IMPACT OF RTI ACT ON CORRUPTION

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INTRODUCTION

“Corruption is a tree, whose branches are of an immeasurable length; they spread everywhere.” – Beaumont and Fletcher.

Corruption is a universal phenomenon faced by people in one or the other forms. In India, it has become a part of life. It is the greatest foe of good-governance and causing great harm to society and the nation. The word corruption is derived from the Latin word “corruptus,” which means “corrupted” and, in legal terms, the abuse of a trusted position in one of the branches of power (executive, legislative and judicial) or in political or other organizations with the intention of obtaining material benefit which is not legally justified for itself or for others.¹ Corruption was already mentioned as a great sin in the Holy Book Bible: “Do not accept a bribe, for a bribe blinds those who see and twist the words of the innocent.²

In our country governance depends on three basic pillars of the constitution namely the Legislative which makes the laws, Judiciary which interprets the laws and the Executive which include both the political as well as bureaucracy to implement the laws. Corruption is the use of Public office for private gains. Public servants, who include both the political executive and bureaucracy, are in a special position to practice corruption because of the public office they occupy. India inherited its legacy of corruption from its ancient ruler, who always expected some gifts in the form Nazarana from their subjects. There is hardly any area of activity that has remained wholly free from the impact of corruption. In fact, corruption has now been institutionalized has become a commonly accepted way of life. Eg. – High donations for admission in schools and colleges, selling state secrets, pay-offs, bribes, under the table transaction.³

Corruption is not accident by product of the system because of the venality of a few but a defining element on which the edifice rests.”It is not likely to be fully eliminated, but the objective is to minimize it so that it becomes an exception and not the rule. Since 1968 many attempts were made in parliament to pass anti-corruption act in India but it failed to include the civil society representatives and there after its implementation and enforcement will

present further challenges in a country as vast and diverse as India. RTI act is fast emerging as an effective anti-corruption tool. RTI laws as they are commonly called grant citizens legal rights to access information held by their governments, bringing much needed transparency or opaque functioning of government.\textsuperscript{4}

\begin{table}[h]
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\caption{KEY FACTORS ENCOURAGING AND PROMOTING CORRUPTION}
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1. **Lack of Transparency:** Secrecy and confidentiality is the aspect which is used in Public offices. It has become a tradition to keep the files confidential. This is the main reason for corruption which is lack of transparency as files are not publicised and people are kept in dark, which leads to rising scams in the country. \\
2. **Lack of Accountability:** Public officials are able to get away with bribes is that there is no law, rule or convention, compelling or encouraging public officials to lay open their income and assets to the people. It is generally found that a very large number of officials and ministers have unaccounted assets and incomes disproportionate to their legal sources of income. Many officials and politicians do not file their income-tax returns, nor are they held accountable, and this helps to get away. If this information is available to the public, there will be a number of people, who would exposed by their possession of the illegal assets and income. It would be a very salutary effect on curbing the menace of corruption in public life. \\
3. **Lack of Institutional Machinery:** With the Introduction of a system of Lokpal being implemented at the Centre level. Victims believe that there is someone to listen to their grievances. But at the same time there is lack of institution where the complaints could be lodged about the corrupt and unethical acts of public officials. Even if the complaints are lodged, there is no one to act upon it as the cases are transferred to Anti Corruption Bureau, which consists of state police officers and also considered as the most corrupt office. Subsequently, this means that there is no institution to hear the complaints of aggrieved people. So, there is a need for an institution which should be independent of the control of public officials and ministers, so it can work effectively. \\
4. **Lack of Information:** Files are kept confidential in the public offices and the people are not aware of the deals that is done between Government and Private entities , and as it is their right to know about the deals which is for their benefit. So deals and their
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\textsuperscript{4} Ibid.
terms should be made public which will lead to transparency. Hence, this could be a way to curb corrupt practices.

**KINDS OF CORRUPTION**

Anti-corruption campaigners generally fit the multiplicity of types and forms of corruption into a couple of descriptive boxes—grand corruption, petty or everyday corruption, political corruption, depending on the amounts of money lost and the sector where it occurs.

- **Grand corruption** - consists of acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good.

- **Petty corruption** - refers to everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.

