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# **RIGHT TO INFORMATION IN INDIA: CONSTITUTIONAL FOUNDATIONS, LEGISLATIVE ARCHITECTURE, AND GOVERNANCE IMPACT**

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## **Abstract**

The Right to Information (RTI) in India represents a transformative legal and constitutional development that fundamentally redefines the relationship between the State and citizens. Though not explicitly enumerated in the Constitution of India, the right has been judicially derived from Article 19(1)(a) as an essential component of the freedom of speech and expression. This article examines the evolution of the right to information from constitutional interpretation to statutory codification under the Right to Information Act, 2005. It critically analyses the legislative framework, the Act's role in promoting transparency and accountability, and its effectiveness as a mechanism for combating corruption in public administration. The article further evaluates the challenges in implementation, including institutional inefficiencies, bureaucratic resistance, pendency of appeals, and the grave risks faced by RTI activists and whistleblowers. Drawing upon judicial decisions, statutory provisions, and empirical studies, the article concludes that while the RTI Act has significantly strengthened democratic governance in India, its transformative potential remains constrained by entrenched systemic and institutional limitations. Recommendations are offered to strengthen implementation, enhance enforcement, and safeguard those who exercise and facilitate the right.

**Keywords:** *Right to Information; Transparency; Accountability; RTI Act 2005; Good Governance; Whistleblower Protection; India; Administrative Law.*

## **1. Introduction**

The right to information is a foundational pillar of democratic governance. It enables citizens to access governmental processes, scrutinise official conduct, and hold public functionaries accountable to the rule of law. In any constitutional democracy, the interplay between state authority and individual rights necessitates mechanisms of transparency—mechanisms that allow the governed to evaluate whether those who govern act in conformity with law and with the public interest.

In India, the recognition and institutionalisation of this right has proceeded along two complementary axes: judicial interpretation and legislative action. The Supreme Court of India, through a series of landmark decisions spanning several decades, progressively read the right to information into the fundamental right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution.<sup>1</sup> This interpretive tradition culminated in the enactment of the Right to Information Act, 2005 (hereinafter “the RTI Act” or “the Act”), which converted the judicially recognised right into a comprehensive statutory entitlement accessible to every citizen.

The RTI Act has been widely celebrated as one of the most progressive transparency statutes in the world. Its enactment represented a decisive shift from the legacy of administrative secrecy embedded in the Official Secrets Act, 1923, and entrenched in bureaucratic practice over decades. Citizens gained, for the first time, a legally enforceable right to request and receive information held by public authorities, subject to defined limitations and subject to independent oversight by Information Commissions.

This article adopts a doctrinal methodology, grounded in the analysis of primary legal sources—constitutional provisions, judicial decisions, and statutory text—supplemented by secondary literature, empirical studies, and reports from civil society organisations. Section 2 traces the constitutional foundations of the right. Section 3 examines the legislative architecture of the RTI Act. Section 4 evaluates its contribution to good governance. Section 5 identifies implementation challenges. Section 6 addresses the protection of RTI activists and whistleblowers. Section 7 provides a critical evaluation. Section 8 offers recommendations. Section 9 concludes.

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<sup>1</sup>Constitution of India, 1950, Art. 19(1)(a).

## **2. Constitutional Foundations of the Right to Information**

### **2.1 Article 19(1)(a) and the Implied Right**

The Constitution of India does not expressly enumerate a right to information among the Fundamental Rights in Part III. Nonetheless, the Supreme Court of India has, through purposive and expansive interpretation, recognised the right to information as necessarily implied within the freedom of speech and expression guaranteed under Article 19(1)(a).<sup>2</sup> The constitutional reasoning is compelling: the right to express oneself is rendered hollow if the speaker or listener lacks access to information. In a democratic republic, where sovereignty vests in the people, the exercise of meaningful political participation presupposes that citizens are adequately informed.

This interpretive approach draws upon the constitutional philosophy of the Indian founding, which viewed fundamental rights not as isolated guarantees but as interconnected values essential to the flourishing of individual autonomy and democratic self-governance. The freedom of speech and expression, read in conjunction with Articles 14 (equality before law) and 21 (right to life and personal liberty), provides a robust constitutional matrix within which the right to information has been grounded.

