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## **THE RTI ACT, 2005: BETWEEN PROMISE AND REALITY - LEGAL, POLITICAL, AND STRUCTURAL BARRIERS**

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Reshmaa V, VIT School of Law, Chennai

Radhey Shyam P K, Student, VIT School of Law, Chennai

Dr. Saji Sivan S, Associate Professor, VIT School of Law, Chennai

### **ABSTRACT**

The Right to Information (RTI) Act, 2005, was enacted to enhance transparency and accountability in governance. However, legal and administrative loopholes, including bureaucratic delays, broad exemption clauses, weakened autonomy of Information Commissions, exclusion of political parties, and inadequate protection for whistleblowers, have hindered its effectiveness. This paper examines these challenges and their impact on public access to information. Using a qualitative doctrinal approach, the study analyzes legislative provisions and judicial interpretations to identify shortcomings in the RTI framework. It proposes key reforms such as restoring the independence of Information Commissions, strengthening penalties for non-compliance, expanding RTI coverage, and ensuring the safety of activists. These reforms are essential to uphold the Act's purpose, enhance transparency, and strengthen democratic accountability in India.

**Keywords:** RTI Act 2005, Transparency, Accountability, Loopholes, Governance.

## INTRODUCTION

The Right to Information Act, 2005, was enacted to empower Indian citizens by granting them the right to access information held by public authorities. The Act is rooted in the principle of transparency and aims to combat corruption by promoting accountability. However, nearly two decades after its enactment, the Act's effectiveness remains limited due to systemic challenges such as bureaucratic resistance, procedural inefficiencies, and instances of misuse. This paper explores the underlying factors that hinder the successful implementation of the RTI Act and evaluates potential solutions.

Transparency and accountability are essential pillars of good governance, and the RTI Act was envisioned to strengthen these principles in India's democratic framework. The Act enables citizens to question government decisions, scrutinize public expenditure, and expose instances of mismanagement and corruption. The passage of the RTI Act was a landmark event in Indian governance, representing a shift toward greater citizen participation and openness. However, the implementation of the Act has not been seamless. Bureaucratic resistance, lack of political will, and administrative inefficiencies have diluted the intended impact of the Act.

The RTI Act was seen as a powerful weapon for the common man to hold the government accountable and reduce corruption. However, the reluctance of public authorities to disclose information, coupled with procedural loopholes and instances of harassment faced by information seekers, have undermined its effectiveness. The complexity of the appeals process, the non-compliance of certain public authorities, and the inconsistent application of exemptions under the Act have created significant barriers for applicants seeking information.

Furthermore, the misuse of the RTI Act has become a growing concern. While the Act was designed to empower citizens, certain individuals and vested interests have manipulated the provisions of the Act for political and personal gains. Frivolous and malicious applications burden the system, diverting resources away from genuine cases. Additionally, the safety of RTI activists remains a pressing issue. The increasing number of attacks on activists reflects the resistance from powerful entities that seek to maintain opacity in governance.

Despite these challenges, the RTI Act remains a vital tool for promoting transparency and empowering citizens. Strengthening the enforcement mechanisms, ensuring the safety of

information seekers, and streamlining the procedural framework are critical steps toward enhancing the effectiveness of the Act.

## LITERATURE REVIEW

Dr. Shriram Patel, “*Critical Study of Right to Information Act 2005*”: Dr. Patel's research paper examines the RTI Act's role in promoting transparency and accountability in governance. He discusses challenges such as bureaucratic resistance and the misuse of exemption clauses, which hinder the Act's effective implementation. The paper emphasizes the need for greater openness and access to information to prevent corruption and ensure fair policy implementation.<sup>1</sup>

Sumana Kundu, “*The Ambit of Public Authorities under the Right to Information Act, 2005*”: It analyzes the definition of public authority within the RTI Act, highlighting ambiguities that allow certain organizations to evade transparency obligations. The paper utilizes judicial pronouncements to examine these ambiguities and compares India's RTI framework with similar laws in countries like China and Nepal. It concludes that the scope of public authorities needs to be expanded to ensure comprehensive transparency.<sup>2</sup>

Triranjana Raj and Sanjeev Kumar Sharma, “*Right to Information Act 2005: A Critique with Governance and Administrative Reforms Perspective*”: This paper critiques the RTI Act from a governance perspective. It discusses the Act's role in promoting open and responsive governance and examines administrative challenges that impede its effectiveness. The authors suggest reforms to enhance transparency and accountability within public administration.<sup>3</sup>

Priya Sharma, “*An Analysis on Right to Information Act 2005*”: Sharma's research paper provides an overview of the RTI Act, discussing its significance in promoting transparency and accountability. It examines challenges such as bureaucratic resistance and lack of awareness among citizens. The paper emphasizes the need for strong legal frameworks and citizen

