

Right to Information Act, 2005

Right to Information (RTI) is an act of the Parliament of India which sets out the rules and procedures regarding citizens' right to information. It replaced the former Freedom of Information Act, 2002. Under the provisions of RTI Act, any citizen of India may request information from a "public authority" (a

body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. In case of matter involving a petitioner's life and liberty, the information has to be provided within 48 hours. The Act also requires every public authority to computerise their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally.^[1]

Right to Information Act, 2005



Parliament of India

Long title

An act to provide for setting out the practical regime of Right to Information for citizens to secure information under control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for

matters connected therewith or
incidental thereto.

Citation	<u>Act No. 22 of 2005</u>
Territorial extent	Whole of <u>India</u> Also <u>Jammu and Kashmir</u> since August 5 2019 after Article 370 revoked
Enacted by	<u>Parliament of India</u>
Enacted	15-June-2005
Assented to	22-June-2005
Commenced	12-October-2005
Status: In force	

This law was passed by Parliament on 15 June 2005 and came fully into force on

12 October 2005. Every day, over 4800 RTI applications are filed. In the first ten years of the commencement of the act over 17,500,000 applications had been filed.^[2]

RTI is a legal right for every citizen of India. The authorities under RTI Act 2005 are called quasi-judicial authorities. This act was enacted in order to consolidate the fundamental right in the Indian constitution 'freedom of speech'. Since RTI is implicit in the Right to Freedom of Speech and Expression under Article 19 of Indian Constitution, it is an implied fundamental right.

Information disclosure in India is restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act relaxes. Right to Information codifies a fundamental right of the citizens of India. RTI has proven to be very useful, but is counteracted by the Whistle Blowers Protection Act, 2011.^[3]

The Right to Information (Amendment) Bill, 2019, seeks to amend Sections 13, 16, and 27 of the RTI Act. Section 13 of the original Act: It sets the term of the central Chief Information Commissioner and Information Commissioners at five years (or until the age of 65, whichever is earlier)^[4]

Scope



A receipt for payment of fee for collecting information under RTI act

The Act is applicable to the whole of India. Earlier, J&K Right to Information Act was in force in the state of Jammu and Kashmir. However, after the revocation of much of Article 370 of the Constitution of India, the Union Territory of Jammu and Kashmir (and also the Union Territory of Ladakh) came under

the Central Act also.^[5]. It covers all the constitutional authorities, including executive, legislature and judiciary; any institution or body established or constituted by an act of Parliament or a state legislature. It is also defined in the Act that bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government, or non-Government organizations "substantially financed, directly or indirectly by funds".

Private bodies

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Private bodies are not within the Act's ambit directly. In a decision of Sarbjit roy vs Delhi Electricity Regulatory Commission,^[6] the Central Information Commission also reaffirmed that privatised public utility companies fall within the purview of RTI.^[7] As of 2014, private institutions and NGOs receiving over 95% of their infrastructure funds from the government come under the Act.^[8]

Political parties

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The Central Information Commission (CIC) held that the political parties are public authorities and are answerable to

citizens under the RTI Act. The CIC said that six national parties - Congress, BJP, NCP, CPI(M), CPI and BSP and BJD - has been substantially funded indirectly by the Central Government and have the character of public authorities under the RTI Act as they perform public functions.^[9]^[10] But in August 2013 the government introduced a Right To Information (Amendment) Bill which would remove political parties from the scope of the law. Currently no parties are under the RTI Act and there has a case been filed for bringing all political parties under it.^[11]

Amendment

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The Right to Information Act 2019 passed on July 25 2019^[12] modified the terms and conditions of service of the CIC and Information Commissioners at the centre and in states.^[13] It had been criticized as watering down the independence of the information commissions^[14]

Supreme Court judgement

Supreme Court of India on 13 November 2019, upheld the decision of Delhi High Court bringing the office of Chief Justice of India under the purview of Right to Information (RTI) Act.

Governance and process

The Right to information in India is governed by two major bodies:

- Central Information Commission (CIC)
 - Chief Information commissioner who heads all the central departments and ministries- with their own public Information officers (PIO)s. CICs are directly under the President of India.^[15]
- State Information Commissions – State Public Information Officers or SPIOs head over all the state department and ministries. The SPIO office is directly under the corresponding State Governor.

State and Central Information Commissions are independent bodies and Central Information Commission has no jurisdiction over the State Information Commission.^[15]

Fees

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A citizen who desires to seek some information from a public authority is required to send, along with the application (a Postal order or DD (Demand draft) or a bankers cheque) payable to the Accounts Officer of the public authority as fee prescribed for seeking information. If the person is from a disadvantaged community, he/she

need not pay. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the PIO as prescribed by the RTI ACT^[16]

Digital right to information systems

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A digital portal has been set up, **RTI Portal**, a gateway to the citizens for quick search of information on the details of first Appellate Authorities, PIOs etc. amongst others, besides access to RTI related information / disclosures published on the web by various Public

Authorities under the government of India as well as the State Governments. It is an initiative taken by Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions^[17]

Controversies

The Right to information in India has been mired with controversies ranging from their use in political battles, asking for educational degrees of political rivals, or cases of blatant refusals to provide information on high-profile projects to allegations of misuse by civil society.^{[18][19][20]} The backlash against

RTI by the state hampered the citizen's right to know^[21]

Attacks on RTI activists and protection suggestions

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Commonwealth Human Rights Initiative (CHRI) data points to over 310 cases^[22] across India where people were either attacked, murdered, physically or mentally harassed or had their property damaged because of the information they sought under RTI. The data throws up over 50 alleged murders and two suicides that were directly linked with RTI applications filed.^[23]

There is a consensus felt that there is a need to amend the RTI Act to provide for the protection of those seeking information under the Act.^[24] The Asian Centre for Human Rights recommends that a separate chapter, "Protection of those seeking information under the (RTI) Act", be inserted into the Act.

Protection measures suggested include:

- Mandatory, immediate registration of complaints of threats or attacks against RTI activists on the First Information Report and placing such FIRs before the magistrate or judge of the area within 24 hours for issuance of directions for protection of those

under threats and their family members, and periodic review of such protection measures

- Conducting inquiry into threats or attacks by a police officer not below the rank of Deputy Superintendent of Police/Assistant Commissioner of Police to be concluded within 90 days and we also use RTI and get its benefit.

Intellectual property rights

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Many civil society members have recently alleged the subversion of the right to information Act by the invocation of Intellectual Property rights argument by the government agencies from time to time.

Most notable are:

- The Right to Information denied by RBI on Demonetization citing Intellectual Property Laws.^[25]
- The Right to Information Denied by Uttar Pradesh Irrigation Department after more than 8 months of a wait on under construction Gomti Riverfront Development Project. A group of researchers requested for environment Impact and Project Report on the project which is flagged for negative impacts, tax money wastage by environmental scientists and research reports.^[18]

See also

- Attacks on RTI activists in India
- National Data Sharing and Accessibility Policy – Government of India

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External links

- Right To Information Ministry Websites and their RTI links Search
 - Complete text of the Right to Information Act
 - ONLINE RTI
 - CIC - The Central Information Commission is empowered to decide complaints and appeals arising from use of the Right to Information Act, 2005.

- CIC Online - New website of the Central Information Commission for filing complaints and appeals arising from use of the Right to Information Act, 2005.
- DoPT - The Department of Personnel and Training, Ministry of Personnel, Public Grievances, and Pensions, is charged with being the nodal agency for the Right to Information Act, 2005. It has the powers to make rules regarding appeals, fees, etc.
- Right to Information Act Portal

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