### **2.2 Judicial Evolution: Key Decisions**

The Supreme Court's recognition of the right to information developed incrementally across a series of landmark decisions. In *Raj Narain v. State of Uttar Pradesh* (1975),<sup>3</sup> the Court established the foundational proposition that citizens are entitled to know about governmental affairs, holding that the people of India who are not parties to an election dispute still have a right to know about the conduct of their elected representatives. This case arose from a challenge to the election of the then Prime Minister and became a watershed moment in constitutional transparency.

In *S.P. Gupta v. Union of India* (1981),<sup>4</sup> Justice Bhagwati's celebrated opinion developed the doctrine of open government, affirming that in a government of the people, by the people, and for the people, every citizen has the right to know about state affairs. The Court articulated that the concept of an open government is the direct emanation from the right to know which appears to be implicit in the right of free speech and expression guaranteed under Article 19(1)(a).

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<sup>3</sup>Raj Narain v. State of Uttar Pradesh, AIR 1975 SC 865 (India).

<sup>4</sup>S.P. Gupta v. Union of India, AIR 1982 SC 149 (India).

The right to receive information was further affirmed in *Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal* (1995),<sup>5</sup> where the Court recognised that the right to impart and receive information is a species of the right to freedom of speech and expression. This decision extended the right beyond political information to encompass information of public interest more broadly conceived.

In *Dinesh Trivedi v. Union of India* (1997),<sup>6</sup> the Court extended this logic to legislative functioning, holding that members of the public have a right to be informed of the proceedings of Parliament and State Legislatures. Collectively, these decisions constructed a rich judicial architecture that formed the constitutional foundation upon which the RTI Act was subsequently constructed.

### **2.3 International Influence on Indian Jurisprudence**

Indian courts have drawn upon international human rights instruments in expanding the scope of fundamental rights. Article 19 of the International Covenant on Civil and Political Rights (ICCPR)<sup>7</sup> and Article 19 of the Universal Declaration of Human Rights (UDHR)<sup>8</sup> both enshrine the right to seek, receive, and impart information. Although India has not incorporated these instruments directly into domestic law, the Supreme Court has consistently used them as interpretive aids, consistent with the principle that domestic law should, where possible, be construed in conformity with India's international obligations.

By the early 2000s, the convergence of domestic judicial interpretation and international human rights norms created a powerful impetus for legislative action. The Mazdoor Kisan Shakti Sangathan (MKSS) movement in Rajasthan, which mobilised rural workers around the right to inspect government expenditure records, demonstrated that the right to information was not merely an elite constitutional abstraction but a practical instrument of empowerment for ordinary citizens. This grassroots pressure was instrumental in propelling the enactment of the RTI Act in 2005.

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<sup>5</sup>*Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal*, AIR 1995 SC 1236 (India).

<sup>6</sup>*Dinesh Trivedi v. Union of India*, (1997) 4 SCC 306 (India).

<sup>7</sup>International Covenant on Civil and Political Rights, Art. 19, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>8</sup>Universal Declaration of Human Rights, Art. 19, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948).

### **3. Legislative Framework: The Right to Information Act, 2005**

#### **3.1 Scope and Definitions**

The RTI Act, 2005 provides a comprehensive statutory framework for citizens to access information held by public authorities. Section 2(f) defines “information” expansively to include any material in any form, including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form, and information relating to any private body which can be accessed by a public authority under any other law in force.<sup>9</sup>

The definition of “public authority” under Section 2(h) is equally broad, extending to any authority or body or institution of self-government established or constituted by or under the Constitution, or by any other law made by Parliament or a State Legislature, or by notification issued or order made by the appropriate government, and includes bodies owned, controlled, or substantially financed by government funds.<sup>10</sup> This expansive scope has been judicially interpreted to include not only traditional executive bodies but also constitutional bodies, public sector undertakings, and, in significant decisions, bodies exercising public functions even where formally constituted under private law.

#### **3.2 Procedure for Access to Information**

The RTI Act creates a simple and accessible procedure for citizens to exercise their right. Under Section 6, any person may submit a request for information to the Public Information Officer (PIO) of the relevant public authority, in writing or through electronic means, in English, Hindi, or the official language of the area, and — crucially — without being required to state reasons for seeking the information.<sup>11</sup> This procedural feature reflects a deliberate policy choice to maximise access and minimise barriers to information-seeking.

