005; information available to a person acting in a fiduciary or similar capacity. Information that could jeopardise a person's life or physical security, reveal the source of sensitive information, or provide aid for law enforcement or security. Information that could jeopardise an investigation, arrest, or conviction of a criminal. Unless the plaintiff obtained such information in accordance with the requirements of the 2005 Right to Information Act. "Personal information that has no connection with any public activity or interest, or would result in an unequivocal invasion of the person's privacy, save as disclosed to the complainant under the Right to Information Act 2005". The change is thought to impair the original Act's effectiveness by widening the conditions for not requiring the release of information. This bill amends the Whistleblowers Protection Act of 2014. The Act provided a structure for receiving and investigating reports of public interest, such as corrupt behaviour, willful abuse of power or discretion, or crimes committed by public officials. The law forbids the filing of corruption-related information if it falls into one of ten categories.[34] These categories include: (i) India's economic, scientific, and national security interests; (ii) Cabinet processes; (iii) intellectual property; and (iv) fiduciary information, among others. The Official Secrets Act (OSA), enacted in 1923, makes some disclosures illegal. The Bill amends this by making disclosures by the OSA illegal. If a competent authority receives a revelation of public interest that falls into one of the ten categories specified, it is communicated to a recognised government entity. This body will make the final, legally binding decision. According to the Whistleblowers Protection Act of 2014, anyone may report information of public interest to a public servant. These conversations are made in front of a competent authority. The Act specifies who has power over each type of public servant. For example, the Prime Minister would be the Union Minister; the Speaker/Chairman would be the Speaker/Chairman of Parliament; the Chief Justice of the High Court would be the Chief Justice of the District Court; and the Central or State Vigilance Commission would be the Central or State Vigilance Commission. The Proposal changes the Act to make it illegal to provide ten different types of information to a competent authority. The provisions of the Bill and the Act are contrasted in the table below. In accordance with the 2015 Bill of Objects and Reasons Statement, the prohibited categories

[34] McCarthy, Robert J. "Blowing in the wind: Answers for federal whistleblowers." *Wm. & Mary Pol'y Rev.* 3 (2011): 184.

were modelled after the ten categories of material not revealed under the Right to Information (RTI) Act 2005. This parallel, however, may not be appropriate. The RTI Act was enacted to ensure that all citizens have access to public information in order to improve transparency and accountability. In some cases, it may not be useful for public institutions to make all types of information available to citizens. On the other hand, the Whistleblowers Act permits an individual to report corruption-related facts to a competent body. Under all circumstances, the competent authority must be a high-level constitutional or legal authority.[35] This information is not made public, and the complaint investigation is required to be conducted in the strictest confidence, including the complainant's identity, the public servant's identity, and the documents in question. This measure requires that if a public-interest disclosure falls into one of the ten prohibited categories of information defined by the Competent Authority, it be forwarded to a state-authorized authority. This authority will ascertain whether the disclosure contains any information expressly prohibited by the Bill. The competent authority will be bound by this decision. On the other hand, the Bill is ambiguous regarding the fundamental characteristics or designations of governmental authority. If the public servant subject to disclosure has less authority than the public servant exposed to disclosure, the public servant subject to disclosure's independence may be jeopardized.

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5 RIGHT TO INFORMATION – JUDICIAL APPROACH

CHAPTER STRUCTURE

- Introduction
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5.1 INTRODUCTION

In this democratic system, Indian subjects, i.e. citizens, have a right to know what, how, and why any decisions, modifications, or continuations in the system's operation are made. Articles 19 and 21 of the Indian Constitution, as amended by the Indian Parliament in 2005, guarantee the right to information as a fundamental right. This research looks in depth at the Supreme Court's approach to the Right to Information, focusing on several High Courts, the Central Information Commission, and state Information Commissions. People develop a greater awareness of their rights as times and standards change, and they develop a greater awareness of their right to more in-depth knowledge about judicial interrogation. The right to information was at the centre of a dispute between the courts and several committees. In our modern society, there is also a solution to the issues of how the judiciary can comply with the Right to Information Act, how to hold it accountable, and whether it must be subject to the Act. "The Right to Information (RTI) is a fundamental right of all Indian citizens.[1] It was established under the 2005 Right to Information Act, which is intended to obtain information from government agencies." Anyone may apply to public organisations under this Act, and the authorities must supply the requested information unless lawfully prohibited. RTI has long been seen as a critical instrument for combating corruption, mismanagement, and abuse in government operations. The primary goal of this legislation is to empower individuals by encouraging openness and accountability in the operations of public authorities at all levels of government, including federal and state administrations. As we all know, the judiciary, together with the legislative and executive branches of government, is one of the three institutions of the state. The RTI act has always applied to the legislative and the executive branch, but not to the judiciary, because the independence of the judiciary was included in the concept of basic structures. As a result, it was long assumed that RTI would deprive this autonomous state institution of its autonomy. However, in the year 2019, the Supreme Court ruled that the Chief Justice of India's office was subject to the RTI Act. This study focuses on how the judiciary will be subject to the Right to Information Act, while we review significant decisions and explain the developments that have occurred over the last decade that have led us to the current situation.

[1] Sudhakar, P. J. "Right to Information: Constitutional Perspectives and Judicial Response." *SEDME (Small Enterprises Development, Management & Extension Journal)* 34.4 (2007): 83-98.

5.2 ROLE OF JUDICIARY IN GOOD GOVERNANCE

Every country has recently adopted democratic policies and welfare State principles, granting administrative personnel substantial discretionary authority. The exercise of these abilities is frequently subjective in the lack of set criteria, etc. As a result, maintaining control over discretionary powers is critical to ensuring that the "state of law" prevails in all government operations. The judiciary is the last resort for those who have been subjected to arbitrary government action. Courts have gained influence all across the world in recent years, and the Indian judiciary is an illustration of this global tendency. The Indian Court has evolved into a ruling body that assesses the rest of the Indian government in a variety of ways. "According to this article, the Court's mission has been strengthened because of the flaws (actual, perceived, or feared) of India's representative institutions. The institutional framework of the Supreme Court has also aided its elevation and explains why the Court wields more power than most other judicial bodies. This essay analyses the evolution of India's key structural idea and the Supreme Court's entire right to life jurisprudence to understand how the Court has enlarged its responsibility". In the current era, the term "democracy" is virtually widely recognised. Following the French Revolution, practically every country felt a strong need for democratic governance. Several countries around the world have begun to establish democratic regimes because of the fight for freedom or popular revolutions.[2] Democracy is a political system in which the people control the government through direct referendum or through an elected representative. As a result, People's government is a type of governing democracy. However, both citizens and politicians face a difficult type of government. The term "democracy" is derived from Greek and means "people's rule" demo means "people" and cracy means "government". People vote for their representatives, and whoever receives the majority of votes works on their behalf; the majority is the representative who voted in the first place. The representative speaks and votes on behalf of the majority in accordance with the majority's intentions. This system, however, is not without flaws. This group is known as the minority. Although a politician as the majority does not represent the minority, the minority still has fundamental rights and expects the majority to respect them as well. The minority recognises that in order for our country to function efficiently, the will of the people, in this case the majority, must be respected. At the time, one of the most important aspects of

[2] Roberts, Alasdair. "Structural pluralism and the right to information." *The University of Toronto Law Journal* 51.3 (2001): 243-271.

establishing a democratic government was the demand for a written Constitution. Why? Because a democratic administration must strike a balance between the nation's sovereign power and the people's freedom. As a result, Montesquieu's "doctrine of separation of powers" must be followed in order to maintain check and balance between the sovereign authorities.[3] Again, a constitutional guardian is required to safeguard the constitutional spirit and a democratic government; so, practically all nations, including India, have begun to recognise the judiciary as such. The judiciary, as the country's third administrative department, is critical to the maintenance of peace, the administration of justice, and the enjoyment of fundamental rights.

Constitutional Safeguards

Democracy is defined as "administration by the peoples in whom supreme authority is given and directly exercised by them or their elected agents within a free election system." As Abraham Lincoln put it, democracy is a "people's government, people's and people's governance." At the same time, democratic values such as popular will as the foundation for political authority and the rule of law as a safeguard for human rights can be identified. Recognizing this, India's constitutional framework has established a political democratic parliamentary democracy structure based on the fusion of power principle, with the legislature and the executive directly involved in legislation. The judiciary remains powerful and independent, protecting citizens' interests by stopping other branches from doing so.[4] This serves as a check on the legislative and administrative branches' arbitrariness and inconsistency. The rulers are elected and accountable to the people. Justice, freedom, equality, and fraternity, all fundamental qualities of democracy, are stated as Constitutional goals in the preamble.

Basic Structure Theory

In the interpretation of constitutional provisions, the judiciary is the last arbiter. After all, it is the defender and conscience of the State's authoritative normative norms and rights. The Indian constitution is the primary source of rights, and it is founded primarily on the concept

[3] Roberts, Alasdair. "A great and revolutionary law? The first four years of India's Right to Information Act." *Public Administration Review* 70.6 (2010): 925-933.