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<sup>1</sup> Dr. Shriram Patel, Critical Study of Right to Information Act 2005, 5 (3) IJLMH Page 2157 - 2159 (2022), DOI: <https://doi.org/10.1000/IJLMH.113288>

<sup>2</sup> Sumana Kundu, The Ambit of Public Authorities under the Right to Information Act, 2005, 6 (4) IJLMH Page 2401 - 2407 (2023), DOI: <https://doi.org/10.1000/IJLMH.115666>

<sup>3</sup> Raj, T., & Sharma, S. K. (2017). Right to Information Act 2005: A Critique with Governance and Administrative Reforms Perspective. Indian Journal of Public Administration, 55(3), 481-503. <https://doi.org/10.1177/0019556120090311> (Original work published 2009)

engagement to effectively implement the RTI Act and combat corruption.<sup>4</sup>

## **RESEARCH GAP**

The existing literature on the Right to Information (RTI) Act, 2005, extensively covers its structural, legal, and administrative challenges, including bureaucratic resistance, misuse of exemption clauses, delays in information disclosure, and the weakening of Information Commissions' autonomy. However, these works often fail to comprehensively address the specific political and institutional influences, such as the exclusion of political parties from RTI scrutiny and government control over Information Commissioner appointments. Additionally, there is limited discussion on the direct impact of the RTI Act's loopholes on marginalized communities, whistleblower protection, and the manipulation of exemption clauses to shield corporate-government collusion in areas like defense procurement and public-private partnerships. Moreover, while some studies highlight delays in responses, they do not sufficiently explore how bureaucratic inefficiencies and procedural complexities intentionally discourage applicants, thereby reducing the effectiveness of RTI as a transparency tool. This research paper aims to bridge these gaps by providing a more detailed and updated analysis of these overlooked dimensions, focusing on their implications for democratic accountability and governance.

## **METHODOLOGY**

This research paper employs a qualitative doctrinal approach to analyze the legal and structural loopholes in the Right to Information (RTI) Act, 2005. It relies on secondary sources, including legislative documents (the RTI Act and its 2019 amendment), government reports from the Central and State Information Commissions, academic literature, and news reports. A critical legal analysis framework is used to examine structural loopholes, administrative hindrances, judicial interpretations, and a comparative perspective with international RTI laws. The study identifies ambiguities in the law that allow political and bureaucratic interference, procedural complexities leading to delays, and misuse of exemption clauses. While the research is limited to documented cases and does not include empirical surveys or interviews, it provides a comprehensive evaluation of the Act's shortcomings. Based on this analysis, the paper

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<sup>4</sup> Priya Sharma , An Analysis on Right to Information Act 2005, 6 (3) IJLMH Page 894 - 914 (2023), DOI: <https://doi.org/10.10000/IJLMH.114920>

proposes legal and policy reforms to strengthen transparency and ensure the RTI Act fulfills its intended objective.

## **LEGAL AND STRUCTURAL LOOPHOLES**

The 2019 Amendment to the RTI Act significantly altered the tenure, salary, and authority of the Central Information Commission (CIC) and State Information Commissions (SICs). Prior to this amendment, the tenure of the Chief Information Commissioner and Information Commissioners was fixed at five years or until the attainment of the age of sixty-five years, whichever was earlier. Their salaries and allowances were on par with those of the Election Commissioners, ensuring a degree of independence in their functioning. However, the amendment granted the Central Government the discretion to determine their tenure, salaries, and other service conditions.

This alteration presents a major loophole as it undermines the autonomy of the Information Commissions. The Central Government's control over service conditions allows potential political interference, reducing the effectiveness of the commissions in making impartial decisions. The ability of these commissions to act as independent appellate bodies is compromised, leading to reluctance in ordering disclosures that may be inconvenient for the ruling authorities.

This loophole can be misused primarily by the government itself, which now has leverage over the Information Commissions. Bureaucrats and politically sensitive entities can evade accountability by ensuring that individuals inclined towards favoring the government are appointed to key positions<sup>5</sup>. This makes the commissions susceptible to bias, leading to the dilution of the Act's intent.

The primary groups affected by this loophole are journalists, activists, researchers, and the public seeking transparency in governance. If the commissions function under undue influence, crucial information regarding corruption, policy decisions, and public expenditure may be withheld, thereby weakening democratic processes and citizen empowerment.

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<sup>5</sup> B. Muthu Kumar (ed.) (no date) 'THE SUCCESS AND FRUSTRATION OF THE RTI ACT IN SALVAGING A CERTIFIED LAND PLAN: AN OBSERVATIONAL ANALYSIS', in *International Journal of Transparency and Accountability In Governance*. 2020th edn.