Under Section 7(1), the PIO must provide the requested information within thirty days of receipt of the request.<sup>12</sup> Where the information requested concerns the life or liberty of a person, the period is reduced to forty-eight hours, reflecting the Act’s prioritisation of rights closely related to human dignity and physical security. Failure to respond within the prescribed period is treated as a deemed refusal, triggering the right of appeal.

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<sup>9</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 2(f).

<sup>10</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 2(h).

<sup>11</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 6.

<sup>12</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 7(1).

### 3.3 Exemptions from Disclosure

Section 8 of the RTI Act provides a defined set of exemptions from the obligation of disclosure.<sup>13</sup> These include information affecting national security, sovereignty and integrity of India; information received in confidence from foreign governments; information the disclosure of which would cause a breach of privilege of Parliament or State Legislatures; commercial confidence, trade secrets, and intellectual property; information available in fiduciary relationship; and personal information the disclosure of which has no relationship to any public activity or interest.

Crucially, however, Section 8(2) provides that despite these exemptions, a public authority may allow access to information if the public interest in disclosure outweighs the harm to the protected interest.<sup>14</sup> This public interest override is a significant feature of the Act, ensuring that exemptions do not become devices for systematic concealment of information of genuine public concern. Courts have interpreted this provision to require a proportionate balancing of competing interests, with a presumption in favour of disclosure.

### 3.4 Proactive Disclosure under Section 4

One of the most significant provisions of the RTI Act is Section 4, which mandates every public authority to proactively disclose a wide range of information, including the particulars of its organisation, functions, powers and duties; the procedure followed in decision-making; norms set for the discharge of functions; rules, regulations, instructions, manuals, and records used by employees; and a directory of officers and employees.<sup>15</sup> Proactive or suo motu disclosure is designed to reduce the burden on citizens of having to file individual requests for routine governmental information, and to create a culture of institutional openness.

In practice, however, compliance with Section 4 has been uneven. Many public authorities maintain incomplete or outdated disclosures on their websites, and the monitoring of compliance by Information Commissions has been inconsistent. Civil society organisations have repeatedly documented the gap between the statutory mandate of proactive disclosure and its implementation in practice.

### 3.5 The Appellate Mechanism

The RTI Act establishes a two-tier appellate mechanism. A first appeal lies to an officer

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<sup>13</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 8.

<sup>14</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 8(2).

<sup>15</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 4.

senior to the PIO within the public authority. A second appeal lies to the Central Information Commission (CIC) at the national level, or to the State Information Commissions (SICs) in respect of state public authorities.<sup>16</sup> Both tiers have quasi-judicial powers to examine records, impose penalties, and award compensation. Information Commissioners are appointed by government but exercise independent authority, and their orders are subject to challenge in the High Courts and the Supreme Court through constitutional remedies.

## **4. RTI and Good Governance**

### **4.1 Transparency and Accountability in Public Administration**

The RTI Act represents a paradigmatic shift in the philosophy of public administration in India. Prior to its enactment, the Official Secrets Act, 1923 created a presumption of confidentiality in governmental affairs, placing the burden on citizens to justify any claim to access official information. The RTI Act inverted this presumption, establishing disclosure as the norm and secrecy as the exception, exercisable only within the defined categories of Section 8. This shift has had profound implications for the culture of public administration.

The availability of information about the criteria and reasoning for governmental decisions has enabled citizens, journalists, and civil society organisations to scrutinise administrative action with unprecedented depth. From decisions about land acquisition, contracts, and appointments, to the implementation of welfare programmes and judicial appointments, the RTI Act has opened windows into governmental functioning that were previously closed. This scrutiny has fostered a degree of accountability that administrative structures, accustomed to operating in opacity, have found uncomfortable but necessary.

### **4.2 RTI as an Anti-Corruption Instrument**

The relationship between transparency and corruption control has been theorised most influentially by Klitgaard, whose formula—Corruption = Monopoly + Discretion – Accountability ( $C = M + D - A$ )—provides a useful analytical lens.<sup>17</sup> By increasing accountability through mandatory disclosure and citizen oversight, the RTI Act directly addresses the ‘Accountability’ variable in Klitgaard’s model, diminishing the opportunities for corrupt conduct that thrive under conditions of informational asymmetry.