[4] Sharma, Aradhana. "State transparency after the neoliberal turn: The politics, limits, and paradoxes of India's right to information law." *PoLAR: Political and Legal Anthropology Review* 36.2 (2013): 308-325.

of the rule of law. To ensure the rule of law in all government operations, the higher judiciary was given the â€ Judicial Review power, which allows it to supervise government actions and ensure they are in accordance with their constitution. On this journey, judicial review was granted to protect people's rights from the government's arbitrary actions and to safeguard the democratic spirit of the Constitution. Other developments in India, however, have posed a threat to the democratic administration. The act of governing or wielding power, on the other hand, is referred to as governance. In international development circles, the term "good governance" is used incorrectly to describe how government institutions handle public affairs and resources. It addresses both the decision-making process and the process of implementing or failing to implement decisions. Furthermore, excellent governance has a number of distinguishing traits. It is democratic, responsible, transparent, effective, and efficient, as well as law-abiding. It ensures that corruption is reduced and that sensitive decision-making issues are heard. It is also critical to society's current and future demands. To achieve these goals, the architects of the Constitution designated the higher judiciary as the Constitution's defender. In truth, the Indian court has performed admirably since the establishment of the constitution. However, in ***Indira Nehru Gandhi v. Raj Narayan***, the Supreme Court of India cited the concept of the basic structure in order to protect democratic regimes. The court ruled that Clause (4) of Article 329(A), which was established as part of the Constitution by the Act of 1975 (39th Amendment), was unconstitutional because it harmed the Constitution's "basic characteristic".

The judge's reasoning in Indira Gandhi differs from that of the pre-British Indian sovereign in emphasising the importance of the division of powers in the amending process and, more broadly, through inference in the Constitution: A sovereign in any civil judicial system is not the same as an eastern dictator who can do whatever he wants whenever he wants. At the same time, Judge Chandrachud emphasizes in his dissenting opinion that even despotic rulers recognize the legitimacy of judicial checks on their power. Then, like Justice Mathew, he agrees that this also applies to modern democracy: The most authoritarian ruler in recent history wishes to be armed, however nominally, with the judgments of his judges on his subjects' issues. In analysing Indira Gandhi's key principle of structure, Justice Beg notes the numerous constraints that have been imposed on sovereign power throughout history, demonstrating that judicial review is a critical component of good administration. He cites more examples, such as: According to the Dharma Shastras, the ideal King in ancient India was largely created to be a Judge, to resolve conflicts, or to give directions on certain

situations. Both are international human rights treaties. As a result, it is incorrect to claim that fundamental rights are solely based on human rights, whereas directives are based on something else. In Coelho, Chief Justice Sabharwal agreed with Amartya Sen that protecting fundamental rights is the best way to create a just and tolerant society, not because they are a more important right. The Court defends key structural theory principles by emphasising the core aspects of its arguments for good governance, whether for natural, moral, historical, or utilitarian reasons. Modern democratic civilization and its mandates obstruct Parliament's constituent powers.

Fundamental Rights Defence and Promotion of the DPSP

As is well known, the Indian Constitution established fundamental rights for the advancement of the rule of law. As has frequently been demonstrated, the Indian judiciary has expanded its ability to maintain these rights through judicial review. It is critical to examine Article 21, which states that all human rights are recognised as fundamental rights by the courts. Article 21 was updated in 1978 to include a reasonableness or non-arbitrariness condition. This has resulted in the formation of natural justice, also known as substantive due process, in Indian law. Later, Article 21 was used to prohibit arbitrary punishment, simplify pre-trial bail requirements, limit debtor imprisonability, protect against custodial assault and excessive delays in criminal proceedings, and provide legal aid. During the Emergency and early decisions, the Supreme Court took a populist stance to re-establish its legitimacy, frequently favoring wealthy landowners. The Court was swept up in the excitement of liberal democracy's return, which swept away India's fundamental institutions. A strong independent court to check state power during crises was also demanded by the urban middle class. Following Indira Gandhi's death, the press began to focus more on human rights abuses and other social issues. The right to life encompasses several different rights, such as the right to clean air and water, tribal land, environmental protection, shelter, health care, education, and food and clothes. At a time when the country's parliament and other representational institutions were increasingly politically fragmented and seen to surrender their governance.[5] "The expansion of Article 21 law has resulted in a new type of legal action known as litigation of public interest. The Court has relaxed its standing threshold, allowing any public-spirited individual to petition the Court on behalf of anyone who believes their rights are

[5] Khanwalker, Varsha. "The right to information act in India: Its connotations and implementation." *The Indian Journal of Political Science* (2011): 387-393.

being violated. It also made the filing requirements less onerous. When a journalist informed the Court in 1982 that certain female suspects had been abused in police custody, the Court consented to accept the letter as a petition and took steps to protect women and other inmates in similar situations. The Court's action sparked a trend of citizens writing to the Court requesting assistance in serious societal issues." On the other hand, the Constitution expressly states that these beliefs are irrational. This decision reflected Dr. Ambedkar's conviction that all rights should be clearly rectified and that unenforceable rights claims should be excluded from constitutions. This process, launched by the emergency, gained traction in the face of severe poverty, allowing the country's representative institutions to thrive in the absence of government. The Court justified these interventions principally for two reasons, both of which are related to the underlying structural notion. For starters, it acknowledged the goal of regulated social and economic transformation in the Constitution as an active role for itself. Second, the Court invoked and justified its interventions on the basis of civilisational or administrative principles. Many issues of government have been addressed in the Court's jurisprudence, such as the need to properly enforce traffic rules or to prohibit public smoking. Indeed, the Court's right to life jurisprudence has grown not only to protect life, but also to promote good governance in general. M.C. Mehta v. Union of India, a 1997 Taj Mahal lawsuit, eloquently depicts this point of view. The Court used its law of life to rule that no polluting industries might operate in the surrounding area, emphasising the need of preserving this technological marvel. The Court appears to have recognised an inanimate object's right to life. In fact, this decision demonstrates that, in many Court of Life decisions, the issue is not so much the right to life as it is efficient administration in general (of which the protection of life and its basic necessities is only one part).

It is the administration's job to retain India's democratic nature as the majority representation of the people, and the opposition's role to protect the government's authoritarianism. The opposition used the terminology of political corruption and the complexity of the courts to its advantage. There was no room for decision-making in the midst of the incumbent's rage and the opposition's fervent support; the issues of black money and coal distribution were exposed, both of which have been abolished across all governments. Such events were sensationalized and captured the public imagination, effectively bringing the great old party's reign to an end. On the other hand, the current government is incapable of avoiding serious governance issues, including regulatory uncertainty in the electricity sector, production issues, land acquisition, educational changes, and ever-increasing barriers to forest

conservation, as well as an increase in gender crime. The Chief Justice of India convened a special bench to examine social justice issues. The Bench would look into topics of public interest such as disadvantaged individuals, food distribution, and public health. The opposition must recognise the necessity to adapt to shifting government arrangements and the importance of constructive criticism. The opposition is a disgruntled voice, and this House is the pinnacle of democracy. The government as a step forward will promote every action and policy. At the same time, every citizen is obligated to defend his country like a soldier whenever the constitutional spirit is threatened. In the absence of viable alternatives, the Opposition and the general public will occupy the opposition space in India's democracy as stewards of the Constitution, preserving and advancing constitutional spirit and good governance. A strong judicial system is required in a democracy.

5.3 ADMINISTRATIVE AND NOT JUDICIAL FUNCTION

The Indian Justice System is one of the oldest in the world. It is part of the legacy of India won by the British after nearly 200 years of colonial administration, as seen by the many parallels between India's and England's legal systems. The Indian Constitution supplied the structure, and the new legal system directs the courts. "The Indian Constitution is the country's supreme law and the source of all law. It not only established the Indian judiciary structure, but also detailed people's fundamental rights, responsibilities, and norms, all of which are the duty of Indian states. The Court is without a doubt one of the most important institutions in a democratic society, because it bears the enormous responsibility of administering justice, which is one of the most basic needs of the citizen.[6] The judiciary is charged with completely implementing constitutional objectives in order to promote the vision of constitutional framers as stewards of a nation's citizens' rights. The preamble to the Constitution states the goals of social, economic, and political equity for all people. If justice is not effectively enforced, civil society's rights are jeopardised, and the concept of the rule of law is clouded. The independence of the court could be regarded as the cornerstone of democracy." Of course, court and judicial decisions have had a tremendous impact on Indian politics over the years. The judiciary's role in upholding a just system in governance and administration was critical. As a result, Indian court rulings have permeated all levels of society, whether it is the substantive interpretation of Article 19 or Article 21, or the

[6] Millar, Laura. "The right to information-the right to records: The relationship between record keeping, access to information and government accountability." *Retrieved November* 29 (2003): 2008.

preaching of egalitarian concepts. The court, as is well known, is the foundation of a strong democracy. It seeks to interpret the law not only in its black letter form, but also to take a militant stance by creatively interpreting it to meet the demands of society.

