A CRITICAL EVALUATION OF RIGHT TO INFORMATION ACT 2005: PROBLEMS AND CHALLENGES IN ITS ENFORCEMENT – AN EMPIRICAL STUDY WITH REFERENCE TO STATE OF U.P.

A REVISED SYNOPSIS SUBMITTED TO DR. B. R. AMBEDKAR UNIVERSITY, AGRA FOR THE PARTIAL FULFILLMENT OF THE Ph.D. IN LAW

SUBMITTED BY RANBIR SINGH UNDER THE SUPERVISION OF DR. OM PRAKASH RAI Associate Professor AGRA COLLEGE, AGRA (U.P.) 2017
DECLARATION

I RANBIR SINGH solemnly affirm that the work entitled "A CRITICAL EVALUATION OF RIGHT TO INFORMATION ACT 2005: PROBLEMS AND CHALLENGES IN ITS ENFORCEMENT – AN EMPIRICAL STUDY WITH REFERENCE TO STATE OF U.P." under guidance of Dr. OM PRAKASH RAI, is my genuine work and the matter presented here is authentic.

(Ranbir Singh)
CERTIFICATE

It is certified that **RANBIR SINGH** is registered as research scholar under my supervision in subject Law. His topic is “**A CRITICAL EVALUATION OF RIGHT TO INFORMATION ACT 2005 : PROBLEMS AND CHALLENGES IN ITS ENFORCEMENT – AN EMPIRICAL STUDY WITH REFERENCE TO STATE OF U.P.**”. He is submitting synopsis for the degree of Ph.D.

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INTRODUCTION

The right to information or Access to information is basic to the democratic way of life. In Act, real democracy can not function without a free and unfettered exercise of this right.

-Justice Bhagwati

In democratic countries at the present moment, emphasize is on open government. Participation in government by the people is regarded as an important aspect of democracy and people can not participate unless they have information. A modern democratic government being answerable to the people. The peoples have the right to know what policies and programs, how and why are being followed by the government. Accountability, Transparency, participation are key element of good governance. Transparency means that information should be provided in easily understandable forms. That it should be freely available and directly accessible to those who will be affected by governance policies and practices, as well as the outcomes resulting therefrom.

Accountability is a key tenet of good governance. Government should be accountable to the people who is accountable for what should be documented in policy statements. In general or government/organization should be accountable to those who will be affected by its decisions or actions. Participation by both men and women either directly or through legitimate representative is a key cornerstone of good governance. Participation needs to be informed and organized, including freedom of expression and assiduous concern for the best interests of the organization and society in general. Democracy becomes meaningful only when people have a sense of participation in the governance.
In democracy the greater the access to information the greater the responsiveness of government. The Right to information and freedom of expression have been recognized as Fundamental Right. It is essential for the discovery of truth and transparency. The time taken to operationalise the act was inadequate to change the mindset of the people in government, create infrastructure, develop new processes and build capacity to deliver information under this Act. This has led to implementation issues.¹

**Historical Evolution of Right to Information in India**

In Indian context the Right to Information is more or less new and contemporary in its present form. Certain old Indian literatures and epics directly or indirectly point towards this right, but today in complex society the Right to Information is more relevant and a mighty weapon for healthy functioning of democracy.²

The colonial government in India kept itself at a distance from the people. It thrived on the culture of secrecy, and distrust of the people. Such culture also produced distrust of the government among the people. The culture of secrecy continued even after independence, and even after India became a republic. It has continued for the last fifty sexyears. It is unfortunately true that the government of independent India functioned in the same milieu as that of the colonial government until recently. Secrecy had been the rule and transparency an exception. However, after independence when India became a welfare state, powers of the administration were bound to increase. A welfare state is always a much-governed state. In a welfare State, it is the executive cum-administrative branch of the government, having the duty and responsibility to plan and implement welfare schemes, which expands and acquires vast powers, most of which are discretionary in nature, the traditional methods of control of the government are bound to prove inadequate to cope with such increased powers. Although actions of the authorities are
subject to judicial review and although the courts have extended the scope of judicial review, but judicial review has its own limitations. Judicial review is sporadic and formal. Abuse of power can be very subtle and may escape judicial scrutiny. Corruption and abuse of power are the inevitable fall-outs of such an unaccountable system of governance.\textsuperscript{3}