Empirical studies have documented the Act’s impact on corruption control across

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<sup>16</sup>Right to Information Act, No. 22 of 2005, India Code (2005), §§ 18-20.

<sup>17</sup>Robert Klitgaard, *Controlling Corruption* 75 (1988). The formula  $C = M + D - A$  was adapted to analyse governance failures in developing states.

multiple domains of public administration.<sup>18</sup> RTI requests have been used to expose irregularities in the allocation of public contracts, in the grant of licences, and in the administration of welfare programmes. Investigative journalists and civil society groups have used RTI filings strategically to piece together patterns of corruption that would otherwise remain concealed within bureaucratic records. This has contributed to prosecutions, dismissals, and legislative reforms in several instances.

### **4.3 Fiscal Accountability and Welfare Programmes**

One of the most significant practical contributions of the RTI Act has been in the domain of fiscal accountability, particularly in relation to large-scale welfare programmes. The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)<sup>19</sup> provides a constitutional entitlement to one hundred days of guaranteed wage employment per household per year. The implementation of MGNREGA involves vast expenditure, decentralised administration, and significant opportunities for leakage and misappropriation. RTI requests and jan sunwais (public hearings) have been instrumental in exposing ghost beneficiaries, inflated work claims, and misappropriated funds in MGNREGA implementation.

Similar patterns have been documented in the Public Distribution System (PDS) and other welfare schemes. RTI requests for beneficiary lists, stock registers, and distribution records have enabled communities to identify discrepancies and demand accountability. India's continued ranking in the lower half of the Transparency International Corruption Perceptions Index<sup>20</sup> suggests that much work remains to be done, but the RTI Act has measurably enhanced the tools available to citizens to challenge fiscal malfeasance.

### **4.4 Political Accountability and the Question of Political Parties**

A significant and contested dimension of RTI's contribution to democratic accountability concerns its application to political parties. In 2013, the Central Information Commission ruled that six major national political parties, including the Indian National Congress and the Bharatiya Janata Party, constituted "public authorities" under the RTI Act

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<sup>18</sup>Shekhar Singh, 'The RTI Act and the Reduction of Corruption' (2010) Commonwealth Human Rights Initiative Working Paper 3.

<sup>19</sup>Mahatma Gandhi National Rural Employment Guarantee Act, No. 42 of 2005, India Code (2005).

<sup>20</sup>Transparency International, Corruption Perceptions Index 2023 (Transparency International, 2024) 32 (India ranked 93rd out of 180 countries).

and were therefore subject to its disclosure obligations.<sup>2122</sup> This decision, if upheld, would have represented a transformative extension of RTI to the inner workings of political organisations—including their funding, expenditure, decision-making, and candidate selection processes.

However, political parties uniformly refused to comply with the CIC's order and subsequently lobbied successfully for legislative protection through the RTI Amendment Act, 2019,<sup>23</sup> which amended the service conditions of Information Commissioners but did not directly address the political party question. The episode illustrates the limits of the RTI Act as an instrument of political accountability in the face of organised political resistance, and underscores the importance of political will as a precondition for the Act's full effectiveness.

## **5. Implementation Challenges**

### **5.1 Institutional Backlogs and Pendency**

One of the most serious structural deficiencies in the operation of the RTI Act is the chronic pendency of appeals before Information Commissions. As of 2022-23, the Annual Report of the Central Information Commission recorded a backlog exceeding 3.2 lakh (320,000) appeals and complaints nationwide.<sup>24</sup> In several State Information Commissions, the average waiting time for disposal of second appeals exceeds twelve to eighteen months, with some commissions recording waiting periods of several years. This level of pendency effectively denies timely access to information, particularly in time-sensitive contexts.

The pendency problem is compounded by the failure to make timely appointments to Information Commissions. Both the CIC and several SICs have functioned for extended periods with significant vacancies among Commissioners, causing further deterioration in disposal rates. A 2022 report by Satark Nagrik Sangathan documented that several State Information Commissions were effectively non-functional for extended periods due to the absence of Commissioners.<sup>25</sup> This institutional neglect raises serious questions about the political commitment to effective RTI administration.

