

RTI Amendments

August 29, 2019

Source: *The Hindu*

Manifest pedagogy:

RTI as a topic has cross cutting linkages with three papers

1. Polity and Governance
2. Ethics
3. Society – RTI movement

Students are advised to cover all the aspects

In news: RTI Amendment Bill, 2019 has been passed by both the Houses of Parliament.

Placing it in syllabus: Polity and Governance

Static dimensions: RTI movement (Historical perspective)

Current dimensions:

- RTI provisions
- Recent Amendments
- Criticisms
- Solutions

Content: The amendments to RTI Act has been passed by both Loksabha and Rajyasabha which focuses on the principle of '**maximum governance, minimum government**'. The essence of these amendments is aimed at accountability and citizen-centric approach of the Government.

History of RTI movement in India:

- The campaign for right to information in India has its genesis in Rajasthan led by the Mazdoor Kisan Shakti Sangathan(MKSS) which forced the state government to

pass the right to information Act in 1997.

- It was a movement by peasants and workers, (led by Aruna Roy) that demanded social audit of accounts in the villages and thereby exposed the corruption at the lower levels of administration.
- MKSS's demand for right to information arose from the demand to get minimum wages and check rampant corruption by inspection of muster rolls and bill vouchers.
- They employed a direct technique to fight for the right to information, namely, the use of jan sunwais or public hearings.
- The MKSS advocacy gave rise to a National Campaign on People's Right to Information (NCPRI), which was formed as a support group for the MKSS and to do advocacy on right to information at a national level.
- The Association for Democratic Reforms is based in Ahmedabad in Gujarat which seeks to bring transparency in elections and makes an attempt to cleanse the electoral system. In a run up to the Gujarat polls in 2002, this group launched an Election Watch Experiment wherein its members collected and gave wide publicity to the background of candidates collected from affidavits filed under "The Representation of the People Act Amendment ordinance" which was in force at that time.
- The Maharashtra Government had taken steps to introduce their own RTI Act in 2000 but repealed it in favour of a more powerful Right to Information Ordinance in September 2002 due to growing pressure by the civil society groups. Since the Ordinance was going to lapse, struggle of Anna Hazare, a Gandhian immediate pressurised passage of this Right to Information law and take action against officials for serious charges of corruption.
- He went on a fast unto death till his demands were met and the Central Government finally took notice of his demand and the President gave his consent to the Maharashtra RTI Act in August 2003.

- His struggle and the efforts by civil society organisations paved way for national level Right to Information (RTI) Act which was passed in 2005.

Right to Information(RTI) act, 2005:

- Right to Information (RTI) is the act of the Parliament of India to provide for setting out the practical regime of the right to information for citizens and replaces the erstwhile Freedom of information Act, 2002.
- The intent behind the enactment of the Act is to promote transparency and accountability in the working of Public Authorities.
- It came into force on 12 October 2005.
- Under the provisions of the Act, any citizen of India may request information from a “public authority” which is required to reply expeditiously or within thirty days.
- It requires every public authority to computerise their records for wide dissemination.
- The intent of such suo moto disclosures is that the public should need minimum recourse through the Act to obtain such information. If such information is not made available, citizens have the right to request for it from the Authorities.
- RTI is a legal right for every citizen of India and this act was enacted in order to consolidate the fundamental right of ‘freedom of speech’.

The Act has established a **three tier structure** for enforcing the right to information guaranteed under the Act.

- Public Authorities designate some of their officers as Public Information Officers(PIOs). The first request for information goes to these PIOs.
- These Officers are required to provide information to an RTI applicant within 30 days of the request.
- Appeals from their decisions go to an Appellate

Authority.

- Appeals against the order of the Appellate Authority go to the State Information Commission or the Central Information Commission.
- These Information Commissions consists of a Chief Information Commissioner, and up to 10 Information Commissioners.
- State and Central Information Commissions are independent bodies and Central Information Commission has no jurisdiction over the State Information Commission.

The Act covers the whole of India except Jammu and Kashmir, where J&K Right to Information Act is in force. 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 also covers bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government.