The judiciary's Independence

Other entities are not permitted to interfere with the judiciary. In this sense, it is referred to as power division. Unless executive leaders are granted restricted remission powers, our Constitution ensures that the court has complete independence. The term "judgmental independence" refers to the ability of judges to determine or judge freely in the absence of government or other powerful forces. The independence of the courts implies that the judiciary, as a legislative body, should be free of the executive and governing legislatures' powers and influence. The system's architects recognised that judges who can apply the law freely and equally are essential to the rule of law. On paper, the Constitution protects our rights, but it is meaningless unless they are enforced by independent courts. It is critical that the judiciary maintains its independence in order to fulfil its role as a guardian of the Constitution. The public can only be assured of justice if the courts are independent of the executive and legislative branches. In a modern state, judicial independence is vital for the following reasons:

- Ensure fair trials and protect the innocent from harm and usurpation on the part of the guilty;
- Maintain government officials' legitimate competence and keep a look out for any abuse of power.

He is the custodian of the constitution, especially under a federal system of government. Judicial independence is critical to the survival of any country's democratic system. It connects citizens' protection against unconstitutional administrative and legislative authorities. It is critical to remain free of the executive's influence and control. It is critical for individual liberty that judges make decisions without fear or favour. It refers to a setting in which a judge can make an objective decision. Every democratic culture has its own method of ensuring judicial independence and, by extension, individual liberty. To protect judicial independence, the United States of America established a separation of powers. "There is no doubt in the Chamber that our judiciary must be executive-independent and accountable to itself," Dr. B.R. said. The question is how to keep these two items safe.

"Constitutionalists were concerned that a separate entity would be granted to the judiciary in order to ensure societal stability because they recognised that a system of this kind can only be established by guaranteeing constitutional rights and the independence of the judiciary to safeguard and uphold fundamental rights." To ensure judicial independence, the Indian Constitution includes a number of measures that are consistent with constitutional and parliamentary sovereignty positions. The judges of the Supreme Court and the High Court have created provisions to ensure their independence. When they take office, Supreme Court and High Court judges must swear an oath to carry out their responsibilities faithfully, without fear, favour, or ill-will, and to protect the Indian constitution and laws. This commitment implies support for the concept of legislative sovereignty. Second, in India, the appointment of judges ensures judicial independence. Judges of the Supreme Court and other courts will appoint the President. The President of India is required by the Constitution to nominate in consultation with the highest judicial authority. He meets with the Cabinet for guidance. The Constitution also specifies the conditions that must be met in order for specific offices to be considered. The Constitution attempts to ensure that appointments are made without regard for political considerations. Third, the judges' term is guaranteed by the Constitution. The High Court and the Supreme Court act "in good faith," not at the President's discretion, as other senior members of the government do. The President cannot remove them at will. The only way to remove them from office is to charge them with a crime.

5.4 SECTION 2 - DEFINITIONS

Section 2 of the RTI Act includes definitions. Unless otherwise specified in the context, this Act—

(a) "appropriate government" refers to a public authority that is formed, established, owned, controlled, or substantially funded by money contributed directly or indirectly;

(ii) State Government,

(b) The term "Central Information Commission" refers to the CIC created by Article 12; (1).

(c) "Central Officer of Public Information" refers to the Central Public Information Officer designated under paragraph and the CPO selected.

(d) The terms Chief Information Commissioner and Information Commissioner apply to the Chief Information Commissioner and Information Commissioner mentioned in Section 12.

(e) The word "competent authority" refers to the following:

In the event of the People's Chamber or the Legislative Assembly of a State or Territory of the Union possessing this Assembly, and the Council of States or a Legislative Council of States,

(i) the Chairman;

(ii) The Chief Justice of India in the Supreme Court case;

(iii) The Chief Justice of the High Court at the High Court's request;

(iv) "The President or Governor, if any, in the case of other authorities established or established by or under the Constitution";

(v) "The administrator appointed in accordance with the provisions of Article 239 of the Constitution";

(f) "Information" includes records, documents, notices, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contractual documents, reports, papers, samples, models, electronic material, and information on any private body that the public authority may access under any other law in effect at the time.

(g) refer to the rules enacted by the applicable government or competent authority in accordance with this Act;

(h) A "public authority" is any created or constituted authority, entity, or institution of self-government.[7]

- ❖ as a result of or in accordance with the Constitution;
- ❖ any other legislation enacted by Parliament;

[7] Millar, Laura. "The right to information-the right to records: The relationship between record keeping, access to information and government accountability." *Retrieved November* 29 (2003): 2008.

- ❖ any other statute enacted by the State Legislature;
- ❖ the competent government issuing and including a notification or order

The body that is heavily owned, controlled, or sponsored;

- ❖ a non-governmental organisation that is primarily funded by funds granted directly or indirectly by the appropriate government;

The term "record" refers to what follows:

- ❖ any manuscript, document, or file of any kind;
- ❖ any document's microfilm, microfiche, or fax copy;
- ❖ any reproduction (whether enlarged or not) of an image or pictures stored on such microfilm; and

(i) any other type of computer or electronic device material;

(j) the right to information, which includes the right to, shall be defined as the right to information held or controlled by any public organisation and made available under this Act;

To work, create documentation, and keep inspection records;

- ❖ notations, extracts, or certified copies of papers or records to be documented
- ❖ obtaining substance-verified samples;
- ❖ collecting information about diskettes, floppies, tapes, videos, or other electronic media, or prints, if saved on a computer or other device;

(k) the State Information Commission, referred to as the State Information Commission in section 15.

(l) The terms 'State Chief Information Commissioner' and 'State Information Commissioner' refer to the Chief Information Commissioner and the State Information Commissioner, who are appointed under Section 15.

(m) The term "Public Information Officer" refers to both the State Public Information Officer mentioned in subsection and the State Public Information.

(n) "third party" refers to anyone other than the requester, which could include a government agency.

Since the RTI Act was established under the Right to Information Act of 2005, the definition of "public authority" has been a hotly debated topic ("RTI Act"). Nonetheless, the matter has been a major focus of public debate since the Central Information Commission ("CIC") issued a judgement under the RTI Act 1 recognising political parties as public bodies. The Central Government proposed changing the definition of public authorities to exclude political parties in order to overturn the CIC ruling. This amendment has now been referred to the standing committee of Parliament. This history provides a unique chance to examine both the concept of public powers and the conflicts that arise because of their application. This brief focuses on many cases heard by the High Court. Citizens have a right to access information owned by "public authorities" under the RTI Act.[8] As stated in Section 2 of the Act, the RTI Act establishes a legal framework to carry out this right by identifying public authorities, allowing citizens to seek public information, and imposing fines on public officials who fail to disclose information (f). The RTI Act states that "to assist the right to information under the Act, every public authority will pro-actively give information pertinent to it and will keep its records and papers." As a result, the question "Who is the public authority?" is crucial since it precisely defines the scope of the RTI Act and the country's transparency system in general. Over the last seven years, a diverse range of private organisations (including schools, universities, and sports) have been recognised by public authorities and required to carry out the RTI Act's requirements. A re-examination of the High Court and CIC judgements reveals a broad and often conflicting interpretation of the RTI Act's definition of "public authority."

The term "public authority" refers to a decision-making body. "Administration" refers to any authority, body, or institution of self-government established or established—"(a) by or in accordance with the Constitution; (b) by or in accordance with any other law adopted by the Parliament; (c) by any other law enacted by a state legislature; (d) notification or order of the Government concerned, including any—body owned, etc".

[8] Setty, Sudha. "Judicial Formalism and the State Secrets Privilege." *Wm. Mitchell L. Rev.* 38 (2011): 1629.

As a result, the Act separates government authority into two sections: The first section of the definition (clauses 2(h)(a) to (d)) clearly separates bodies constituted by an Indian Constitution as public authority by law of Parliament and state legislatures, such as the RBI, SEBI, and the TRAI; (Planning Commission).

The second half broadens the definitions of government authority to include anybody owned, controlled, or substantially financed by the relevant government, as well as any non-governmental body largely sponsored by it. This second element of the concept has sparked great dispute, mainly because it does not define what constitutes (a) ownership, (b) control, and/or (c) government cooperation. Companies that are explicitly labelled as "public authorities" Based on the preceding explanation; some entities are unquestionably "public authorities." The provisions of Article 2(a) to (d) apply to constitutional authorities such as the Union and State Executives, the Union and State Ministers' Councils, Presidents, Parliament and State legislatures, the Election Commission, the Indian Office of the Controller, and the State Auditor General, among others (h). (b) Institutions formed by Parliament or state legislatures, such as regulatory bodies (SEBI, RBI, etc.), courts of law, lawfully founded educational institutions, etc. Planning Commission, UIDAI, and other organisations established by competent government notification or decision. The automatic publishing by incorporation or registration of entities established under various laws was a source of contention about the first component of the definition - the bodies formed by law. The "Delhi High Court" has ruled that the mere creation of a statutory body does not qualify it as a public authority for the purposes of the RTI Act. 7 As a result, corporations and trusts formed and registered under the Companies Act of 1956 do not become public authorities immediately under Section 2(h)(d) of the RTI Act.