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<sup>21</sup>Central Information Commission v. State of Manipur, (2011) 15 SCC 1 (India) (holding that RTI extends to governmental functions affecting public interest).

<sup>22</sup>Subhash Chandra Agarwal v. Indian National Congress, CIC/SM/C/2008 (Cent. Info. Comm. 2013).

<sup>23</sup>Right to Information (Amendment) Act, No. 13 of 2019, India Code (2019) (amending service conditions of Information Commissioners).

<sup>24</sup>Annual Report, Central Information Commission 2022-23 (Govt. of India, 2023) 14 (noting a pendency of over 3.2 lakh appeals nationwide).

<sup>25</sup>Satark Nagrik Sangathan & Centre for Equity Studies, 'Report Card on the Performance of Information Commissions in India' (2022) 8.

## 5.2 Public Information Officer-Level Deficiencies

The Public Information Officer is the primary point of contact for citizens exercising RTI rights. Under Section 5 of the Act, every public authority must designate a PIO to deal with RTI requests.<sup>26</sup> In practice, PIO duties are typically assigned as an additional responsibility to officers who have primary duties unrelated to information management. The lack of dedicated PIOs with specialised training leads to systemic deficiencies in the quality, completeness, and timeliness of responses.

Common patterns of PIO-level failure include: failure to respond within the thirty-day statutory period; provision of partial or evasive information; unjustified invocation of Section 8 exemptions; transfer of requests to other authorities without proper notification; and outright denial of information without lawful basis. These patterns, documented consistently across multiple audits and studies, reflect institutional cultures in which RTI compliance is perceived as an unwelcome additional burden rather than a constitutional obligation.

## 5.3 Weak Penalty Enforcement

The RTI Act empowers Information Commissions to impose penalties on defaulting PIOs of up to Rs. 25,000 per officer for specified violations, including failure to receive applications, failure to provide information within the prescribed period, malafide denial of information, knowingly giving incorrect or misleading information, and destruction of information.<sup>27</sup> However, empirical research consistently demonstrates that penalty imposition rates are extremely low relative to the volume of violations detected by Commissions.<sup>28</sup>

Several factors contribute to this enforcement deficit. Commissions have historically been reluctant to impose penalties where there is any colourable justification for the PIO's conduct, applying a generous standard of reasonableness. The penalty provisions require a showing of malafide intent or unreasonable conduct, which is difficult to establish without detailed inquiry. Additionally, the quasi-judicial proceedings required for penalty imposition consume significant Commission resources, creating institutional incentives to dispose of cases without entering into penalty proceedings.

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<sup>26</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 5 (designating Public Information Officers within every public authority).

<sup>27</sup>Right to Information Act, No. 22 of 2005, India Code (2005), § 20 (providing for penalties of up to Rs. 25,000 per officer).

<sup>28</sup>Venkatesh Nayak, 'Penalty Enforcement Under the RTI Act' (2019) Commonwealth Human Rights Initiative Policy Brief 7.

#### 5.4 Record Management Deficiencies

Effective implementation of the RTI Act presupposes that public authorities maintain adequate, organised, and retrievable records. Section 4(1)(a) of the Act requires every public authority to maintain all its records duly catalogued and indexed in a manner and form which facilitates the right to information. However, the state of record management across Indian public authorities remains deeply problematic.<sup>29</sup> Outdated manual record systems, inadequate digitisation, poor indexing, and irregular archiving create conditions in which information, even when formally within the scope of an RTI request, cannot be readily identified and provided.

The deficiency in record management cannot be attributed solely to resource constraints. It also reflects institutional cultures in which documentation has historically served the interests of administrative power—being produced when needed to justify decisions already taken, and withheld or destroyed when inconvenient. Comprehensive digital transformation of record management systems, with standardised protocols for creation, maintenance, indexing, and access, is an essential precondition for meaningful RTI compliance.<sup>30</sup>

#### 5.5 Access Barriers for Marginalised Communities

Although the RTI Act is formally available to every citizen, access is in practice unevenly distributed across socioeconomic and educational lines. Marginalised communities—including rural populations, Scheduled Castes, Scheduled Tribes, and those with low levels of formal literacy—face multiple barriers to effective RTI use. These include lack of awareness of the right itself, limited ability to compose written requests, unfamiliarity with bureaucratic procedures, language barriers in districts where Hindi or English is not the primary language, and social intimidation by local authorities.<sup>31</sup>

Civil society organisations have partially filled this gap through RTI facilitation services, providing assistance to citizens in drafting and filing requests. However, these services remain geographically concentrated in urban areas and are unable to reach the majority of India's rural population. Expanding awareness through sustained public education campaigns, in regional languages and through community institutions, is essential to ensuring that the RTI Act functions as an instrument of genuine democratic empowerment rather than a

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<sup>29</sup>National Archives of India, *Manual of Record Management for Central Government Offices* (4th edn, 2020) ch 3.