- **Political corruption** - is a manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth.\(^5\)

All the above forms of corruption relate to the misuse of public office for private gain. These forms do not refer to an important dimension of corruption, the abuse of private office for private gain and here too the public sector is implicated in the sense that it has been lax in the regulations that were supposed to restrain the activities of private sectors.\(^6\)

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\(^5\) [https://www.transparency.org/what-is-corruption#define](https://www.transparency.org/what-is-corruption#define), (June- 09-2019, 12:30PM).

THE ADVENT OF RIGHT TO INFORMATION

An act formulated by the Parliament of India to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. This act replaces the erstwhile Freedom of Information Act, 2002. Under the provisions of the act a citizen may seek information from any public authority, and the public authority has to reply within 30 days.

International Right to Know Day which is being celebrated all over the world on 28th September. This day highlights the critical importance of people’s right to access information held by their respective governments. In India a nationwide campaign led by the organisation called Mazdoor Kisan Shakti Sangthan had played a vital role in the passage of the RTI Act. Main thrust of RTI law to change the culture of secrecy, red tapism and aloofness that has plagued India’s monolithic and opaque bureaucracy. The efforts made by MKSS (Mazdoor Kisan Shakti Sangthan) to tackle corruption at grass root level. The RTI Act is vast emerging as an effective anti-corruption tool. RTI laws or — sunshine laws as they are commonly called, grant citizens legal rights to access information held by their governments, bringing much needed transparency or opaque functioning of governments.

The government enacted the landmark Right to Information Act on 15th June 2005 and got assented to from 12th October, 2005. The right of access to information is an important human right, necessary for the enjoyment of other human rights. From then onwards, Citizens of the country have been effectively using the Act to tackle corruption and also to make a transparent and accountable government. Every day approx 4,800 applications are filed to access information from the government across India. The first decadal study conducted after Right to Information (RTI) Act implemented in October 2005 has revealed that over 1.75 crore applications have been filed with one-fourth being requests to the Centre.

A study conducted by Commonwealth Human Rights Initiative (CHRI), exclusively accessed by Economic Times, reveals that 27.2% (47.66 lakh) of the total RTIs filed between 2005 and 2015 were to the different ministries and departments under the Centre.\textsuperscript{10} Aruna Roy, a social activist and founder of the Mazdoor Kisan Shakti Sangthan was the main architect behind the RTI Act 2005 regarded, India’s RTI Act as the most fundamental law this country has ever seen as it can be used to access information from the local panchayat to parliament from a small village to Delhi, from a ration shop to the 2G Scam”. Clearly, the Act has laid emphasis on good governance, of which the major elements that have been identified are: informed citizenry for encouraging people’s participation in development process, transparency, accountability and reduction in corruption. Thus, the major objectives of the Act are:

1. Greater Transparency in functioning of public authorities;
2. Informed citizenry for promotion of partnership between citizens and the Government in decision making process;
3. Improvement in accountability and performance of the Government;

All these parameters are critical elements of good governance, which entails full accountability to stakeholders, who are partners in development process. And, have the powers to enforce accepted policies, common norms and recognized bench marks. It is expected, therefore, that the citizens, armed with information obtained through their exercise of right to know, would be able to protect life and liberty as well as secure equity and justice before the law. An attempt is therefore made below to examine the extent to which the RTI has been successful in influencing the above factors in the desirable direction.\textsuperscript{11}

Access to information appears to empower the poor to the point where they receive almost the same treatment as middle-class –individuals at the hands of civil servant. This is that payment of a bribe can’t do. It is a potent weapon to fight against corruption arbitrariness and misuse of power. It is a vital tool for good governance and this law has been used to tackle a high profile of corruption. RTI spilt all over the parts of the country and reduced the corruption.

\textsuperscript{10}Ibid.
\textsuperscript{11}M.M Ansari, Right to Information and its Relationship to Good Governance and Development, SEMANTICSCHOLAR.ORG, (June-11-2019, 11:30AM) https://pdfs.semanticscholar.org/1a50/bf12f0bf13c1211419599e9092308757e926d.pdf.
The political mobilization against corruption started with the RTI. The culture of secrecy, as known, encourages the government officials to indulge in corrupt practices, which result in lower investments due to misuse of power and diversion of funds for private purposes. As a result, the government’s social spending yields no worthwhile benefits, because, for instance, the teachers do not teach, doctors and nurses do not attend health centres, ration card holders do not receive subsidized food grains and, thus, livelihood support is denied, and the promised jobs are not provided to the poor, who are assured of income support. In the process, it perpetuates poverty and harms the poor. It creates an environment of distrust between the people and the government, which impinge upon the development and jeopardize democratic governance. The legislation on RTI can act like an antidote to vested interests which try to conceal or misinterpret information or which try to manipulate the media directly or indirectly to plant misinformation.  

