

RIGHT TO INFORMATION

AN INTRODUCTION

Why

Right to Information ?

UNESCO

- An open and transparent government is a fundamental component of a **democratic** and developed State.
- United Nations Educational, Scientific and Cultural Organization (UNESCO) PROCLAMATION OF 28 SEPTEMBER AS THE “INTERNATIONAL DAY FOR THE UNIVERSAL ACCESS TO INFORMATION”
- Source : 197 EX/Decision 35, 3 November 2015

ARTICLE 19

- It has been widely recognised worldwide as a **fundamental human right**, as well as an important tool for enforcing the rule of law, fighting corruption and ensuring other rights.
- 'ARTICLE 19', an international organization working on freedom of expression, in its report *Asia Disclosed: A Review of the Right to Information across Asia*.

ARTICLE 19

- **The benefits of right to information**
- Democratic participation and understanding
- Improved decision making processes
- **Improved government records management**
- Improved Internal Efficiency
- Anti-corruption

A Fundamental Human Right

A prerequisite for the realization of other human rights:

civil and political rights such as the right to life and liberty, freedom of expression, and equality before the law

economic, social and cultural rights such as right to adequate food, right to water, right to highest attainable standard of health, right to education.

United Nations General Assembly

UN General Assembly, in its first session in 1946, adopted Resolution 59 (I):

“Freedom of information is a fundamental human right and . . .the touchstone of all the freedoms to which the UN is consecrated”.

Article 19 of the '**Universal Declaration of Human Rights**', a United Nations General Assembly Resolution 217(III) A of 1948 recognises Freedom of Expression including Freedom of Information and Free Press - a **fundamental human right**.

Freedom of Expression includes the right to seek, receive and impart information and right to access information held by public authorities.

Article 19 (2) of the ‘**International Covenant on Civil and Political Rights**’ (ICCPR), a United Nations General Assembly Resolution 2200A(XXI) of 1966 states:

“Everyone shall have the right to freedom of expression; this right shall include **freedom to seek, receive and impart information** and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

The Constitution of the kingdom of Bhutan

Article 7.3

A Bhutanese citizen shall have the right to
information.

WE, THE PEOPLE OF INDIA

resolved to secure ourselves . . .

LIBERTY of thought, expression . . .

through the Preamble to

our Constitution

56 years ago.

Article 19(1)(a) guarantees us the right to freedom of speech and expression.

The Supreme Court of India has recognized this right as implying a full right to information, in 1973.

In *Bennette Coleman v. Union of India*, AIR 1973 SC 60, our Supreme Court ruled that the right to freedom of speech and expression guaranteed by Art. 19(1) (a) included the right to information.

...while even the Supreme Court of the most advanced democracy (U.S.A.) was hesitating to interpret the First Amendment of their Constitution, which guarantees the freedom of speech as implying a full right to information.

In *Houchins v. KQED, Inc.*, 438 U.S.1,16(1978) the U.S Supreme Court held : Neither the first amendment nor the fourteenth Amendment mandates a right of access to government information ...

Constitutional clauses are **difficult to enforce** directly without the help of legal statutes, because each and every time, we can not approach the Supreme Court or High Courts to enforce our fundamental rights.

The Right to Information Act 2005 establishes the necessary **practical regime** of right to information.

Impact of Right to Information

Information laws can have a positive impact on at least three different spheres of society:

- ◎ **politics**
- ◎ **economics**
- ◎ **public administration.**

In the **political** sphere

- This enables them to transform themselves from passive citizens who occasionally go to the polls into **active citizens** who call the government to account and participate in the design of public policies.

In the **economic** sphere

- transparency increases efficiency by making the investment climate more **reliable** and allowing capital to better calculate where and when it can **best be invested**.

In the sphere of **public administration**

- transparency improves the decision making of public servants by making them more **responsive and accountable** to the public and

In the sphere of **public administration**

- controls corruption by making it more **difficult to hide** illegal agreements and action.