<sup>30</sup>Centre for Good Governance, 'Digitisation of Public Records and Its Impact on RTI Implementation' (2021) 11.

<sup>31</sup>*Aruna Roy v. Union of India*, (2002) 3 SCC 696 (India) (affirming the constitutional right to information as a facet of Article 19(1)(a)).

resource available only to the educated urban middle class.

## **6. Protection of RTI Activists and Whistleblowers**

RTI activists and whistleblowers occupy a critical but precarious position in India's transparency ecosystem. By using the RTI Act to expose corruption, maladministration, and the abuse of public resources, they perform a function of immense public value. However, this function exposes them to serious risks, including threats, intimidation, physical violence, and in extreme cases, assassination. The Commonwealth Human Rights Initiative has documented numerous cases of violence against RTI activists across multiple states, with Maharashtra, Uttar Pradesh, and Rajasthan recording the highest incidence of attacks.<sup>32</sup>

The Whistle Blowers Protection Act, 2014 (WBPA)<sup>33</sup> was enacted to address this vulnerability by providing a mechanism for protected disclosure of corruption and a complaint process for acts of victimisation against whistleblowers. However, the WBPA has several structural limitations. Its application is restricted to disclosures relating to acts of corruption or wilful misuse of power or discretion involving a public servant. It does not cover RTI activists who face retaliation for activities beyond the formal scope of the Act's definition. Crucially, as of the date of writing, the WBPA has not been brought into force in its amended form, leaving a significant lacuna in the protective framework.

The Law Commission of India has recommended the creation of a comprehensive legal framework for the protection of persons who disclose information in the public interest.<sup>34</sup> Such a framework should include: secure and anonymous channels for disclosure; an independent authority to receive and investigate protected disclosures; a clearly defined and enforceable prohibition on retaliation; interim protection measures, including police protection, where there is a credible threat to the safety of the activist; and effective criminal penalties for acts of victimisation. Until such protections are meaningfully implemented, the chilling effect on RTI activism will continue to undermine the Act's transformative potential.

## **7. Critical Evaluation**

A balanced critical evaluation of the RTI Act must acknowledge both its substantial achievements and its significant limitations. In comparative perspective, the Act is regarded as

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<sup>32</sup>Commonwealth Human Rights Initiative, 'Keeping the Record: RTI Activists Under Threat' (2021) 5.

<sup>33</sup>Whistle Blowers Protection Act, No. 17 of 2014, India Code (2014).

<sup>34</sup>Law Commission of India, Report No. 179, 'Public Interest Disclosures and the Protection of Informers' (2001) para 3.2.

one of the most comprehensive and citizen-friendly freedom of information statutes in the world. Its broad definition of “public authority,” its minimal procedural requirements, its strong Information Commission structure, and its penalty provisions collectively represent a legislative architecture of considerable sophistication.

The Act has demonstrably empowered citizens to access information across a vast range of domains—from individual grievances about public services to systemic investigations of institutional corruption. The Supreme Court’s decision in *Namit Sharma v. Union of India* (2013)<sup>35</sup> reaffirmed the constitutional status of the right and the independent authority of Information Commissions, providing judicial reinforcement of the statutory framework.

However, the Act’s effectiveness has been significantly limited by factors both internal and external to its design. Internally, the broad exemptions of Section 8, while subject to the public interest override, have been routinely invoked to shield information that falls within the spirit of disclosure. Externally, bureaucratic resistance, political interference in the functioning of Information Commissions, and the RTI Amendment Act, 2019—which modified the tenure and service conditions of Information Commissioners in ways that have been criticised as threatening to their independence<sup>36</sup>—have collectively weakened the enforcement architecture.