The Right to Information Act 2005 has provided us the right to get information from the government. Through this we can now expose corruption and also bring to light those duties that are not being performed by the officials. Also, in some countries RTI has been seen as part of the anti-corruption or state modernization agendas (for instance Mexico and Chile), in South Asia, particularly in India. Through all this we can also seek solutions to our problems. We can ask information about projects and plans. We can inspect files and check for any misappropriations. The government spends a huge amount of money for development work. We can ask for information about the work being done in our area. Information relating to tenders, agreements, payments and estimates of engineering work etc can be obtained with the help of the Right to information Act. Besides these, information can be sought on the following:  

(1) You can demand samples of materials used for the construction of roads, drains and buildings etc.  
(2) You can demand an inspection of any social development work, work in progress or information related to any completed work.  
(3) You can demand an inspection of government documents, maps for the construction, registers and records.  

13 Ibid.
(4) You can demand information related to the progress made on any complaint filed by you in the recent past.

Experiences suggest that in the states where the Right to Information Act has been implemented, it has become an important tool of social development and governance. Tackling pendency at the Information Commission and stringent punishment to guilty officials as well as massive awareness campaigns among the masses for proper use of RTI constitutes the key to the success of RTI regime.

Under the RTI regime, there is unprecedented transparency in the working of public departments. There is thus better understanding of the decision making process and greater accountability of government. This has led to reduction in corruption in the country as evident from the following:

i) The Transparency International (TI) had reported that perceived corruption in India has declined, due mainly to the implementation of the RTI Act. This is evident from corruption reduction score of 3.4 (out of 10) in 2008, after an initial rise of 3.5 in 2007, compared to 2.99 in 2006, which indicate a decline in corruption to the extent of 15%.\(^\text{14}\) India has marginally improved its ranking in the graft watchdog Transparency International’s corruption perception index for 2016 got a score of 40 out of 100 and has improved by two points as in 2015 the country had scored 38.\(^\text{15}\)

ii) The TI-CMS has recently accomplished an all India survey study of the poor below the poverty line. The views of the poor have been elicited in respect of all the flagship programmes that have been implemented for alleviation of poverty. At least 40 per cent of the respondents have reported that corruption has declined.

iii) It has also been observed that wherever NGOs are actively involved in the development activities, the perceived corruption is abysmally low.\(^\text{16}\)

\(^{14}\) M.M Ansari, *Right to Information and its Relationship to Good Governance and Development*, SEMANTICSCHOLAR.ORG, (June-12-2019, 3:30PM)
https://pdfs.semanticscholar.org/1a50/bf12f0bf13c121419599c9092308757e926d.pdf.


\(^{16}\) M.M Ansari, *Right to Information and its Relationship to Good Governance and Development*, SEMANTICSCHOLAR.ORG, (June-12-2019, 3:50PM)
https://pdfs.semanticscholar.org/1a50/bf12f0bf13c121419599c9092308757e926d.pdf.
1. **Adarsh Society Scam:** The applications filed by RTI activists like Yogacharya Anandji and Simpreet Singh in 2008 were instrumental in bringing to light links between politicians and military officials, among others. The 31-storey building, which had permission for six floors only, was originally meant to house war widows and veterans. Instead, the flats went to several politicians, bureaucrats and their relatives. The scandal has already led to the resignation of Ashok Chavan, the former chief minister of Maharashtra. Other state officials are also under the scanner.

2. **Public Distribution Scam in Assam:** In 2007, members of an anti-corruption non-governmental organization based in Assam, the Krishak Mukti Sangram Samiti, filed an RTI request that revealed irregularities in the distribution of food meant for people below the poverty line. The allegations of corruption were probed and several government officials arrested.

3. **Appropriation of Relief Funds:** Information obtained through an RTI application by an NGO based in Punjab, in 2008 revealed that bureaucrats heading local branches of the Indian Red Cross Society used money intended for victims of the Kargil war and natural disasters to buy cars, air-conditioners and pay for hotel bills – among other things. Local courts charged the officials found responsible with fraud and the funds were transferred to the Prime Minister's Relief Fund.