While Sections 8 and 9 of the RTI Act provide reasonable exemptions to protect national interests, they also introduce significant loopholes that can be exploited by authorities to deny access to crucial information.<sup>6</sup> Section 8(1)(a) exempts information that could affect the sovereignty and integrity of India, national security, or strategic interests. While this exemption is essential to protect sensitive information, it is also broad and open to interpretation. Authorities can use this clause to deny information that may not necessarily pose a real threat but is inconvenient for the government.

For example, information regarding defense procurements, military contracts, and internal security operations can be wrongfully withheld under the guise of national security. This loophole can be misused by government agencies, defense contractors, and officials involved in questionable transactions.

The affected parties include citizens who seek transparency in defense spending, investigative journalists working on corruption in defense deals, and civil society organizations advocating for accountability in security policies. By broadly applying this exemption, the government can prevent scrutiny of defense-related corruption or misuse of power in security operations.

Section 8(1)(i) restricts access to Cabinet papers, including records of deliberations of the Council of Ministers, Secretaries, and other officers. This provision was introduced to maintain the confidentiality of decision-making processes. However, it allows the government to withhold crucial information even after decisions have been made.

This exemption serves as a loophole when authorities use it to deny access to information that could expose governmental inefficiencies, policy failures, or influence of vested interests in decision-making. Misuse of this provision can be seen in cases where major policy decisions, such as demonetization or privatization, are shielded from public scrutiny. The primary victims of this loophole are researchers, policymakers, and the public, who are denied the ability to assess the rationale behind crucial government policies. This restriction stifles informed public discourse and democratic participation in governance.

Section 8(1)(d) protects information relating to commercial confidence, trade secrets, and intellectual property, which, if disclosed, could harm the competitive position of a third party.

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<sup>6</sup> The Right to Information Act, ss. 8, 9

While intended to safeguard business interests, this provision creates a loophole for shielding corporate malpractices and government favoritism.

For instance, information on public-private partnership agreements, contracts with multinational corporations, or environmental impact reports of major industries may be denied under this exemption. Government agencies and businesses can misuse this clause to withhold details about projects that may have adverse effects on communities, such as mining operations, real estate developments, or infrastructure projects. Affected parties include citizens impacted by such projects, environmental activists, and the media. Lack of access to this information curtails public awareness and advocacy efforts, potentially leading to unchecked corporate influence over public policies.

Section 8(1)(f) exempts information received in confidence from foreign governments. While maintaining diplomatic confidentiality is necessary, this exemption can be used to withhold crucial information on international treaties, trade agreements, and foreign policy decisions that have a direct impact on citizens.

For example, details of trade negotiations affecting local industries, environmental agreements, and defense collaborations could be kept confidential under this provision. This can be misused by government officials and diplomats who may engage in negotiations that favor corporate interests or foreign influence over domestic policies without adequate public consultation.

The affected stakeholders include local businesses, trade unions, environmentalists, and the public, who are denied insights into international agreements shaping the country's economy and environment.

Section 9 of the RTI Act allows denial of information if it involves copyright infringement. While this provision is reasonable for protecting intellectual property, it creates a loophole when authorities use it to restrict access to publicly significant documents. For example, government-funded research, educational materials, and reports prepared using public funds could be denied on the basis of copyright. This is often exploited by bureaucratic agencies to limit access to official reports, thereby reducing transparency. Academics, students, journalists, and activists are the primary victims of this loophole. By restricting access to publicly funded knowledge, the provision hinders research, informed policymaking, and the ability of the media to scrutinize government decisions.

## **IMPLEMENTATION CHALLENGES AND BUREAUCRATIC HINDRANCES**

One of the most critical loopholes in the Right to Information (RTI) Act, 2005, is the lack of stringent enforcement of penalties against Public Information Officers (PIOs) who delay or deny information requests without valid reasons. Section 20(1) provides for a penalty of Rs. 250 per day of delay, subject to a maximum of Rs. 25,000, and section 20(2) allows for disciplinary action against erring officers.<sup>7</sup> However, these provisions are rarely invoked due to bureaucratic leniency, lack of oversight, and internal favoritism within government departments.

This loophole serves as an advantage to government officials and departments that seek to withhold information from the public. Since penalties are not strictly enforced, PIOs often exploit this by delaying responses indefinitely or rejecting applications arbitrarily. This lack of accountability directly undermines the spirit of transparency and allows corruption and inefficiency to persist unchecked.

The primary victims of this loophole are ordinary citizens, activists, journalists, and organizations that rely on the RTI Act to access crucial government information. By delaying responses or outright denying information, public authorities effectively render the law ineffective. This is particularly detrimental in cases involving social justice, environmental protection, and financial irregularities, where timely access to information is essential for corrective action.