5.5 SECTION 3 - RIGHT TO INFORMATION

Section 3 states that every citizen has the right to information. The right to information (RTI) is a legal term that is mentioned in Article 19(1) of the Constitution as one of a person's fundamental rights. According to Article 19, every citizen has the right to free speech and expression (1). In the case of Raj Narain vs. the State of Uttar Pradesh, the Supreme Court held in 1976 that persons could not talk or express themselves unless they knew it. As a result, Article 19 includes the right to information. In the same case, the Supreme Court ruled that India is a democracy. The guys are the masters. As a result, the masters have the right to know how governments function. Furthermore, every citizen is required to pay taxes. When a

beggar on the street buys a soap bar from the market, he pays tax (in the form of sales tax, excise duty, and so on). Citizens have the right to know how their money is spent. The Supreme Court established these three principles when it declared that RTI is one of our fundamental rights. "The Right to Information Act (RTI) is an Indian law that establishes rules and procedures for citizens to obtain information. The Freedom of Information Act repealed it in 2002. Under the RTI Act, any Indian citizen may request information from a public authority (a government organisation or state instrumentality). If the matter involves a petitioner's life or freedom, the information must be delivered within 48 hours. The Act also compels every government agency to prepare their records for large-scale distribution and to publish particular types of material in advance, so that citizens can only submit official enquiries. The RTI Act was passed by the Indian Parliament on June 15, 2005, and went into effect on October 12, 2005. Every day, an average of 4800 RTI queries are filed. More than 17,500,000 applications were filed in the first ten years after the act was passed. While the Indian Constitution does not list the right to knowledge as a basic right, it does advocate the Constitution's fundamental rights of free expression and speech (Article 19(1)(a) and the right to life and personal freedom) (Article 21). The authorities covered by the RTI Act of 2005 are referred to as public authorities." The Public Information Officer (PIO) or the First Appeal Authority rules on applications and appeals in public authorities in a quasi-judicial manner. This act was passed to strengthen the fundamental right of 'free speech' guaranteed by the Indian Constitution. RTI is an implicit fundamental right because it is enshrined in Article 19 of the Indian Constitution, which guarantees freedom of expression and expression.

Previously, the Official Secrets Act of 1923 and other specific legislation in India regulated disclosure of information, which has been overturned by the current RTI Act. According to the Right to Information Act, citizens of India have a basic right to information. RTI has been extremely beneficial, however it is not permitted under the Whistleblowers Protection Act of 2011. [5] Finally, on September 20, 2020, the Ashwanee K. Singh case demonstrated that information freedom is a basic right. The Act applies to the entire country of India. It includes the administration, the legislature, the judiciary, and any organisation or body established or formed by an act of Parliament or a state legislature. The Act also defines bodies or authorities founded or constituted by order or notice of the relevant government, such as entities "owned, controlled, or substantially financed" by government or non-governmental agencies "substantially funded, directly or indirectly, by money."

5.6 SECTION 4 - OBLIGATION OF PUBLIC AUTHORITIES

According to the Act, the public authority is responsible for keeping records and disseminating manuals, rules, regulations, directives, and documents in conformity with the provisions of the Act. (note: the Act went into effect on October 12, 2005):

- the organization's structure, activities, and responsibilities in great detail;
- the structure of authority and duty for each of its officials and employees;
- the decision-making process, including procedures for monitoring and accountability;
- the standards it establishes for carrying out its duties;
- the rules, regulations, instructions, manuals, and paperwork that its workers use in carrying out their responsibilities;
- a list of the numerous types of papers it possesses or has on hand;
- details of any public consultation system (including representatives) for the development or execution of any public policy;
- It has created a list of two-person boards, councils, committees, and other groups. Determine if these meetings are open to the public or closed to the public as well.
- The minutes of these meetings are open to the public.
- A directory or other document will contain contact information as well as the names and titles of the company's officers and workers.
- Details on each officer's and employee's pay, as well as the organization's remuneration policy
- the company's budget data, which includes components such as allocation, spending plan, proposed spending, distribution, and payment method In addition, a record of use and a progress report must be kept in the file.
- Information about public-sector subsidy programmes, including amounts provided, as well as information and beneficiaries;

- A list of all beneficiaries who have received concessions or authorizations;
- All of the information gathered in electronic format, including all aspects, is detailed.
- public access to information facility, as well as the location of a reading room, if one exists
- Data on public information officers, such as name, organisational designation, contact information, and so on.
- any further information that may be required (need to update the these publications every year).

Every public authority will make every effort to meet the requirements of subparagraph (1)(b) by providing as much information to the public on a regular basis as possible through various communication channels, including the internet, so that the public does not have to rely on this Act to obtain information. All materials shall be distributed in accordance with cost effectiveness, local language, and the most effective mode in the local area, and information shall be made available, to the maximum extent possible, electronically, for free or at the cost of the Central Public Information Officer and State Public Information Officer, as applicable. Public bodies in the first category are required to communicate this information to the public in a comprehensive and timely manner in order to make it freely available.[9]To ensure accountability and the continued fight against corruption, the RTI Act's competent authorities would have to act pro-actively for the information specified or required to be listed under sections 4 (1)(b) and (c) of the Act. "However, due to the importance of determining whether the information is correct, additional material not covered by paragraphs 4(1)(b) and (c) of the Act must be handled with caution. These are not required to divulge anything." Obtaining this goal, however, does not involve neglecting or compromising other equally important public interests, such as effective government and public administration tasks, the most efficient use of a limited budgetary resource, the preservation of sensitive information secrecy, and so on. The RTI Act is intended to strike a balance between competing public interests, such as ensuring transparency to increase accountability and reduce corruption, and ensuring that information disclosure in practise does not negatively

[9] Burman, Anirudh. "Transparency and political parties: Finding the right instrument." *Economic and Political Weekly* (2013): 34-37.

affect or harm other public interests, such as the effective functioning of governments and the best use of limited tax resources. Sections 3 and 4 of the RTI Act of 2005 are intended to meet the first goal.

5.7 SECTION 5 - DESIGNATION OF PUBLIC INFORMATION OFFICER

Section 5 includes the following:

- The Public Information Officers (CPIOs) of each public authority shall be appointed, as the case may be, within one hundred days of the effective date of this Act in each administrative unit or office of the public authority, as many as are required to provide information to persons seeking information under this Act.

- Without limiting the generality of Subsection 1 (1), each public authority shall appoint a Central Assistant Public Information Officer or, if applicable, a State Assistant Public Information Officer to receive requests for information or appeals at each sub divisional or other sub-district level within 100 days of the enactment of this Act.

- "It should be noted that when a request for information or an appeal is made to a Central Assistant Public Information Officer or, as the case may be, a Central Assistant Public Information Officer, an additional five days should be added to the response time specified in subsection (1) of section 7.

- It is the responsibility of every Central Public Information Officer and State Public Information Officer, to respond to information requests and provide reasonable assistance to individuals who need it.

- The Central Public Information Officer or the State Public Information Officer, as the case may be, has the authority to provide assistance to any other officer who believes it is required in order to carry out his or her responsibilities properly.

- The CPO or State Public Information Officer, as the case may be, shall provide assistance to any officer who has previously been requested to do so pursuant to subparagraph (4), and that officer shall be treated as either the CPIO or the State Public Information Officer in the event that one or more of its provisions are violated."

Section 5(1) of the Act authorises a Public Authority to appoint "as many" CPOs or CPOs in all administrative units and offices under its authority as may be necessary for the purpose of providing information to anyone who requests it. They should be recognised within 100 days of the Act's passage. "Similarly, at "each sub-division or other sub-district level," central or state Assistant Public Information Officers are to be designated to receive and refer applications or appeals to relevant Public Information Officers, Designated Appellate Officers, and the Information Commission [Section 5(2)]". This guarantees that individuals can obtain information in their own communities rather than having to travel large distances to the offices of public information officers.

5.8 SECTION 6 - REQUESTS FOR OBTAINING INFORMATION

To submit a request pursuant to Section 6 of the Act, address it to the Central Public Information Officer or the State Public Information Officer, as applicable, or to the Public Information Officer or the State Assistant, as applicable. This is an example of a request for information in the form of:

- "The request must be made in writing or electronically,
- in either English or Hindi, or in the official language of the area in which the request is being made;
- if it cannot be done in writing, the request must be made verbally with the assistance of the public information officer."

Section 6 states the requests required for obtaining information.

1. A person seeking information under this Act shall make a written or electronic request in English or Hindi, along with any costs that may be imposed, in the official language of the area in which the application is made.