The battle for appropriate legislation for the right to information has been fought on two main planks. The first is a demand for amendment of the draconian colonial Official Secrets Act, 1923 and the second, campaign for an effective law of the right to information. The Official Secrets Act, 1923 (OSA), is a replica of the erstwhile British Official Secrets Act and deals with espionage.\textsuperscript{4}

During the last decade, the focus of citizens’ groups had shifted from demanding merely an amendment to the Official Secrets Act to the demand for its outright repeal, and its replacement by a comprehensive legislation, which would make disclosure the duty, and secrecy the offence. Powerful organizations, like MKSS, continued to experience enormous difficulties in securing access to and copies of Government documents, despite clear administrative instructions that certified copies of such document should be available to the citizens on demand. This highlighted to citizens’ groups how important it is that the people’s right to information should be enforceable by law.\textsuperscript{5}

In the early 1990s, in the course of struggle of the rural poor in Rajasthan, the Mazdoor Kisaan Shakti Sangathan (MKSS) hit upon a novel way to demonstrate the importance of information in an individual’s life through public hearings or Jan Sunwais. The MKSS’s campaign demanded transparency of official records, a social audit of government spending and redressal machinery for people who had not been given their due. The campaign caught the imagination of large cross-Section of people, including activists, civil servants and lawyers.\textsuperscript{6}
campaign for Right to Information, which was being run by the people of civilized society for the protection of their right and interest; was at last accepted by legislature after a long struggle and gap.

Freedom of Information law was passed in 2002 (in Lok Sabha on December 3, 2002 and in Rajya Sabha on December 16, 2002) after a long debate. The revised Bill on Right to Information was reintroduced and was passed on 11th May, 2005 in Rajya Sabha on 12 May, 2005 in Lok Sabha. Parliament had enacted the RTI Act became fully operational from 12th Oct. 2005 to promote transparency and accountability in Administration.7

The Indian constitution has no express provision guaranteeing the RTI. It has been recognized by the courts in a plethora of cases as implicit in article 19(1)(a).

The RTI has been recognized by the Supreme Court in its decision since 1973. It was 1st recognized in Bennet Coleman Vs. UOI Famously known as the News print case.8

LITERATURE REVIEW-

The researcher has made an attempt to study the various concepts and terminology of the research work carried out in the present study. Thus, in the present chapter various literatures related to the area of study have been reviewed to gain knowledge on the related aspects of the research problem so that the research study goes into the right direction.

Sathe S. P.9 has presented a lucid and analytical commentary on Right to Information Act, 2005. He has traced the history of this legislation and also the evolution of the right to information as a constitutional right. He has also explained the administrative process involved in the implementation of this act. He has focused on the judicial decisions on the right and the problems that might be faced while implementing the Act.
Wadia Angela\textsuperscript{10} has comprehensively covered the Right to Information Act, 2005 and the challenges thrown by this Act. He has explained the duties of PIOs (Public Information Officers).

Das P. K.\textsuperscript{11} gives the simple meaning and interpretation of the words used in the Article 19 and clause (1) (a) of the Constitution of India of which Right to Information is the product.

Acharya N. K.\textsuperscript{12} has commented in detail the procedure for seeking information and the fee structure to avail information. He has given the format of application, first appeal and second appeal for obtaining information.

Mishra Sudhansu\textsuperscript{13} has presented research papers which give the scope, different provisions, strengths and shortfalls of the RTI Act and to critically analyze its impact on Indian democracy. Considering the importance of RTI Act for sustainable rural development.

Goel S. L.\textsuperscript{14} a learned author has delved into the Right to Information from different angles – historical, legal, institutional, political, administrative and even futuristic.

Nagraj M. N.\textsuperscript{15} has given account different aspects of the Right to Information Act 2005 passed by the Government of India in which eminent authors have contributed their thoughts on the theme.

Arora Krishan\textsuperscript{16} has explained all the sections of the Right to Information Act 2005 in short which is published in the form of bare act. It also gives rules regarding the right to information (regulation of fee and cost) 2005. Considering the importance of RTI Act for sustainable rural development, many social scientists drawn from different faculties have presented their well-considered views on different issues pertaining to the development of rural economy.
Jain and Khurana\textsuperscript{17} have explained various aspect of right to information. The book covers historical development of right to information concept. It has clearly explained historical background of right to information freedom of information act and the main features of enactment in India.