4. **IIM’s Admission Criteria:** Vaishnavi Kasturi a visually-impaired student, in 2007 was denied a seat in the Indian Institute of Management in Bangalore, one of the country's premier management institutes - despite her impressive score at the entrance examination. Ms. Kasturi wanted to know why, and wondered whether it was because of her physical disability. She filed an RTI application to request the institute to disclose their selection process. Although she failed to gain admission to the institute, her RTI application meant that IIM had to make its admission criteria public\(^\text{17}\).

Though the RTI Act has played a pivotal role in exposing corruption in various arenas, yet, the statistics presented above are indicative that the cancerous growth of corruption has not been brought to a standstill; scams cripple the economy and development of the country continue to plague the three branches of the state. The following are, seemingly, some of the shortcomings of the RTI Act.

1. **Overlooking the Concept of Grand Corruption:** The understanding of the concept of corruption that most of the common people have is limited in the sense that they tend to narrow it down to misappropriation of finances and public funds. They tend to overlook the concept of „grand corruption” that sets in when the political class frames legislation or policies with the sole objective of benefitting a certain class of people alone. For example, a questionable policy which cripples the economic condition of the country might be formulated by the government with the sole aim of helping certain private businessmen, with quid pro quo. This is contrary to the concept of Good Governance. In *Abdul Farook v Municipal Council, Perambalur and Ors*"18, the Apex Court observed that the Doctrine of Good Governance requires the government to rise above its political interests and act only in public interest and for the welfare of its people. In the *State of Maharashtra and others v Jalgaon Municipal Corporation*19 and others, it was held that one of the principles of good governance in a democratic society is that private and smaller interests must always give way to larger public interests in case of a conflict.

2. **Infrastructure Problem:** One of the major problems faced by the public authorities that prevent them to disclose the information is infrastructure problems. Many public authority offices in village and backward areas lack proper infrastructure. In many offices there is no computer or if there is any computer or laptop then there is either only one computer in the staff of many people. This is one of the major hindrances in disclosure of information because they have hardly any resources to publish any information on the websites because there is hardly any computer or laptop and this is also a major problems and challenges to RTI Act.

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18 2009 (15) SCC 351.
19 2003 (9) SCC 731.
3. **Non-Maintenance of Websites:** This problem is also a major hindrance in Suo motu Disclosure and therefore to RTI Act. This includes not publishing obvious and important items of information on websites, not publishing relevant facts before taking key policy decisions, poor record management practices and so on. In its Annual Report (2012-13), the Central Information Commission (CIC) lamented that despite having good information & communication technology (ICT) infrastructure, mandatory disclosure norms remain unattended. Only 568 public authorities had so far reported posting of their Section 4(1) (b) disclosures on their websites.\(^{20}\)

4. **One-sided usage of the enactment by the common man:** The common man tends to use RTI for private purposes than to expose corruption. It is primarily the journalists, NGO members and some well-known anti-corruption crusaders who constantly file RTI applications when they feel that there is some sort of foul play in the system. However, government departments are wary of the above-mentioned people, especially journalists, and so they tend to refuse information or sometimes give incomplete information.\(^{21}\)

5. **Lack of Personnel:** The government departments recruit fewer employees as compared to their sanctioned strength. So the PIOs and other staff are already overburdened and on top of it, when they are asked to do an arduous task with no sort of incentive, they do not work as effectively to provide information.

6. **Lack of Cooperation from the Public Authorities and the Political Class:** Many of the public authorities and the political class have been and are doing their best to keep the veil of secrecy on their affairs. There is a tendency to give too much of information, in addition to what is asked, which often confuses and misguides the RTI applicant. Specific information pertaining to what is asked is not given. Sometimes, applications are returned with flimsy reasons like citing that there is no proper signature. Each state government makes its own set of amendments to exempt its bodies from RTI purview. For example, in Tamil Nadu, the cyber crime cell and the Home (Police VII) Department is exempted. The Government in Kerala is wary of making all cabinet decisions within the purview of RTI.\(^{22}\) A wilful delay is seen


sometimes while responding to RTI applications that question any dubious practice in a department. Then even if the applicant gets a favourable order from the Chief Information Officer, the public authorities prefer an appeal to the High Court. The backlog of cases and the years it takes for the adjudication process to be completed is a boon for them as it helps to cover up their sham.