    (a) The involved public authority's Central Public Information Officer or, if applicable, the State Public Information Officer;

    (b) The central Public Information Officer or, if relevant, the State Public Information Officer's Assistant, specifying the information sought: "If this request cannot be made in writing, the Central Officer for Public Information or

the State Officer for Public Information will assist the requestor orally in reducing it to writing, depending on the circumstances."

2. An applicant requesting information should not be required to provide a rationale for the request or any other personal information that is not required to contact him.

3. If a public authority receives an information request,

   (i) Held by another authority;

   (ii) The subject matter more directly related to the function of another public authority, to which the application is made by the public authority or a portion thereof that may be suitable, shall be transmitted to that other public authority and the applicant shall be notified of the transfer immediately: However, the request under this clause must be transferred.

5.9 SECTION 7 - DISPOSAL OF REQUEST

Section 7 of the Act provides for the disposition of information requests as follows:

(1) "Pursuant to subparagraph (2) of Section 5, or subparagraph (3) of Section 6, the Central Public Information Officer, or a State Public Information Officer, as applicable, shall either provide or provide the information without payment of such fee as soon as possible, and in all cases within 30 days of receipt of the request."

However, if the requested information is related to a person's life or freedom, it must be submitted within 48 hours after receipt.

(2) The application is said to have been denied if the Central Public Information Officer or the State Public Information Officer, as applicable, fails to make a decision on a request for information within the time frame stated in subsection (1).[10]

(3) If the Central Public Information Officer or State Public Information Officer decides, as and when the case may be, to provide this information in exchange for payment of

[10] Agrawal, Chetan. "Right to information: A tool for combating corruption in India." *Journal of Management and Public Policy* 3.2 (2012): 26-38.

any additional fee for information provided, the Central Public Information Officer or State PPI Officer shall notify the person making the request, stating—

(a) The particulars of the fees representing the cost of supplying the information as determined by it. As well as the calculation made in order to arrive at the amount in accordance with the fee specified in subsection (1), are excluded from the calculation of these fees, as is the time between the sending of the information and the fee payment.

(b) Information on his or her right to appeal a decision on the amount of fees charged or the type of access provided, including contact information, time limit, proceedings, and any paperwork required by the appellant authority.

(4) If a central public information officer or a State public information officer is required by this Law, to provide access to a record or part of a record and is sensorially disabled. The central public information officer or the state public information officer shall assist the central public information officer or the state public information officer in obtaining access to such a record or a portion thereof.

(5) Subject to the conditions of sub-section (6), the applicant shall pay the following fee where access to the material is to be given in printed or electronic format:

However, given that the duties imposed in paragraph 6 subparagraph (1) and paragraph 7 subparagraphs (1) and (5) were fair and that the relevant government had not imposed such levies on those living below the poverty line.

(6) If the public body fails to satisfy the time limit specified in subsection (5), the information shall be delivered to the requester free of charge (1).

(7) Any representation made by a third party under Section 11 is subject to review by any Central Public Information Officer or State Public Information Officer, as appropriate, prior to any sub-section decision (1).

(8) If a request is denied under subparagraph (1), "the Central Public Information Officer or the State Public Information Officer, as applicable, shall notify the person making the request":

(i) the cause of the refusal.

(ii) the deadline for filing an appeal in the event of a rejection;

(iii) the appeal authority's specificity.

(9) Unless it jeopardises the public authorities' resources or jeopardises the security or preservation of the record in question, information should normally be delivered in the form requested.

5.10 SECTION 8 - EXEMPTION FROM DISCLOSURE OF INFORMATION

All information pertaining to any occurrence, event, or matter occurring, occurring, or occurring 20 years prior to the date of any request, subject to exemptions for information pertaining to sovereignty, integrity, and security, parliamentary or state privilege violations, and cabinet documents. However, if there is any uncertainty as to whether the 20-year period should be computed, the Central Government's decision shall be final, subject to the regular appeals authorised by the Act. Sections 8(1) and 9 of the RTI Act provide exclusions from the Act's duty to submit information. Unless the Public Authority can demonstrate that the sought information comes within one of the excluded information categories, it is required to provide it, and the grounds for denying information requests must be properly documented. Because Section 8(1) of the RTI Act is a non-obstant clause, it takes precedence over all other provisions of the RTI Act. "Under Section 8(1)(a) of the RTI Act, a government is not required to disclose any information that could jeopardise India's sovereignty and integrity, its security, strategic, scientific, or economic interests, its foreign relations, or encourage a crime." According to the Black law dictionary, sovereignty is the greatest, absolute, and uncontrollable power that rules an independent state. As a result, sovereignty entails freedom from all external control or dominance. The term integrity refers to the condition that it is entire or unmodified for the purposes of Article 8(a) (1). The government is not obligated to share information that would jeopardise India's sovereignty and integrity. The term "security" has a broad definition and encompasses a variety of variables such as political, economic, environmental, social, and human issues. Significant harm could be done if classified information about India's national security is made public. Information that creates worry or has an impact on people's quality of life should not be disclosed because it could jeopardise the state's security. According to Section 8(1)(a) of the RTI Act, information intercepted to protect India's sovereignty and integrity may not be disclosed. The material

covered by Section 8(1)(a) of the RTI Act includes, among other things, military and activity movements, ammunition delivered to police officers over a period of time, strategic secrets for defence, and information released during a period of time.[11] This exception, however, should not be used to keep ordinary business information secret simply because it affects defence. In some cases, information about currency or exchange rates, interest rates, taxes, banking, insurance, and regulations or supervision of other financial institutions, expenditure and borrowing proposals, and foreign investments may have an impact on the national economy, especially if discovered early. This exception, however, should not be used to remove less important economic and financial data, such as contracts and departmental budgets.

Section 8(a) Information Disclosure of which would prejudicially affect the Sovereignty and Integrity of India.

It demonstrates that the information jeopardises India's sovereignty and integrity, as well as the country's security, foreign policy, scientific or commercial interests, and international relations, or that, if made public, the information results in a violation of an act.

Section (d) Information including commercial confidence trade secrets of Intellectual property

Information such as commercial trust, trade secrets, or intellectual property that could jeopardise the competitive position of a third party is prohibited from being disclosed unless the relevant authority determines that a greater public interest justifies revelation of the information. A citizen is not liable for disclosing information to a third party unless the competent authorities have determined that doing so would jeopardise the competitive position of the third party.

Section 8 (e) Information available to a person in his fiduciary capacity

"Under Section 8(1)(e) of the 2005 Right to Information Act, information available to a person in a fiduciary relationship is exempt from publication, unless the competent body determines that disclosure is required to promote the greater public interest". Regardless of

[11] Baviskar, Amita. "Winning the right to information in India: Is knowledge power." *In J Gaventa & R McGee (eds) Citizen Action and National Policy Reform. London: Zed*, *10*.. 2010.

whether content has been omitted, it must be disseminated if a competent institution determines that publication is in the public interest, as required by law.

Section 8(g) Information the disclosure of which would endanger the life or physical safety of any person.

It states that information that may harm a person's life or physical security, or betray the source of information or assistance supplied in confidence for the sake of law enforcement or security, is not to be disclosed. Section 8(1)(g) of the RTI Act discusses situations in which public authorities are not obligated to provide information that may endanger a person's life or physical safety, or to provide confidential sources of information or assistance for the purposes of enforcement or security. Article 21 of the Constitution defines "life," and it has generally been understood to include the right to live in decency, the right to refuge, the right to basic necessities, and even the right to repute. As a result, as stated in Article 8(1)(g) of the RTI Act, the term "life" must be interpreted in equivalent terms. The term "physical security" refers to the likelihood of a person being in danger. This part is divided into two categories: disclosing information that could endanger anyone's life or physical safety, and identifying the source of information or assistance for law enforcement or security purposes. Information should not be published if it is likely to jeopardise an individual's security or freedom; for example, whistleblowers' identities should be protected since they may become biassed or even violent if their identities are made public. The 2013 Act makes it illegal to release information about the contents of complaints, the identities and addresses of women accused of being aggravated, the respondents and witnesses, information about conciliation and investigation, the recommendations of the committee of inquiry, and the actions taken by the competent authority. This clause, however, allows for the publication of material critical to the victim of sexual harassment receiving justice without disclosing the aggrieved woman's name, address, or identity, or any other information that may lead to the identification of the aggrieved woman and witnesses.

Section 8 (h) Information which would impede the process of investigation

It makes it illegal to disclose information that could jeopardize an individual's life or physical security, or to disclose a confidential source of information or assistance provided for law enforcement or security purposes. "According to Section 8(1)(h) of the RTI Act, public authorities are not required to provide information that would impede the investigation,

arrest, and prosecution of offenders." Under the RTI Act, the term "investigation" in Article 8(1)(h) should be interpreted broadly. The RTI Act does not recognise the technical term 'investigation' in criminal law. The RTI Act covers all law enforcement activities, including disciplinary hearings, investigations, and judgements. Logic dictates that no investigation be concluded until a final decision based on the findings is made. During the course of the investigation, data such as witness identity, circumstances against a suspect, and so on may need to be retained. If the revelation of material no longer prohibits criminal prosecution, arrest, or further investigation of criminals, the confidentiality protection is revoked.

