

A RIGHT UNDER SIEGE

Relevant for: Ethics | Topic: Right to Information (RTI)

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The writer was Union law minister from May 2009 to 2011.

The words of Sir Francis Bacon — “Knowledge is power” — aptly bring out the essence of the Right to Information Act (RTI). Knowledge, gained through access to correct information, has the ability to upturn the power dynamic: It places a person at a formidable position to fight for their rights and enables them to ask vital questions.

The introduction of this Act into the country’s approach to governance has revolutionised the democratic landscape of India. It has strengthened the principles of democracy, which in [Abraham Lincoln](#)’s words is “of the people, by the people and for the people”, by facilitating people’s participation in governance. Empowerment of the people by enabling the demand of information from government authorities lifted the veil of secrecy from government functioning — which helped in keeping a check on arbitrary decision making by public institutions. Contrary to popular belief, the RTI was not just limited to the urban elites; it gave voice to the poor sections of the society by providing them with a tool of information to hold the government accountable. This was confirmed by a nation-wide assessment held by PricewaterhouseCoopers, which stated that out of two million RTI applications filed between 2005 and 2009, a total of 4,00,000 were from rural areas.

Even though the Supreme Court in *S P Gupta vs President Of India And Ors* (1982) held the right to information as a fundamental right, India struggled to have a national law on it for the next 20 years. The National Campaign for People’s Right to Information’s (NCPRI) RTI Bill was delayed multiple times by the then NDA government. In 2002, under pressure from the SC, the government introduced a weakened and toothless Freedom to Information Act in the Parliament. Despite being passed by the Parliament and receiving Presidential assent, the act was never notified by the NDA government.

When the UPA government, led by the Congress, took office in 2004, the struggle of the right to information movement finally bore fruit — the Right to Information Act was enacted in 2005. The Act remains the strongest legislation made by any government across the world in the context of transparency and access to information. It was possible with active engagement between civil society organisations, NCPRI, National Advisory Council and the government.

Alongside the enactment of the RTI, the Second Administration Reforms Commission, which I headed, was set up by the then Union government to reform the public administrative system. On analyses of the Act, the commission concluded that right to information formed the foundation of good governance, as transparency is one of its core elements. It was realised that the strengthening of the RTI would be a step towards transforming the covert public administrative system into a “public-centric” administrative system. Therefore, the commission recommended various measures to toughen the Act and make procedures to access information people-friendly. These ranged from the repealing of the Official Secret Act, introducing an oath of transparency to use of multi-media campaigns in local languages for awareness and opening up the working of parliamentary standing committees for public access.

In October 2018, the RTI completed 13 years of its inception. For the last few years, it has faced constant onslaught by the current regime. The latest Global Right to Information Rating has

ranked India at the sixth position, a rank lower than last year. While under the UPA government, India positioned itself at second place, under the BJP-led government the ranking has successively dropped. Such a drop is further contextualised with the findings of a study conducted by the Satark Nagrik Sangathan and Centre for Equity Studies. It revealed that Central Information Commission took an average of 319 days to hear and give an order on an appeal from the date it was filed before the commission, with the maximum number of days taken by the CIC reaching to 862 days. The callous attitude of Information Commissioners (ICs) reflects in the fact that an average of 56 per cent of orders recorded violations of Section 20 of the RTI, based on which penalties should have been imposed. But a penalty was imposed in only 4 per cent of the cases.

The inactivity of the government in strengthening the RTI has led to only seven ICs working at present of which, along with the Chief Information Commissioner, four ICs are to retire by the end of this year — reducing the strength of CIC to just three, against the mandated strength of 11. To further its motive to break the structure of transparency and accountability, it has attempted to weaken the RTI through an amendment, which gives the power to decide the tenure and salary of the ICs to the central government; thereby, directly influencing the independence of the CIC. A fresh attempt to indirectly amend the RTI has also been made through the Personal Data Protection Bill that makes the wordings of Section 8(j) of the RTI vague, not specifying the extent of harm or differentiation between personal information and personal data.

The regular protests by the civil society against the lethargy of the current government in effectively protecting the people's right to information reflects the severity of the problem, especially against the backdrop of recent interference by the BJP-led government in the autonomous institutions of our country.

The one area where the BJP government has failed to imitate the UPA government is in its commitment to uphold democracy by supporting people-centric initiatives. A democratic government's duty is to ensure the trust of its citizens emboldens with every step it takes. However, the recent efforts of the present regime go against this fundamental principle. Giving up its anti-people decisions, it must ensure that it fills the loopholes in the RTI Act rather than digging for more of them.

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