7. **Low Public Awareness:** Low awareness level: Section 26 of the Act states that the appropriate Government may develop and organize educational programmes to advance the understanding of the public, especially disadvantaged communities, regarding how to exercise the rights contemplated under the Act. However, as per the survey it was revealed that only 15% of the respondents were aware of the RTI Act. The Nodal Departments (with specific reference to the State Governments studied) have not undertaken any substantial steps to promote the RTI Act. It was observed that the awareness was least among the disadvantaged sections of the community such as women, rural population and OBC/SC/ST category. During the awareness survey, it was also observed that the major sources of this awareness were:
   - Mass media channels like television channels, newspapers etc.
   - Word of mouth.

8. **Political Parties not yet within the purview of RTI:** Six national parties in India including the Bharatiya Janata Party and the Indian National Congress have refused to comply with the Central Information Commission Order of 2013 declaring them as public authorities. The Commission held that that even though political parties are non-governmental organisations yet they wield and influence the exercise of governmental power and, thus, it is imperative for political parties to be transparent.

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23 PricewaterhouseCoopers, Final Understanding the “Key Issues and Constraints” in implementing the RTI Act at 37, 38.
Utilizing RTI Effectively to Combat Corruption: Suggestions

- **Imparting proper on-the-job training to PIOs:** PIOs should be given proper training both before and during their tenure so that they can apply their minds independently and decide whether the information can be given and to what extent. They must be made to understand the purpose of the legislation and their own significance in exposing corruption and accelerating the country’s development.

- **Changing the Composition of the Committee for the Appointment of PIOs:** Under Sections 12 and 15 of the RTI Act, the Chief Information Commissioners and Information Commissioners at both Central and State Government are appointed by a Committee headed by the Prime Minister and the Chief Minister, respectively, and comprising the opposition leader and a Cabinet Minister to be nominated by the Prime Minister/Chief Minister. This structure is slightly misbalanced because out of the three people appointing, two are a part of the ruling government. Therefore, this may give rise to circumstances wherein the government appoints its own loyalist to the post to ensure that the whistleblower is kept at bay. In the present scenario, where PIOs are already reluctant to give information, this could be dangerous. Thus, it is suggested that the Chief Justice of the Supreme Court or his/her nominee should also be a part of the Committee that appoints Information Commissioners. There should not be any veto power and the decision by the majority should be final. This will ensure a proper check-and-balance system.

- **Prohibiting Disclosure of Applicants’ Details:** There have been instances of government leaking information about the details of the RTI applicants, which has subjected the latter to blackmailing, threats and even death. Not only should the Whistleblowers Protection Act be strictly enforced, but also a specific provision should be imposed in the RTI Act that prohibits disclosure of details of the RTI applicant and imposing a punishment to those, who act on the contrary.

- **Constituting Separate Benches:** To reduce the backlog of appeals pertaining to the RTI Act in the High Courts and the Supreme Court, separate benches may be constituted both in the High Courts and the Supreme Court to dispose of the matters quickly.\(^{25}\)

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- **Adequate Staffing:** The recruitment in government departments must match the vacancies. Overburdening of work on the shoulders of a few is also one of the reasons for an incessant denial of information.

- **Digitising all Records:** Compulsory digitisation of records must be done. The government can make use of the skilled but unemployed youth in the country to do the same.

- **Broadening the Scope of Public Authorities:** The definition of “public authorities” under Section 2(h) of the RTI Act is a bit narrow and should be broadened to include all bodies and institutions that discharge public functions, though they may not come within the ambit of State as per Article 12 of the Indian Constitution.

- **Including political parties under the ambit of RTI:** All national and regional political parties must be subject to RTI.\(^{26}\)

\(^{26}\) Ibid.
CONCLUSION

The significance of the RTI Act (2005) in the journey to curb the cancerous growth of corruption cannot be undermined. Without it, legislation such as the Prevention of Corruption Act, 1988 and even the Lokpal and Lokayukta Acts, 2013 are nothing but toothless tigers. However, there is a need for changes in both the legislation and the mindsets of the governing class, who need to realise that transparency and accountability are inseparable parts of a democracy; the fact that they are not doing a favour to the citizenry by providing information. All the three wings of the state, including the judiciary has to embrace this ideal. At the same time, the people ought to realise that this particular piece of legislation is meant for each one of us to be active participants in ridding the system of this taint and contributing to the country’s development; it is not a task to be just left to NGOs or certain whistleblowers or journalists. Effective and full use of the Act by vigilant citizens alone can root out the menace of corruption from the system.