Section 8 (i) Information which relates to personal information the disclosure of which has not relationship to any public activity or interest

Cabinet documents comprise records of the Council of Ministers', Secretaries', and other officers' deliberations. They include the following: Whereas the Council of Ministers' judgments, justifications, and the material upon which they are based are made public after the decision is made and the case is resolved or concluded: Additionally, no information shall be disclosed that falls within the exemptions specified in this section. "Cabinet papers, which include minutes of meetings of the Council of Ministers, secretaries, and other officers, are exempt from publishing under Section 8(1)(i) of the RTI Act." Once the decision and the matter have been resolved, the Council of Ministers' decisions, as well as the reasons and supporting documentation, may be made public. As a result, a temporary restriction is permitted. On the other hand, the disclosure of material that is exempt from Section 8 of the RTI Act is prohibited. The following is a straightforward interpretation of RTI Act Section 8(1): Cabinet papers, including records of Council of Ministers, Secretaries, and other officers' debates, shall be made public after decision and completion; ii) subjects exempt from Clauses (a) to (h) and (j) of Section 8(1) shall not be revealed, and subject content shall be completed or over.

5.11 SECTION 9 - GROUNDS FOR REJECTION TO ACCESS IN CERTAIN CASES

This section includes It establishes that, subject to section 8, a central or state public information officer may refuse to submit a request for information if access would constitute a copyright infringement by a third party. According to Section 9 of the Act, a Public Information Officer may deny an information application if access would result in a copyright violation by a person other than the State. In some situations, your application may

be returned to you if it was not correctly completed. This can happen if you have too broadly designed your application and it is unclear what specific information you are looking for (for example, because it is not clear what dates you want the information for, or in relation to what geographical area or in relation to what government scheme).[12] It is also critical to be as specific as possible in your request; if the person in charge of your application is doubtful of the information you require, he will waste time asking further questions. Before your application may be rejected outright, you must be given the choice to re-design and re-send it. If you do not resubmit your application after it has been returned, the competent authorities will reject it. If the PIO considers that the information you have requested is exempt, your request will be denied. In such instances, the Central Act requires you to get a letter of refusal as soon as feasible but no later than 30 days after your request is received.

According to the Act, the refusal notification must include the following information:

- The reasons for your application's refusal (preferably the specific exemption clause in question);
- The time required to file an appeal; and
- The contact information for the applicable "appellate authority"
- These details should be provided so that you are fully aware of your rights and options if the requested material is not released.

5.12 SECTION 10 - SEVERABILITY

According to this article:

(1) If a request for access to information is denied because it contains information that is not subject to disclosure under this Act. Regardless of other provisions of this Act, access to the portion of the record that does not contain any information exempt from disclosure under this Act and can be reasonably separated from the rest of the record may be granted.

[12] Srivastava, Smita. "The right to information in India: Implementation and impact." *Afro Asian Journal of Social Sciences* 1.1 (2010): 1-18.

(2) The "Central Public Information Officer" or the "State Public Information Officer", as applicable, shall give a notice to the applicant advising him or her that a section of the document has been allowed access.

(a) When only one piece of the record requested is disclosed following the disclosure of a portion of the record containing information that is exempt from disclosure, this is referred to as a "single portion" disclosure.

(b) the reasoning behind the decision, including any conclusions reached on any key point of fact, as well as references to evidence supporting such conclusions;

(c) the name and position of the decision-maker;

(d) the amount of the charge that must be paid by the applicant as well as information on the fees that have been determined by the applicant; and

(e) A senior officer designated pursuant to Section 19 (1) of the Central Information Commission or pursuant to Section 19 (1) of the State Information Commission may also review a Decision.

5.13 SECTION 11 - THIRD PARTY INFORMATION

This section states as follows:

(1) If, in response to requests made under this Act, a Central Public Information Officer or State Public Information Officer intends to disclose any information or records relating to or being submitted to any third party, and that third party, a Central Public Information Officer or State Public Information Officer has been treated as confidential.

(2) When a third party gives a notice pursuant to subparagraph (1) in connection to any information or record, or part of it, the third party has ten days from the date of receipt to make a representation against the planned divulgation.

(3) Notwithstanding anything in section 7, if the third party was given the opportunity to represent itself under subsection 7. The Central Officer of Public Information or State Officer of Public Information, as the case may be, shall decide whether to disclose

information, record, or part of that information within 40 percent of the date of receipt of an application under section 6 within 40 percent of the date of receipt of that application (2).

(4) A notification issued under paragraph (3) must state that the third person to whom the notice is provided has the right to appeal the decision.

Section 11(1) of the RTI Law is activated when the PIO prepares to divulge to the applicant any material relating to a third party or given for by that third party that is regarded confidential. When Section 11(1) of the RTI Act applies, the PIO must send a notice to the third party and solicit objections as to whether or not the information should be provided. If the PIO receives input from other parties, it must review it before deciding whether or not to fulfil the information request. If the PIO believes that a third party's complaints are without merit, it must provide the application with the requested information. In contrast, if the PIO believes that the requested information should not be made public, the rejection must be based solely on sections 8 and 9 of the RTI Act. "Although the PIO believes there is a risk of harm or injury to the interests of third parties, the public interest in disclosure outweighs the risk of harm or injury, and the information may be disclosed (save in the event of trade or commercial secrets protected by law)." Section 11 does not prohibit a third party from disclosing information. Third-party objections alleging confidentiality in relation to the information sought. The profile and credentials of the person seeking information must be considered while making this decision. If, in light of other circumstances, the person requesting information's profile leads to the conclusion that he or she plans to share his or her personal data with a third party in the goal of serving the public interest, the information sought cannot be claimed to be of public interest. When working with or receiving information from a third party, the Public Information Officer must constantly remember that the Act is not a tool in the hands of a busy person to determine a personal score." Section 11 does not give third parties full veto power over material disclosure. It clearly anticipates situations in which the PIO is opposed to a third party's non-disclosure claim and allows the third party to file an appeal against divulgation that would not have been necessary if the third party had been vetoed against divulgation. Section 11 of the protocol must be followed if the PIO intends to reveal the material but fears it will be treated as confidential by a third party. If a third party objects, the PIO must examine whether the material is exempt from disclosure under the Act.

5.14 SECTION 12 - CONSTITUTION OF CENTRAL INFORMATION COMMISSION

This section includes the following:

(1) By publication in the Official Gazette, the Central Government shall create a body known as the Central Information Commission in order to execute the powers given upon it and fulfil its responsibilities under this Act.

(2) The Central Commission of Information shall be composed of the following members:

(a) the Chief Information Commissioner and (b) the Deputy Chief Information Commissioner.

(b) as many Central Information Commissioners as considered necessary, but no more than ten.

(3) "On the recommendation of a Committee comprised of the Chief Information Commissioner and the Information Commissioners, the President appoints the Chief Information Commissioner and the Information Commissioners."

(i) The Prime Minister, who will serve as the Committee's Chairman;

(ii) The Lok Sabha Leader of the Opposition; and

(iii) The Prime Minister must appoint a Minister to the Union Cabinet. (iii) the Prime Minister's choice for Cabinet Minister of the Union." Explanation.—To minimise debate, the House of Peoples shall be explicitly told that if the Leader of the Opposition was not recognised as such, the leader of the single largest group opposing to the Government in the House of Peoples shall be deemed to be the Leader of the Opposition.

(4) "With the assistance of the Information Commissioners, the Chief Information Commissioner may exercise general oversight, direction, and management of the Central Information Commission's affairs, as well as all powers and acts or things that the Central Information Commission may exercise or do autonomously without being subject to instructions."

(5) "The Chief Information Commissioner and ICOs shall be well-known professionals with extensive experience and competence in law, science and technology, social service, management, media, mass media, or administration and governance."

(6) "The Chief Information Commissioner or Information Commissioner shall not be a member of Parliament or a member of the Legislature of any State or territory of the Union, or a member of any political party, or engage in any business or profession, as the case may be, or hold any other profit office."

(7) The central information commission's headquarters shall be in Delhi, and the Commission may establish offices in other parts of India with prior approval from the federal government.

5.15 SECTION 15 - CONSTITUTION OF STATE INFORMATION COMMISSION

(1) "Each State Government shall establish an entity to be known as the State by publication in the Official Gazette. The Information Commission will be able to carry out the functions and obligations conferred on it by this Act.[13]

(2) The State Information Commission must be composed of (a) the Chief Information Officer and (b) the State Information Officer."

(b) as many State Information Commissioners as are considered necessary, but no more than 10.