As of 2014, private institutions and NGOs receiving over 95% of their infrastructure funds from the government come under the Act. Currently no political parties are under the RTI Act and there has a case been filed in Supreme Court for bringing all political parties under it.

Right to Information (Amendment) Bill, 2019:

The Bill changes the terms and conditions of service of the CIC and Information Commissioners at the centre and in states.

- Term

At present, the Chief Information Commissioner (CIC) and Information Commissioners (ICs) (at the central and state level) will hold office for a term of five years.

The Bill removes this provision and states that the central government will notify the term of office for the CIC and the ICs.

- Quantum of Salary

At present, the salary of the CIC and ICs (at the central level) will be equivalent to the salary paid to the Chief Election Commissioner and Election Commissioners, respectively. Similarly, the salary of the CIC and ICs (at the state level) will be equivalent to the salary paid to the Election Commissioners and the Chief Secretary to the state government, respectively.

The Bill removes these provisions and states that the salaries, allowances, and other terms and conditions of service of the central and state CIC and ICs will be determined by the central government.

- Deductions in Salary

The Act states that at the time of the appointment of the CIC and ICs (at the central and state level), if they are receiving pension or any other retirement benefits for previous government service ((includes service under: (i) the central government, (ii) state government, (iii) corporation established under a central or state law, and (iv) company owned or controlled by the central or state government)), their salaries will be reduced by an amount equal to the pension.

The Bill removes these provisions.

Criticisms of the bill:

- The proposed changes to the RTI Act were introduced in complete secrecy without any public disclosure and consultation on draft legislations.
- The Bill seeks to amend the RTI Act to empower the

Centre to unilaterally decide the tenure, salary, allowances and other terms of service of information commissioners (CIC and SICs) at the Centre and in the States. Without a fixed tenure and salary, which will now be decided by the government, information commissioners will lack the teeth to force public bodies to part with information.

- As the amendments dilute the law, the Centre could simply transfer any authority be it the CIC or any of the SICs – in the event a case was thought to be directed against the interests of the government, thus weakening the democratic institutions.

Solutions:

- Reduce pendency

To begin with, the government could take steps to reduce pending appeals. In June 2019, about 31,000 appeals were pending, out of which, over 9,000 are pending for over a year. Currently, four out of the ten positions of information commissioners are vacant. According to the National Campaign for People's Right to Information (NCPRI), several information commissions in the states were either non-functional or working at a reduced capacity.

- Prune the exemption list

According to an RTI ratings report by the Canada-based Centre for Law and Democracy, India's rank slipped from second position in 2011 to eighth in 2018. In its current form, Section 8 of the RTI Act lists ten exemptions, ranging from any information that may hurt national security, impede the process of ongoing investigations to cabinet papers and deliberations of the council of ministers. Section 24 of the RTI Act allows (the) government to increase the list of exemptions by an executive order. To strengthen the RTI Act, this should be only allowed through the legislature.

- Protect whistle-blowers

According to a tracker of assaults on RTI activists set up by the Commonwealth Human Rights Initiative (CHRI), a Delhi-based international non-profit, around 90 RTI activists have been murdered since 2005 for seeking information on illegal construction, alleged scams in social welfare schemes, and corruption in panchayats. While seven activists have committed suicide, more than 350 have either faced assault or harassment. The central government should enforce the Whistle Blowers Protection Act enacted by the Parliament in 2014.

- Making CIC as a constitutional body

As RTI is safeguarding a fundamental right guaranteed under the Constitution (Article 19 (1)(a) of the Constitution guarantees freedom of speech and expression to citizens) the government should seriously look into the possibility of elevating the information commission to the status of a constitutional authority. The Supreme Court has also interpreted RTI as a fundamental right—in 1975 and 1982.

- Political parties under RTI

In 2013, the CIC had declared six national political parties as public authorities under the RTI Act and ordered them to make voluntary disclosures and respond to information requests. However, all parties refused to comply with the decision, prompting the petitioners in the case to approach the Supreme Court in 2015, which is still hearing the case.