In the sphere of **public administration**

- It also improves the **legitimacy and trust** in government in the eyes of the people, allowing for the more effective implementation of public policies.

A friend in need

- RTI is making life easier and honorable for common people.
- RTI empowers them to request and access public services successfully.

A friend in need

- Many people have been filing requests for information and hundreds of success stories appeared in electronic and print media.
- Even primary students filed applications for information of public importance and shot into fame.

A friend in need



Nine year old Pranav forced Delhi police to register an First Information Report to trace his lost bicycle by filing an application under the RTI

A friend in need

Eight year old Aishwarya wrote a three-point application to the PIO of the Chief Minister's office seeking an answer to why the garbage is being dumped in front of her school.



A friend in need

- The Supreme Court of India, in a landmark judgment, in *CBSE & Anr v. Aditya Bandopadhyay & Ors.*, held that students have the right to inspect their evaluated answer scripts.
- Recently, the Supreme Court praised RTI for making merit-ranking process at IITs more transparent and accurate.

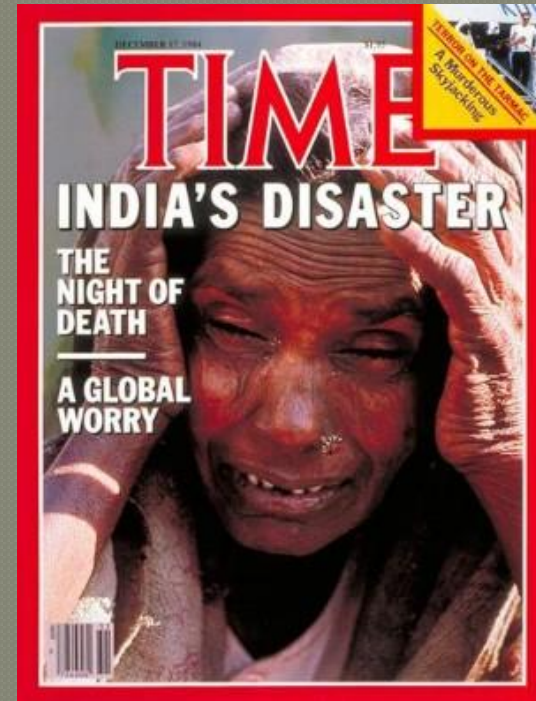
RTI as a grievance redressal mechanism

- 1. Please indicate the **daily progress** made on my application so far i.e. when did my application reach which officer, for how long did it stay with that officer and what did he/she do during that period?
- 2. Please give the **names and designations of the officials** who were supposed to take action on my application and who have not done so

RTI as a grievance redressal mechanism

- 3. **What action would be taken** against these officials for not doing their work and for causing harassment to the public? By when would that action be taken?
- 4. **By when** would my work be done now?"
- [Appeal No.CIC/WB/A/2007/00240,28 Jan.2008]

Right to Information could have prevented Bhopal tragedy(?)



Could Right to Information Have prevented Bhopal tragedy?

3 Dec.1984:

Gas leak from a pesticide plant killed more than 7,000 people; Many were children.

A further 15,000 died in the following years.

Still thousands of individuals are suffering.

(The plant was owned by Union Carbide Corporation, now owned by Dow Chemical)

Bhopal: A failure of knowledge?

- “The accident might not have happened at all **if the right people had obtained the right information** at a time when they were capable of appreciating it and taking appropriate preventive action.”
- -- Sheila Jasanoff, Professor at Harvard University's John F. Kennedy School of Government, ‘The Bhopal Disaster and the Right to Know’, *27 Social Science and Medicine* 1113 (1988).

Could Right to Information Have prevented Bhopal tragedy?

Freedom of information laws were strengthened in the west after Bhopal. Emergency Planning and Citizens Right-to-Know Act 1986 established the **Toxics Release Inventory**.

People can access information about hazardous materials in the community from the Local Emergency Planning Committees.