(3) The Governor shall appoint the State Chief Information Commissioner and the State Information Commissioners on the recommendation of a committee constituted of:

(i) The Chief Minister, who will preside over the Committee;

(ii) the Legislative Assembly's Leader of the Opposition;

(iii) The Minister of the Cabinet is appointed by the Chief Minister. Explanation.— To avoid doubt, the Leader of the Opposition in the Legislative Assembly shall be considered the Leader of the Opposition; if he is not recognised as such, the

[13] Mander, Harsh, and Abha Joshi. "The Movement for Right to Information in India." *Peoples Power for the Control of corruption* (1999).

Leader of the single largest group in the Legislative Assembly opposing the Government shall be considered the Leader of the Opposition.

(4) The State Chief Information Commissioner shall exercise general control, direction, and management of the State Information Commission's affairs, with the assistance of the State Information Commissioners, and shall have the authority to exercise all powers and perform all acts autonomously performed by the State Information Commission.

(5) State Information Commissioners and State Heads of Information must be well-known figures with extensive experience and knowledge in the domains of law, science and technology, social service, journalism, media, administration, and governance.

(6) No Member of Parliament or Member of the legislature of any State or territory of the Union may, as the case may be, be affiliated or involved in any business or profession with any political party.

(7) "The State Information Commission's headquarters shall be in the State, except where the State Government may establish the State Information Commission at other locations in the State with the State Government's prior consent by announcement in the Official Gazette."

The State Information Commission will establish a Gazette notification issued by the State Government. "The governor must select one State Chief Information Commissioner (SCIC) and up to ten State Information Commissioners (SIC). The 2005 Right to Information Act requires a State Information Commission. A State Chief Information Commissioner and ten State Information Commissioners comprise the Commission. The Governor will choose them after a committee comprised of the Chief Minister as President, the Leader of the Opposition in the Legislative Assembly, and the Chief Minister of State Cabinet proposes them. They should be prominent people who do not have any other paid jobs, do not belong to any political party, do not own a business, and do not practise any profession." State Chief Information Commissioners and State Information Commissioners are appointed for five years or until they reach the age of 65, whichever comes first. Reappointment is not an option for them. The Commission submits an annual report to the State Government on the implementation of the Act's provisions. The state government submits this report to the state legislature. If there are reasonable grounds, the commission may order an investigation into

any subject. The Commission is empowered to compel a public authority to take action in response to its findings. Anyone may file a complaint with the commission, which will investigate. During the course of an investigation into a complaint, the commission may inspect any record held by a public authority, and no such record may be retained for any reason. During its investigation, the Commission has the authority of a civil court in the following areas:

- Create a requirement for document discovery and inspection.
- Obtaining invitations to question witnesses or documents, as well as any other items that may be required
- Individuals are summoned to appear and submit oral or written evidence, as well as to exhibit papers or commodities under oath.
- Receiving any public record from a court or government agency.
- If the public authority fails to comply, the commission may make suggestions on how to improve compliance.

5.16 SECTION 18 - POWER AND FUNCTIONS OF INFORMATION COMMISSION

1. The Central Information Commission or the State Information Commission, as applicable, is responsible for receiving and investigating complaints from anyone who has been unable to submit an application to a Central Public Information Officer, as applicable, either because such officer has not been appointed or because such officer has been appointed but has not been appointed.

    - ❖ individual was denied access to any information requested under this Act; who was denied access to any information requested under this Act;
    - ❖ Who, he or she believes, was obligated to pay an extravagant sum of money;
    - ❖ persons believe they received incomplete, misleading, or erroneous information as a result of this Act;
    - ❖ with relation to any other aspect of requesting or obtaining access to records under this Act.

2. The Central Information Commission or the State Information Commission, as appropriate, may commence an investigation into this situation if it believes there are reasonable grounds.

3. When examining any matter in this Section with respect to the following issues, the Central Information Commission or the State Information Commission must have the same competence as a civil court when trying an action under the 1908 Code of Civil Procedure.:

   - ❖ Individuals are summoned and required to appear, and they are compelled to give oral or written statements and prepare documents or articles.
   - ❖ Document discovery and evaluation were required.
   - ❖ receipt of affidavit proof
   - ❖ Obtaining a public document or copies of a public record from any court or office;
   - ❖ sending summonses to examine witnesses or documents;
   - ❖ any other medication that may be prescribed

4. "Notwithstanding anything in any other Act of Parliament or State Legislature, the Central Information Commission or the Government Information Commission, as the case may be, may examine any record under the scope that is under public authority control during the investigation of any complaint pursuant to this Act, and no such record may be retained."

5.17 SECTION 19 - APPEALS

(1) Anyone who does not get a decision within the time limits specified in subparagraph (1) or clause

(1) Within thirty days of the decision's expiration or receipt, the Central Officer of Public Information or the State Public Information Officer may decide to appeal to such a senior officer.

(2) If a third party files an appeal against a disclosure order issued under section 11 by a central public information officer or a government public information officer, the appeal must be lodged within thirty days of the order's date.

(3) A second appeal against a decision taken pursuant to paragraph (1) should be filed with the Central Information Commission or the State Information Commission within ninety days of the decision being made or actually received; however, provided the decision was received or admitted, as the case may be, by the Central Information Commission or the State Information Commission after.

(4) If the decision is filed against it by the Central Public Information Officer or the State Public Information Officer, the Central Information Commission or the State Information Commission, as applicable, shall provide the third party with a reasonable opportunity to be heard."

(5) Any appeals procedure entails the duty of showing that the rejection was justifiable for the Central Public Information Officer or, where applicable, the State Public Information Officer.

(6) For reasons that must be stated in writing, the appeal under paragraphs (1) or (2) must be reviewed within thirty days of receipt or within a period not to exceed forty-five days from the date of filing, as applicable.

(7) "The decision of the Central Information Commission or, in the event of a state information commission, the State Information Commission is final."

(8) Where relevant, the Central Information Commission or the State Information Commission shall have the authority, in its judgement, to:

- ❖ require the public authority to take all necessary steps to ensure compliance with all applicable laws, including the provisions of this Act;
- ❖ The information on demand in a specific format;
- ❖ designating a Central Public Information Officer or a State Public Information Officer, depending on the situation;
- ❖ by disseminating specific types of information or data;

- ❖ revising its recording, management, and destruction procedures as necessary;
- ❖ increasing the availability of information training for officials;
- ❖ submitting an annual report in accordance with clause (b) of paragraph 4's paragraph (1);
- ❖ "compel the public authority to compensate the plaintiff for any loss or other harm;
- ❖ any of the penalties specified in this Act applies;
- ❖ minimise the application."

(9) The Central Information Commission shall notify the complainant and, if applicable, the public authority of the complainant's judgement, including any right of appeal.

(10) "The Central Information Commission or the State Information Commission, as applicable, shall hear the appeal in accordance with the established procedure."

5.18 SECTION 20 - PENALTIES

The Central Information Commission or the State Information Commission believes that the Central Information Commission or the State Government Information Officer has refused to provide information or has failed to do so within the time period specified by the Central Information Commission or the State Information Commission. Prior to imposing any penalty on a central or state public information officer, the officer must be afforded a reasonable opportunity to be heard: It is the Central Public Information Officer's or, in some cases, the State Public Information Officer's responsibility to establish that he acted inappropriately...

(3) Where the Central Information Commission or, where applicable, the State Information Commission believes that the Central Public Information Officer or, where applicable, a State Public Information Officer has been unable or has refused to receive or provide information without reasonable cause and persistently.

5.19 SECTION 22 - ACT TO HAVE OVERRIDING EFFECT

Regardless of any prohibitions contained in the Official Secrets Act of 1923 (19 of 1923), or any other Act now in force, or any instrument having effect under any law other than that which is opposed to that Act, the provisions of this Act shall apply.

5.20 SECTION 23 - BAR OF JURISDICTION OF COURTS

Unless an appeal is filed under this Act, no suit, application, or other process in relation to any order made under this Act is heard by a court, and no such order is called into question unless an appeal is filed under this Act.

5.21 SECTION 24 - ACT NOT TO APPLY TO CERTAIN ORGANIZATIONS

The Act exempts several organisations.

(1) Nothing in this Act shall apply to the intelligence and security organizations listed in the second schedule, which are based in the central government, or to any information provided by these organizations to this government. Furthermore, despite Article 7, information requested in connection with claims of human rights violations is released only after approval by the Central Information Commission and is provided within 45 days of application receipt.

(2) The Central Government may amend the Schedule, notifying any other intelligence or security organisation established or omitting all organisations already specified therein, and that organisation shall be considered to have been included in or, if necessary, omitted from the Schedule upon publication of such notification.

(3) Each House of Parliament shall receive a copy of any notification provided under paragraph (2).

(4) This Act applies to any intelligence and security organizations established by the State Government as specified in an Official Gazette from time to time. However, material relevant to allegations of corruption and violations of human rights is not exempt. Moreover, despite Section 7, information requested in connection with allegations of human rights violations shall be disclosed only with the consent of the State

Information Commission, and such information shall be sent within 45 days of receipt of the request.