The RTI Act mandates that information should be provided within 30 days of request filing, and in urgent cases involving life or liberty, within 48 hours (Section 7(1)). However, in reality, this timeline is often disregarded, with many applicants waiting months or even years for a response. This delay is exacerbated at the appellate level, where the Central Information Commission (CIC) and State Information Commissions (SICs) are burdened with a backlog of cases, often taking years to adjudicate appeals under Section 19(3).

This loophole benefits government bodies that wish to avoid scrutiny, as delayed responses weaken the relevance of the information sought. For example, if an RTI request pertains to an ongoing policy decision, the information may become obsolete by the time it is disclosed. The

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<sup>7</sup> Right to information: Public officials implementation guide. Available at: [https://www.humanrightsinitiative.org/programs/ai/rti/india/officials\\_guide/penalties\\_non\\_compliance.htm](https://www.humanrightsinitiative.org/programs/ai/rti/india/officials_guide/penalties_non_compliance.htm)



bureaucratic inefficiency further discourages applicants from pursuing their right to information, knowing that their appeal might not be resolved within a reasonable timeframe. This delay affects citizens, researchers, media personnel, and civil society organizations that rely on RTI for transparency and accountability. It also impacts whistleblowers who might be seeking information on corruption or human rights violations. Without timely access to information, accountability mechanisms remain ineffective, allowing malpractices to continue unchallenged.

Another major loophole in the RTI Act is the misuse of exemption clauses under Section 8 and the Severability Clause under Section 10 to deny crucial information. Government bodies frequently reject applications citing broad terms such as "national security," "third-party confidentiality," or "public interest" without substantial justification.

Section 8(1) provides exemptions for matters relating to national security, economic interests, and internal government deliberations. While these clauses are necessary in certain contexts, they are often misused to withhold information that exposes inefficiencies, corruption, or human rights violations. In many cases, even routine administrative data is denied under the guise of secrecy. Similarly, Section 10 allows for partial disclosure of information where only a portion of the requested information falls under exemptions. However, this provision is frequently misused to deny entire applications instead of providing redacted or filtered responses. This manipulation of legal provisions benefits bureaucrats, politicians, and corporate entities that have vested interests in concealing information.

The affected parties include RTI activists, investigative journalists, and common citizens who seek transparency in governance. The lack of accountability in invoking exemption clauses ensures that critical information remains hidden, leading to continued misuse of public funds, lack of governance reforms, and an erosion of democratic principles.

Despite Section 6(2) of the RTI Act explicitly stating that an applicant does not need to provide reasons for seeking information, government departments often impose excessive procedural requirements, creating unnecessary hurdles for applicants. Some PIOs demand detailed justifications for information requests or insist on additional documentation that is not mandated by law.

Another major challenge arises from the frequent transfer of applications between departments

under Section 6(3). When a department claims that it does not hold the requested information, it transfers the application to another agency, which may then repeat the cycle indefinitely. This bureaucratic runaround effectively discourages applicants, leading to withdrawal of requests due to frustration and exhaustion. This loophole benefits government agencies and officials who wish to limit scrutiny. By overburdening applicants with redundant procedural demands or misdirecting them to multiple departments, authorities ensure that fewer people successfully obtain the information they seek. The tactic serves as a de facto barrier against transparency and accountability.

Citizens, social activists, and legal professionals seeking information on public welfare schemes, government expenditures, and administrative decisions are among the worst affected by this loophole. Excessive procedural requirements create a deterrent effect, particularly for marginalized communities that may lack the resources to navigate bureaucratic complexities. As a result, the RTI Act, which was designed to empower citizens, is instead manipulated to serve bureaucratic convenience.

## **POLITICAL AND INSTITUTIONAL INFLUENCE**

The Right to Information (RTI) Act, 2005, was enacted with the aim of ensuring transparency and accountability in governance. However, one of the significant loopholes in its framework is the exclusion of political parties from its ambit. According to Section 2(h) of the RTI Act, a "public authority" is defined as anybody established by the Constitution, a law made by Parliament or state legislatures, or a body substantially financed by public funds. Political parties, despite their crucial role in governance and electoral democracy, have been excluded from this definition. This loophole undermines the fundamental objective of the RTI Act, which is to empower citizens with the right to seek information from institutions that have a direct impact on public administration and policy.

In 2013, the Central Information Commission (CIC) ruled that national political parties should be considered public authorities under the RTI Act, given their extensive public funding and influence. The ruling emphasized that political parties receive substantial benefits from the government, including land at subsidized rates, tax exemptions, and free airtime on public broadcasters. However, despite the ruling, political parties refused to comply, arguing that they were voluntary associations and not public authorities. Subsequently, the government

introduced an amendment to explicitly exclude political parties from the purview of the RTI Act, thereby nullifying the CIC's decision.