Arora Krishnan\textsuperscript{18} has edited several article on right to information Act 2005, it includes preamble and all preliminary section of right to information Act. It has clearly defined the concept of right to information and obligation, on the part of public authorities to provide such information.

Acharya N. K.\textsuperscript{19} has given comments on right to information with examples of query and answers to the query. The book also gives explanations about the obligations on the part of public authorities and the procedure of disposal of request for information.

Noorani A. G.\textsuperscript{20} has contributed on articles on right to information in the book edited by Guhan S. on corruption in India. The paper covers several sections of right to information Act with practical implications.

Chandra U.\textsuperscript{21} has made efforts to update the book by incorporating the recent developments in the field of human rights law particularly Right to Information Act.

Shah Abhay\textsuperscript{22} compares the Right to Information Act, 2005 with the Freedom of Information Act, 2002. He gives detailed information on RTI Act and obligations of public authorities, the powers and functions of the Central Information Commission and the State Information Commission and the appeals and penalties.

Acharya N. K.\textsuperscript{23} gives preliminary information on RTI Act and obligations of public authorities, the powers and functions of the Central Information and the State Information

Jain N. K.\textsuperscript{24} has written the book with the object of making the information available on RTI to the common people in a simple language. His work attempts to outline the significance of the RTI, particularly in empowering ordinary citizens to combat state corruption and to play an important and active role in participatory democracy.

Agarwal H. O.\textsuperscript{25} has dealt with the question of implementation of all categories of human rights. He has discussed international measures for implementation of human rights.

Sabnis S. N.\textsuperscript{26} has given preliminary information on Right to Information Act, 2005. He brings out the obligations of public authorities and powers and functions of the State Information Commission and the Central Information Commission and also the appeal and penalties.

Verma Anuradha\textsuperscript{27} gives a comprehensive guide to RTI Act for Public Information Officers, First Appellate Authorities and other government servants. The author explains about RTI Act, its originate, criticisms and role of government servants in RTI Act.

Nigam Shalu\textsuperscript{28} explains that the Right to Information Act is a beginning of new era in our country providing Right to access information from public authorities by citizens. It gives the enforceable right to question, examine, audit, review and access government acts and decisions to ensure that these are consistent with the principles of public interest, probity and justice. The act promotes openness, transparency and accountability in administration by making the government more open to public security.
Pandey Ajay\textsuperscript{29} has narrated aspirations of the Right to Information Act which has brought accountability and transparency among government organizations. The author states that the Act needs to be amended to remove unjustifiable provisions as well as to include necessary provisions. The Act in its present form is capable of frustrating the objectives of good governance.

Times of India\textsuperscript{30} informs about the urban development ministry’s reply to a query by RTI activist S. C. Agrawal on pending rent dues towards people having occupied government premises after losing entitlement. In response to an RTI query, the estates department said that the Lok Sabha speaker Meira Kumar had occupied the bungalow since 1986 after the demise of her father. The department gave a list of people and dues against them for occupation of bungalows. The list shows Kumar has a pending rent of around two crores for which a bill has been issued.

Madhusoodan M. K.\textsuperscript{31} brings to notice that a right to information activist and trade union leader Ali has complained to the police commissioner that a corporator had issued death threats to him, since he had intervened in a land dispute in Siddapura. The corporator refuted the charge, saying he and the RTI activist were family friends and that he suspected some motive behind Ali’s move of submitting an RTI application against him.

KalraRajesh\textsuperscript{32} has reacted at the claims made by Vinod Kambli that something was “amiss” when India decided to field first against all advice in the 1996 world cup semi-final against Sri Lanka in Kolkata. The writer further asserts that for a game that is followed so passionately in the country, where the players are treated at par, or more, than even the film stars, one deserves to know the truth. And it is for this reason as per him that the sports ministry’s move to bring the cricket board under the purview of RTI is the correct one.
Baghel Sunil\textsuperscript{33} gives information on how an RTI activist who had exposed various land scams, was brutally murdered. He also brings out how the killing coupled with the attack on other RTI activists, prompted the High Court to suomotu take up the issue of attacks on activists. The article also shows how even CBI hesitated to touch the issue because the parties involved appear to be very powerful financially and even otherwise.

Lekhi Meenakshi\textsuperscript{34} a lawyer lists three judgements that changed India, i.e. RTI and Disclosure of Assets, Article 377 and The Right to Food. She says a spate of scam is dominating the public discourse. With this backdrop in mind, People’s Union for Civil Liberties (PUCL) vs Union of India (RTI and Disclosure of Assets 2003) is a landmark judgment which held that the voters had the right to know assets of the candidates contesting elections in India as part of Article 19.