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Year of Data ⁱ

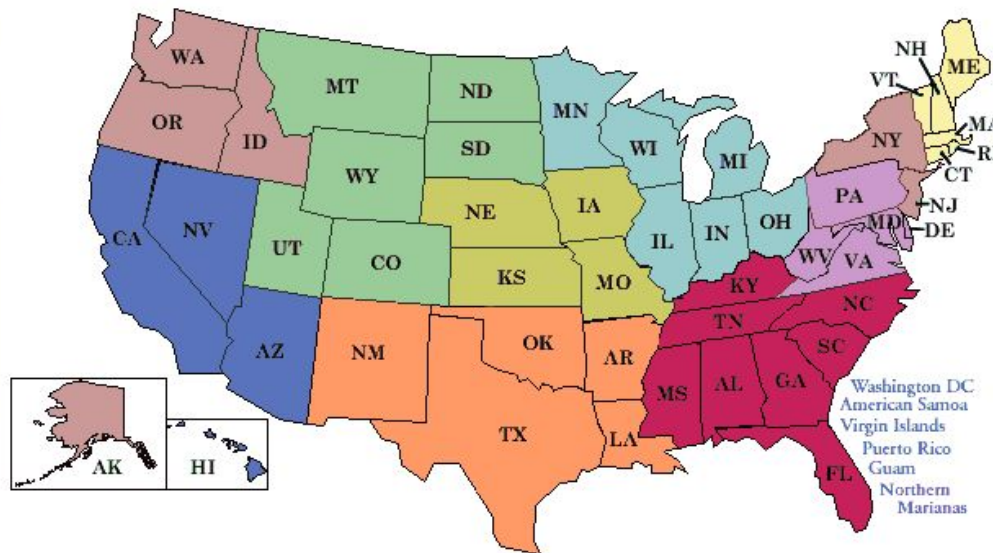
2007

Select 2007 PDR data set (frozen on September 22, 2008 and released to the public in March 2009)

Data updates will be made available later

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THE EVOLUTION
OF

THE RIGHT TO INFORMATION

RTI: A Short History

250 years ago

Sweden passed the first freedom of information law in the world,

sponsored by Finnish priest

Anders Chydenius;

inspired by the

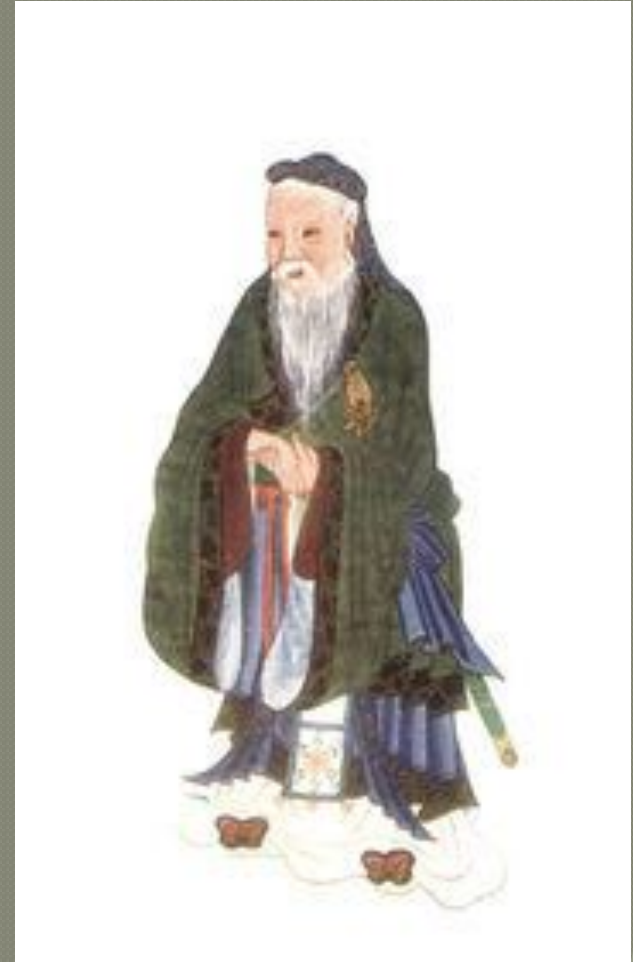
Confucian philosophy.