Civil society assessments have consistently found that the gap between the RTI Act’s promise and its delivery remains substantial.<sup>37</sup> The National Campaign for People’s Right to Information, which was instrumental in driving the Act’s enactment, has documented persistent failures of proactive disclosure, inadequate staffing of Information Commissions, and the absence of robust mechanisms to protect those who exercise and facilitate the right. These findings suggest that without sustained political commitment, institutional strengthening, and public engagement, the RTI Act risks calcifying into a formal guarantee that provides the form of transparency without its substance.

## **8. Recommendations**

On the basis of the foregoing analysis, the following recommendations are offered to strengthen the RTI framework and enhance its effectiveness as an instrument of democratic

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<sup>35</sup>*Namit Sharma v. Union of India*, (2013) 1 SCC 745 (India).

<sup>37</sup>National Campaign for People’s Right to Information, ‘Ten Years of RTI: A Citizen Assessment’ (2015) 19.

governance:

1. **Strengthen Information Commissions:** Statutory timelines should be prescribed for appointments to vacant Commissioner positions, with automatic transfer of pending cases to functioning Commissions where appointments are not made within the prescribed period. The independence of Commissioners should be reinforced by reversing the amendments introduced by the RTI Amendment Act, 2019 and restoring security of tenure analogous to that of Election Commissioners.
2. **Enforce Penalty Provisions Effectively:** Commissions should adopt a more robust approach to penalty imposition, with dedicated penalty wings staffed to conduct penalty proceedings expeditiously. Penalty statistics should be published annually to create public accountability for enforcement performance.
3. **Modernise Record Management:** A national programme of digital transformation of public records should be launched, with standardised protocols for creation, indexing, storage, and retrieval of records across all categories of public authority. Compliance with Section 4 proactive disclosure obligations should be independently audited and publicly reported.<sup>38</sup>
4. **Expand Public Awareness:** Sustained, multilingual public education campaigns, conducted through schools, community organisations, and local media, should be funded and implemented to ensure that citizens in rural and marginalised communities are aware of their RTI rights and have practical access to facilitation services.
5. **Extend RTI to Political Parties:** Legislative action should be taken to bring political parties within the ambit of the RTI Act, at minimum in respect of their receipt and expenditure of public funds and their internal governance processes. Transparency in political party financing is a prerequisite for meaningful democratic accountability.
6. **Enact Comprehensive Whistleblower Protection:** The Whistle Blowers Protection Act, 2014 should be brought fully into force in its unamended form, and supplemented by a dedicated statute providing comprehensive protection for RTI activists, including secure disclosure mechanisms, independent investigation of victimisation, interim protection measures, and deterrent criminal penalties for acts of retaliation.

## **9. Conclusion**

The Right to Information in India represents one of the most significant constitutional and legislative developments of the post-independence era. Rooted in the fundamental right to freedom of speech and expression, developed through decades of progressive judicial interpretation, and crystallised in the comprehensive framework of the RTI Act, 2005, it has fundamentally altered the relationship between the Indian state and its citizens.

The Act has delivered tangible governance benefits: it has enhanced transparency in administrative decision-making, empowered citizens to challenge corruption and maladministration, exposed irregularities in the implementation of welfare programmes, and created a new culture of accountability—however incomplete—in Indian public administration. These achievements are not to be minimised. In a country with a deeply entrenched tradition of bureaucratic secrecy, the transformation wrought by the RTI Act, even if partial, represents a genuine democratic advance.

Yet the transformative potential of the RTI framework remains only partially realised. Institutional backlogs, enforcement deficits, bureaucratic resistance, political interference, inadequate protection for activists, and unequal access across socioeconomic lines continue to constrain the Act's effectiveness. These challenges are not insurmountable. They are, in the final analysis, challenges of political will and institutional commitment.

The RTI Act can fully function as a true instrument of accountability and good governance only if it is supported by sustained political commitment to transparency, adequately resourced and independent enforcement institutions, a culture of proactive disclosure within public administration, and robust protection for those who exercise and facilitate the right at personal risk. Achieving this vision requires engagement from all stakeholders: government, legislature, judiciary, civil society, and citizens. The right to information, at its deepest, is not merely a legal right—it is a civic commitment to accountable, democratic governance.

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