Maken Ajay\textsuperscript{35} takes a dig at BCCI saying that the cricket body has to come under RTI as it is run by public money. According to him the BCCI is one of the most efficient sports bodies in the country but there would be a question mark over its functioning if the cricket board does not come under the RTI Act. He urged the board to drop its opposition to the RTI Act for the sake of transparency. It is however a challenge for him to lay the revised sports bill before the cabinet, which had earlier rejected it.

**OBJECTIVE OF THE STUDY**

The present study is specifically aimed at studying the Right to Information Act 2005 and its problem and challenges in its effective implementation with reference to Uttar Pradesh. The main objective of this study is to suggest the means for effective implementation of Right to Information Act 2005.
2. To examine the mechanism used for enforcement of Right to Information Act in Uttar Pradesh State.

3. To evaluate whether the objectives of enactment of Right to Information Act 2005 in Uttar Pradesh State are fulfill or not.

4. To analyze the qualitative change brought in the attitude of citizens due to enactment of Right to Information Act 2005.

5. To raise the Bureaucratic accountability including transparency in Administration.


7. To identify factors as hindrances in proper implementation of Right to Information Act. in Uttar Pradesh.

8. To find out the changes to be brought in existing procedures for popularizing the Right to Information Act. 2005.

RESEARCH METHODOLOGY & WORK PLAN-

Research Methodology is a very important aspect of any research project. For the purpose of the study various sources has been surveyed as Indian constitution, Right to Information Act 2005, Reports of various commissions and committees regarding Right to Information Act, collecting information through questionnaires and interviews of public information officers and authorities, books, journals, research papers, AIR, etc. The present research work requires analytical &empirical study of the Topic.

HYPOTHESIS
No doubt, parliament has passed the Right to Information Act with the objective to bring transparency openness and accountability in the working of the Public Authorities. Right to Information Act as an important tool in the hands of any citizen to keep checks and balance on the working of public servants. Yet there are number of problem & challenge has to be read to its effective implementation. Thus, the following hypothesis are formulated for the purpose of this study-

1. It is hypothesized that the Right to Information is essential for the exercise of all other rights and it is helpful to protect their legal and constitutional rights.

2. Lack of basic infrastructure and ineffective record management system hampers the effective implementation of this law.

3. Mindset of public officials and abuse of their discretionary power may cause problems in effective implementation of this law.

4. The role of the central/state government is not sufficient to the facilitate the Public Authorities in implementation of the Right to Information Act.

5. It is very powerful tool for common people and social activists to fight against corruption and to have a better control upon officers of various government departments and agencies.

6. Poor quality of information provided by Public Authorities.

7. It strengthens the capacity of an individual in participating in decision making and helpful in social transformation.
TENTATIVE CHAPTER PLAN

Chap.-I Introduction


Chap.III Right to information under Indian Constitution and other legislative provisions.

Chap.IV Role of Government and judicial approach for the better implementation of RTI Act.

Chap. V Role of Central Information Commission and State Information Commission of Uttar Pradesh

Chap.VI Empirical study in the state of Uttar Pradesh

Chap. VII Conclusion & Suggestions.

Bibliography
REFERENCES


[5] Ibid.


[29] Times of India, —L S Speaker Meira Kumar asked to pay Rs1.98cr as house rentl, Times of India, New Delhi, November 23, 2011.


[33] Chetan Chauhan, —New laws to get around Right to Information actl, Hindustan Times, New Delhi, October 17, 2011.

[34] Kalra Rajesh, —Shouldn’t we know why Azhar and others were banned in the 90s?!l, Times of India, Mumbai, November 23, 2011.


[37] Maken Ajay, —Maken takes a dig at BCCI againl, DNA, Mumbai, November 15, 2011.

[38] Smita Srivastava, The Right to Information in India: Implementation and Impact Afro Asian Journal of Social Sciences Volume 1, No. 1 Quarter IV 2010 ISSN 2229 – 5313


[41] Chitra P. and Neelamalar Dr. M. Right to Information Act” – A tool for good governance and social change through Information Technolog. International Journal of Scientific & Engineering Research, Volume 4, Issue 8, August-2013, ISSN 2229-5518


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