The origins of opennness are not in the West, but in the East.

Confucius taught Chinese kings to:

“**admit their own imperfection** as a proof for their **love of the truth** and in fear of ignorance and darkness.”



Chronology of FOI laws

- Sweden 1766
- Colombia 1888
- Finland 1951
- U.S.A. 1966
- Denmark, Norway 1970
- France 1978
- Australia, New Zealand 1982
- Canada 1983

So far, over 115 countries have passed FOI laws.

Mazdoor Kisan Shakti Sangathan

When minimum wages continued to be denied to workers who put in more than 8 hours of work on government works in Bhim Tehsil

MKSS lead them to assert their RTI by **demand for copies of bills, vouchers and muster rolls**, in village panchayats.

This initiative triggered off a campaign for transparency and accountability in the use of public funds.

Ms Aruna Roy, Founder, MKSS



Mera paisa, mera hisab!

“When I send my son to the market with ten rupees, I ask for accounts. The Government spends millions of rupees, I ask for accounts.

Is liye – Mera paisa, mera hisab!”

(My money, My accounts !)

-- Sushila

The Rajasthan experience on demanding right to information was echoed in other States.

Chronology of RTI Laws in India

- Tamilnadu, Goa 1997
- Rajasthan, Karnataka 2000
- Delhi 2001
- Maharashtra, Assam 2002
- Madhyapradesh 2003
- Jammu and Kashmir 2004,2009
- Parliament enacted FOIA 2002 06.01.2003

Chronology of RTI Laws in India

- 23.12.2004 The RTI Bill introduced in the Lok Sabha
- 11.05.2005 Lok Sabha passed the RTI Bill
- 12.05.2005 Rajyasabha passed the RTI Bill
- 15.06.2005 The President gave assent to the Act; a few provisions came into force
- 21.06.2005 RTIA published in the Gazette of India, Part II, Sec.1 Ext.No.25
- 12.10.2005 RTIA came fully into force

Way ahead

- India withdrew from the prestigious ‘Open Government Partnership’, launched in 2011, to “secure commitments from governments to promote transparency, empower citizens, fight corruption” and so on.
- India had been a steering committee member for months before its withdrawal.
- So far 69 countries have joined the partnership.
- For membership, a country “must endorse a high-level Open Government Declaration, deliver a country action plan developed with public consultation” and so on.

Way ahead

- The Whistle Blowers Protection Act, 2014
- Privacy protection law
- Public Records law
- Private sector under the RTI Act
- Environmental Right to information law
- Spending openly: Track your taxes

South Asia

- **Influence on neighbors**
- Indian RTI Act served as a model for other countries, particularly its neighbors, who enacted even stronger open laws; healthy competition, in deed.

Nepalese RTI Act of 2007

- includes registered political party in its definition of 'Public Agency' and
- offers Whistleblowers' protection under which any employee can disclose information on any ongoing or probable corruption or irregularities.

Bangladeshi RTI Act of 2009

- provides for strong Information Commission with Information Commission Fund and
- ensures Financial Independence of the Information Commission, unlike India, many of whose Information Commissions are not adequately supported by Government and suffer from lack of infrastructure, human resources and so on.

Sri Lanka

- Sri Lanka recently decided to join OGP and became the sole member from the subcontinent.
- RTI legislation came into force in 2017.

Pakistan

- Pakistan has not enacted a formal RTI law so far. However, it became one of four countries in the world where tax records are public, mainly due to efforts of Center for Investigative Reporting in Pakistan, led by journalist Umar Cheema.

Thank you!

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