This exclusion creates a serious loophole that benefits political parties while depriving citizens of critical information. By shielding themselves from scrutiny, political parties can engage in opaque financial dealings, undisclosed donations, and unregulated campaign expenditures. The lack of transparency in political funding, particularly the use of electoral bonds, allows for unchecked corporate and foreign influence in elections, further exacerbating corruption<sup>8</sup>. The direct victims of this loophole are the citizens, who remain uninformed about the financial and operational workings of political parties that ultimately govern them. Civil society organizations, journalists, and anti-corruption activists also find themselves unable to hold political parties accountable, weakening democratic governance and public trust in institutions.

The effectiveness of the RTI Act largely depends on the autonomy and impartiality of the Central Information Commission (CIC) and State Information Commissions (SICs). These bodies are responsible for ensuring compliance with the RTI Act and adjudicating disputes regarding access to information. However, Sections 12 and 15 of the Act grant the government significant control over the appointment of Information Commissioners, raising concerns about political influence and bias.

According to Section 12(3), the Chief Information Commissioner (CIC) and other Information Commissioners are appointed by a selection committee consisting of the Prime Minister, the Leader of the Opposition, and a Union Cabinet Minister nominated by the Prime Minister. Similarly, Section 15(3) governs the appointment of State Chief Information Commissioners (SCICs) and State Information Commissioners (SICs), with the Chief Minister, Leader of the Opposition, and a state cabinet minister forming the selection committee. While these provisions appear to ensure a balance of power, in practice, the dominance of the ruling party in decision-making undermines the independence of these commissions.

One major issue arising from this loophole is the appointment of commissioners with close ties to the government, resulting in a conflict of interest. In many cases, retired bureaucrats who have previously served in government departments are appointed as Information

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<sup>8</sup> Political parties come within ambit of RTI act: CIC (2021) The Hindu. Available at: <https://www.thehindu.com/news/national/political-parties-come-within-ambit-of-rti-act-cic/article4778358.ece>

Commissioners, making them less likely to challenge the government's decisions to withhold information. This creates an environment where RTI appeals are often decided in favor of the government, reducing the effectiveness of the Act as a tool for transparency.

The implications of this loophole are far-reaching. Journalists, activists, and researchers who rely on RTI applications to expose corruption, policy failures, and administrative inefficiencies face significant hurdles when the commissions act in a biased manner. Additionally, citizens seeking information about welfare schemes, government spending, and policy decisions are often denied access due to the lack of impartial appellate authority. The erosion of public confidence in the RTI mechanism ultimately weakens democratic accountability and governance.

The RTI Act, under Section 22, states that its provisions shall have an overriding effect over any other law that contradicts it. This means that if any other legislation restricts the disclosure of information, the RTI Act should prevail. However, in practice, the Official Secrets Act (OSA), 1923, continues to be used to deny access to crucial government documents, particularly those related to national security, defense, and internal administration<sup>9</sup>.

The OSA was enacted during British rule to prevent espionage and protect confidential government information. However, its vague and broad provisions allow the government to classify almost any document as "secret" without sufficient justification. Despite the RTI Act's intent to promote transparency, government agencies frequently invoke the OSA to deny information requests, even when the information sought does not pose a legitimate threat to national security.

One of the most notorious instances of OSA being misused was in the Rafale fighter jet deal controversy, where the government refused to disclose details about the contract, citing national security concerns under the OSA<sup>10</sup>. Similarly, information related to historical documents, intelligence operations, and internal governmental deliberations is often denied under the pretext of secrecy, even when the disclosure of such information would serve public

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<sup>9</sup> A guide to effectively file right to information appeals. Available at: <https://satyamevjayate.info/2022/03/17/a-guide-to-effectively-file-right-to-information-appeals/>

<sup>10</sup> The overriding power of the RTI Act, 2005, over other laws • ba notes (2024) BA (Bachelor of Arts) Hub. Available at: <https://banotes.org/right-to-information/rti-act-2005-overriding-power-over-laws/> (Accessed: 23 March 2025).

interest.

This loophole benefits government officials and agencies that wish to avoid scrutiny over controversial decisions, corruption, and mismanagement. Bureaucrats and policymakers can use the OSA as a shield to prevent accountability, ensuring that critical details about governance remain hidden from the public eye. The primary victims of this loophole are citizens, journalists, and whistleblowers who seek to expose wrongdoing and demand accountability from the government. The lack of access to information not only undermines democratic oversight but also curtails investigative journalism and public discourse on matters of national importance.

### **THREATS AND HARASSMENT OF RTI ACTIVISTS**

The Right to Information (RTI) Act, 2005, was enacted to promote transparency and accountability in governance by allowing citizens to access government records. However, the absence of adequate protection for whistleblowers and RTI activists has created a dangerous environment for those exposing corruption and maladministration. Over the years, several activists have been attacked, harassed, or even murdered for seeking information that exposes the misconduct of powerful entities.