(5) Any notification given under this paragraph must be made known to the State Legislature.

5.22 RECENT CASES UNDER RIGHT TO INFORMATION ACT, 2005

The Right to Information Act of 2005, widely regarded as one of the most groundbreaking pieces of legislation in independent India, went into effect in June of that year. The Act is without a doubt one of the most important pieces of legislation for Indian residents. The legislation's purpose was to create a practical right to information system that would allow citizens of all government agencies to access information in order to promote the transparency and accountability of all public agencies' operations.[14] The following are several case laws that help to clarify RTI law and implement essential legislation:

Indian Reserve Bank v. Jayantilal Mistry (Supreme Court, 2015)

The intriguing question in this case was whether the Reserve Bank of India and other banks could deny all information requests under the Right to Information Act, 2005 on the grounds of economic interest, commercial confidence, and fiduciary relationships with other banks on the one hand, and public interest on the other.

In that case, the RBI claimed that the material requested was exempt under sections "8(1)(a), (d), and (e) of the Right to Information Act of 2005. As the financial system's regulator and supervisor, the RBI has the authority to disseminate such information in the public interest".

In addition, the Court made the following remarks:

- The RBI's mission is to protect the public interest, not the interests of individual banks. The RBI has stated unequivocally that it has no faith in any bank. There is no "trust" link because the RBI is not legally required to maximise the advantage of either public or private sector banks. The RBI has a legal obligation to protect the public, depositors, the country's economy, and the banking sector.

[14] Dutt, Sagarika. *India in a globalized world*. Manchester University Press, 2013.

- As a result, the RBI should act transparently and not hold any material that could shame banks. If information from a regulatory agency that is not in a trust is available, it should not be kept secret.

- Because the RTI Act was designed to empower the public, the factors for assessing the limitations of Section 8 of the RTI Act include whether disclosing information to the general public will harm the economy.

Adesh Kumar v. India Union (Delhi High Court, 2014)

The petitioner in this case was harmed by the Public Information Officer's refusal to provide information under the RTI Act. During the petitioner's service, a FIR was filed against him, and an allegation sheet was filed against him. Following receipt of the indictment, the Petitioner requested information under the RTI Act about his prosecution. The CPIO, on the other hand, refused to give the requested information, claiming that there was no duty to do so under Section 8(1)(h) of the RTI Act. The Delhi High Court dismissed the complainant's case, concluding that the challenged section prohibited the publication of material that could impede criminal investigation, arrest, or prosecution.

Jiju Lukose State vs. Kerala (Kerala High Court, 2014)

The case featured a public interest litigation (PIL) that sought a directive to publish a copy of the FIR to the police station's website and make copies of the FIR available to the defendant as soon as the FIR was recorded. Despite the fact that the FIR was filed, the petitioner claims to have only received a copy two months later. Until they received a copy of the FIR, the petitioner and his family were unaware of the allegations made against them. Moreover, petitioners argued that the Right to Information Act of 2005 required all public employees to make all records public. The submitted FIR will be posted on the police station's website for everyone to review, including those living outside the country. In this case, the CIC has determined that, while a FIR is a public document, it must not be published until the inquiry is done, when it is subject to the rules of RTI Act paragraph 8(1). The informant and the accused, on the other hand, have a legal right to do so under the 1973 Code of Criminal Procedure. The regulations of the Code of Criminal Procedure, 1973, are specifically for this purpose, and the provision of a copy of the FIR is only provided for once the competent magistrate has initiated proceedings on a police report. According to the 2005 Act, anyone

can request a copy of the FIR. It should be emphasised, however, that whether a specific application claims exemption under 8(1) of the RTI Act by the police authorities is a matter to which the police authorities must answer once the proper body has made the necessary decision.

Union Public Service Board et al. v. Angesh Kumar et al (Supreme Court, 2018)

In this recent case, the Supreme Court issued the following conclusions about the publication of civil service exam results under RTI:

1. "In order to balance the need for transparency and accountability on the one hand, and the need to make the best use of fiscal resources and the confidentiality of sensitive information on the other, the information requested about CSR marks cannot be automatically delivered. The use of raw marks will cause issues that are not in the public interest." However, if the Court determines that the disclosure of information is important in the public interest, then the Court clearly has the right to do so in a specific factual context.

2. That such rules or practises can unquestionably be enforced if the rules or practises need it.

In this instance, the Bench referred to the following other relevant cases:

Aditya Bandopadhyay and Others v. Central Secondary and Other Boards of Education

The above-mentioned judgement also stated that indiscriminate and impractical requests for disclosure of all and other information (not related to the functioning or eradication of public authorities) in accordance with the RTI Act (the RTI Act) would be counter-productive because they would harm administration efficiency and result in the abolition of corruption. Ramesh Chakkarwar Prashant v. UPSC – This case explored the issues of disclosing applicants who have received rating responses, including how the presentation of reply books would reveal intermediate stages such as so-called "raw marks," jeopardising the examination system's integrity.

N N Dhumane v. PIO, Post Department (CIC, 2018)

The CIC decision in this case is important since it condemns the Post Office's refusal of pension payments due to the lack of an Aadhaar card. Another significant point advanced in the case of CIC was that, under the RTI Act, the payment of pensions is a matter of life or liberty, and that the demand for payment of pensions must be answered within 48 hours by public information officers.

Vishwas Bhamburkar v. PIO, Housing & Urban Development Corporation Ltd. is the name of the case (CIC, 2018)

The Chief Information Commission, Munirka, New Delhi (CIC) raised two major issues in the case of "Vishwas Bhamburkar v. PIO, Housing & Urban Development Corporation Ltd"., under the Right to Information Act, 2005. The first addresses the word restriction in RTI applications, while the second involves information denial due to the applicant's failure to provide evidence of identification. In this case, the CIC determined that the contested application did not fall within any of the exceptions set forth in the Right to Information Act. In this case, the CPIO doubted the applicant's nationality without explaining why. His suspicions were unsubstantiated by evidence. The CPIO was unable to defend its refusal since there was no exception clause in Section 8.

Central Commission of Information and Others v. UOI (CIC, 2017)

In this case, the petitioner challenged the CIC's (Central Information Commission) decision that, under Section 2(h) of the Right to Information Act 2005, "all Union Ministers and State Governments shall be designated "public authorities." The Delhi High Court rejected the CIC's order in this matter, ruling that it exceeded its authority and that there was no justification for the CIC to determine whether a minister was a "public entity" under section 2(h) of the Act in this situation.

Aabid Hussain of Jabalpur v. CPIO

The CIC observed the responsible Department's substantial delay in responding to the RTI request from October 2017. "The Commission takes the Cantonment Board's CPIOs' blatant breach of the RTI Act, as well as the current CPIO's ignorance of its predecessor's outstanding Rtri petitions," the CIC stated.

Shahzad Singh v. Postal Department (CIC, 2018)

The CIC remarked that the Respondent Ministry's allegation that the files in question are untraceable demonstrates that they have them in their possession, obliging the respondent to divulge the information through a search. The Commission has also highlighted that the frequent use of "lost files" as a pretext for retaining information poses a significant risk to openness and accountability, as well as a key basis for violations of the Right to Information Act 2005. PIOs may have refused millions of RTI applications on this basis over the last 11 years of the RTI regime. The implementation of the Right to Information Act of 2005 will not be productively debated as long as the "missing files" excuse exists. According to the claim of "lost files," records may have been purposefully destroyed in order to conceal corruption, fraud, or misbehaviour by public employees, which is a crime under the Indian Penal Code.

Girish Ramchandra Deshpande vs. Commission on Central Information & Other (2012) (Supreme Court of Justice)

The Court determined that the details revealed by a person in his income tax returns are "personal information," which is not available under Section 8(1)(j) of the RTI Act unless there is a greater public interest involved and the Court is satisfied that his or her income tax returns are of interest to the broader public.

Harinder Dhingra vs. Faridabad and Punchkula Rewari Bar Associations (CIC, 2016)

In this case, the applicant requested information on the number of complaints filed against lawyers, the number of cases settled, and the number of lawyers who violated the Advocates Act's criteria. According to the CIC, the Bar Council is the legislative body established by the Advocates Act of 1961 to safeguard lawyers' ethical standards and to discipline members who violate those standards. The appellant's request for information on the Bar Council's critical role cannot be denied since it is not exempt from the RTI Law.

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ABOUT THE BOOK

The Book traces history, developments and future of information law. It points out the areas of inconsistencies, survey of implementation of Right to Information Act and case laws and sound suggestions for practical regime of Right to Information Law.

To conclude author made some observations that Right to Information is a very strong tool in the hands of the citizens. It is generally considered that information is the basis for knowledge which is thought provoking. Right to Information is a basic Human Right and it is essential not only for society but also for the individual.

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