Despite the fundamental right of citizens to access information, those who use the RTI Act to expose corruption face grave risks.<sup>11</sup> The RTI Act itself does not include provisions to protect whistleblowers, leaving them vulnerable to intimidation and retaliation. Additionally, the 2014 Whistleblower Protection Act, which was intended to provide safeguards for individuals revealing corruption, remains weak and poorly enforced. This lack of legal security enables corrupt officials, corporate interests, and criminal organizations to target activists without consequence.

RTI activists have been frequent targets of violence, intimidation, and harassment. The absence of robust protection mechanisms leaves them vulnerable to retribution by those whose misconduct they seek to expose.<sup>12</sup> The RTI Act does not include provisions for the protection

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<sup>11</sup> (2022) Right to information & protection for whistleblowers - current affairs, Current Affairs - NEXT IAS. Available at: <https://www.nextias.com/ca/editorial-analysis/30-07-2022/right-to-information-protection-for-whistleblowers>

<sup>12</sup> (No date a) Questjournals. Available at: <https://www.questjournals.org/jrhss/papers/vol10-issue1/Ser-2/E10014247.pdf>

of individuals who seek information, despite the fact that many RTI activists work in the public interest. Without protective measures such as anonymity for information seekers, witness protection programs, or legal safeguards against retaliation, the Act fails to prevent coercion and violence against activists.

A crucial aspect of this loophole is the lack of an immediate response mechanism when threats against activists emerge. Unlike in other countries where whistleblower complaints trigger immediate investigations and security measures, India's legal framework does not offer any preventive or remedial protection to activists facing threats. This results in a climate of fear, discouraging citizens from exposing corruption.

Powerful vested interests including corrupt government officials, corporate entities, and criminal elements exploit this loophole. Since activists lack institutional protection, those implicated in corruption can use threats, violence, and legal harassment to silence them without fear of legal consequences.

**Examples of misuse include:**

**Threats from political leaders:** Many activists face intimidation from local politicians when they file RTI requests that expose irregularities in public spending.

**Corporate suppression:** Companies accused of environmental violations or labor law violations have targeted RTI activists with defamation cases to silence them.

**Police inaction:** Even when activists report threats, law enforcement agencies often do not take them seriously, further emboldening attackers.

RTI activists and their families bear the brunt of these attacks. Many have faced severe repercussions, including physical harm, fabricated criminal charges, and job losses. Additionally, society as a whole suffers when activists are silenced, as it restricts citizens' ability to hold the government accountable, thereby undermining democracy.

**Case Study: The Murder of Amit Jethwa**

Amit Jethwa, an RTI activist from Gujarat, was murdered in 2010 for exposing illegal mining activities in the Gir forest. His RTI applications had revealed the involvement of a powerful

politician, and he had filed a Public Interest Litigation (PIL) against the illegal activities. Despite repeated threats, no protection was provided to him, and he was shot dead outside the Gujarat High Court. The case demonstrated how easily activists can be silenced when there are no protection mechanisms in place<sup>13</sup>.

Since the implementation of the RTI Act, numerous activists have been killed for seeking information that exposed illegal activities. Despite this, the Act does not incorporate any mechanism to safeguard these individuals. While the RTI Act grants citizens access to information, it does not recognize the risks associated with seeking such information. Unlike countries with strong whistleblower protection laws, India lacks any statutory framework under the RTI Act to shield activists from retaliation.

### **The lack of protection has resulted in:**

**Delayed justice:** The conviction rate in cases of attacks on RTI activists remains low due to prolonged trials and lack of evidence.

**Deterrence from filing RTI requests:** Fear of retribution discourages people from exercising their right to information.

**Ineffectiveness of existing laws:** While activists can file police complaints, law enforcement agencies often fail to provide adequate protection.

Individuals and organizations engaged in corrupt practices exploit this loophole by targeting activists with threats and violence. Since there is no structured protection system, these entities act with impunity, knowing that the legal system provides little recourse to their victims.

### **Case Study: Satish Shetty's Murder**

Satish Shetty, a well-known RTI activist from Maharashtra, was killed in 2010 after exposing land scams involving powerful developers. He had repeatedly sought police protection, which was denied. His murder remains a prime example of how the lack of legal protection emboldens

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<sup>13</sup> Amit Jethwa Case: A ray of hope for slain RTI activists (2019) GoI Monitor. Available at: <https://www.goimonitor.com/story/amit-jethwa-case-ray-hope-slain-rti-activists>

perpetrators.<sup>14</sup>

The Whistleblower Protection Act, 2014, was introduced to provide safeguards for individuals exposing corruption and wrongdoing. However, the law remains weak due to poor implementation, excessive restrictions, and the exclusion of key areas such as national security.

### **Several weaknesses in the Act limit its effectiveness:**

**Lack of Enforcement:** Despite being passed in 2014, the Act remains largely unimplemented, with no clear mechanisms to protect whistleblowers.

**Exemptions for National Security:** The Act prohibits whistleblowing on matters related to national security, defense, and foreign relations, allowing corruption in these areas to go unchecked.

**No Anonymity for Whistleblowers:** The Act does not guarantee confidentiality for individuals exposing corruption, making them easy targets for retaliation.

**Weak Punitive Measures:** The penalties for those who retaliate against whistleblowers are inadequate, failing to deter attacks and harassment.

Government officials, bureaucrats, and corporate entities exploit these weaknesses to suppress transparency efforts. Without fear of legal consequences, they can intimidate or eliminate whistleblowers, effectively burying evidence of corruption.

### **Case Study: Satyendra Dubey's Murder**

Satyendra Dubey, an engineer working on the Golden Quadrilateral project, was killed in 2003 after exposing corruption in highway construction contracts. He had written to the Prime Minister's Office, requesting confidentiality, but his identity was leaked, leading to his assassination.<sup>15</sup>

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<sup>14</sup> 14 years after RTI activist Satish Shetty's murder, a small win in family's fight for Justice (no date) The Wire. Available at: <https://thewire.in/rights/14-years-after-satish-shettys-murder-a-small-win-in-his-familys-fight-for-justice>

<sup>15</sup> Garg, R. (2023) Satyendra Dubey's murder mystery : A ray of hope for whistle-blowers, iPleaders. Available at: <https://blog.ipleaders.in/satyendra-dubeys-murder-mystery-a-ray-of-hope-for-whistle-blowers/>



The lack of whistleblower protection within the RTI Act, coupled with the ineffectiveness of the 2014 Whistleblower Protection Act, creates a dangerous environment for activists seeking accountability. To ensure transparency and safeguard democracy, it is imperative to strengthen legal protections for whistleblowers, implement strict punitive measures against those who retaliate, and establish a structured framework to provide security for RTI activists.

## **LACK OF COVERAGE FOR PRIVATE ENTITIES AND NGOS**

The Right to Information (RTI) Act, 2005 empowers citizens to seek information from public authorities to ensure good governance and curb corruption. However, one of the significant loopholes in the Act is its limited coverage of private entities and non-governmental organizations (NGOs). Under Section 2(h) of the RTI Act, only those private entities and NGOs that receive substantial government funding fall within the purview of the Act. This exemption creates a legal gap that allows several organizations operating in crucial sectors, such as healthcare, education, and infrastructure, to evade transparency, thereby enabling potential misuse and affecting public welfare.

Section 2(h) of the RTI Act defines 'public authority' as any authority, body, or institution established or constituted by the Constitution, Parliament, state legislature, or government order. It also includes entities substantially financed by the government. However, private entities and NGOs that do not receive substantial government funding are not bound to disclose information under the RTI Act.

This limited definition creates a loophole wherein private companies that perform public functions or provide essential services can withhold information from the public. Since a significant portion of public services, such as education, healthcare, and infrastructure development, is now being handled by private firms, their exemption from the RTI Act leads to a lack of transparency. The absence of mandatory disclosure mechanisms enables these organizations to operate with reduced accountability, potentially leading to financial irregularities, unethical practices, and compromised public services.

Many private educational institutions function as profit-oriented businesses rather than service providers. These institutions collect hefty fees from students, often in the name of donations, development charges, or miscellaneous expenses, without proper financial disclosure. Since they are not substantially funded by the government, they do not fall under the RTI Act, making

it difficult for students and parents to seek information about their fee structures, faculty qualifications, or admission criteria.

In 2011, the Maharashtra government received several complaints about private schools charging exorbitant capitation fees under the guise of donations.<sup>16</sup> Parents sought information regarding the utilization of these funds but were denied access because private schools are not covered under the RTI Act. This lack of transparency allowed many schools to continue these practices unchecked, affecting students and their families.

The private healthcare sector in India plays a crucial role in providing medical services. However, hospitals and clinics often charge arbitrary fees for treatments and procedures without being held accountable. Private hospitals do not fall under the RTI Act, which prevents patients from obtaining crucial information about medical billing, doctor credentials, or regulatory compliance.

In 2017, Fortis Hospital in Gurgaon charged Rs. 16 lakhs for a dengue treatment, which ultimately resulted in the death of a seven-year-old girl<sup>12</sup>. When the parents and media sought details about the hospital's pricing policies and procurement processes, the hospital refused to disclose the information. Since private hospitals are exempt from the RTI Act, there was no way to ensure transparency, leaving patients vulnerable to overcharging and malpractice.<sup>17</sup>

Private companies engaged in infrastructure development often receive public funds in the form of subsidies, land grants, or tax exemptions. However, since they are not 'substantially funded' by the government in a direct manner, they are exempt from RTI obligations. This loophole allows them to operate with minimal transparency, leading to cost overruns, substandard construction, and financial mismanagement.

In several metro projects, private contractors were accused of inflating project costs and using substandard materials. In 2018, an RTI application was filed to obtain information on the contract details of private firms involved in the Delhi Metro expansion project. However, since

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<sup>16</sup> Hetal Vyas / TNN / Updated: May 3, 2011 (no date) Few schools submitted Capitation Fee Info: Govt: Mumbai News - Times of India, The Times of India. Available at: <https://timesofindia.indiatimes.com/city/mumbai/few-schools-submitted-capitation-fee-info-govt/articleshow/8147331.cms>

<sup>17</sup> India, T.O. (2017) Fortis hospital: Dengue patient dies, parents billed Rs 16 lakh for 2 weeks in ICU: Gurgaon News: Delhi News - Times of India, The Times of India. Available at: <https://timesofindia.indiatimes.com/city/delhi/dengue-patient-dies-parents-billed-16-lakh-for-2-weeks-in-icu/articleshow/61732259.cm>

these contractors were private entities, they refused to share information, making it impossible to scrutinize their financial dealings.

Many NGOs operate in areas such as education, healthcare, and rural development, often receiving government grants and foreign funding. However, only those that receive 'substantial' government funding are subject to RTI scrutiny. This allows NGOs that receive partial government funds to avoid disclosure obligations, leading to potential financial mismanagement and misuse of public funds.

In 2021, the Indian government canceled the Foreign Contribution Regulation Act (FCRA) licenses of several NGOs for financial irregularities<sup>18</sup>. Many of these NGOs had received partial government funding but were not covered under the RTI Act, making it difficult to track how they utilized foreign donations. The lack of transparency enabled some organizations to misuse funds for purposes unrelated to their stated objectives.

Individuals relying on private hospitals, schools, and infrastructure projects suffer from overcharging, misinformation, and lack of redressal mechanisms. The absence of transparency allows service providers to impose arbitrary fees and withhold essential information, making consumers vulnerable to financial exploitation and substandard services.

Authorities face difficulties in monitoring financial irregularities and corruption due to a lack of access to internal records of private entities. Without the ability to scrutinize financial dealings and operational practices, regulatory bodies are often unable to take necessary corrective actions against fraudulent activities and mismanagement.

Transparency activists and journalists encounter legal hurdles when seeking information about private entities involved in public functions. Since these entities are not obligated to disclose information under the RTI Act, efforts to expose corruption or unethical practices become challenging, leading to increased risks for whistleblowers. Workers in private firms and NGOs may face exploitation without access to crucial employment-related information. Lack of transparency regarding salaries, working conditions, and organizational policies makes it

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<sup>18</sup> Sekhar, - Metla Sudha et al. (no date) Government cancels FCRA licences of 6 ngos over 'violations', The Economic Times. Available at: <https://economictimes.indiatimes.com/news/india/government-cancels-fcra-licences-of-6-ngos-over-violations/articleshow/109703388.cms?from=mdr>

difficult for employees to demand their rights or report grievances, often resulting in unfair labor practices.

The exclusion of private entities and NGOs from the RTI Act, unless substantially funded by the government, is a significant loophole that undermines transparency and accountability. It allows organizations providing essential public services to operate with minimal scrutiny, leading to potential corruption, financial mismanagement, and exploitation. Addressing this loophole through legislative and policy reforms is crucial to ensuring greater public access to information and fostering a more accountable governance framework in India.

## **FINANCIAL AND ADMINISTRATIVE CONSTRAINTS**

Financial and administrative constraints have led to significant loopholes that undermine its effectiveness. Two major loopholes include understaffing and resource shortages (Section 25) and insufficient awareness and training of Public Information Officers (PIOs) (Section 26). These loopholes create systemic inefficiencies, delay information dissemination, and enable misuse by authorities, thereby affecting citizens' right to information.

The RTI Act mandates the establishment of the Central Information Commission (CIC) and State Information Commissions (SICs) to adjudicate appeals and complaints. However, these commissions often suffer from severe understaffing and inadequate funding, leading to prolonged delays in case resolution. Section 25 of the Act requires the submission of annual reports detailing RTI applications, pending cases, and disposal rates. These reports consistently indicate a backlog of cases due to limited resources and manpower.

Understaffing and resource shortages create a bottleneck in RTI implementation. Government authorities, aware of the delays, often adopt a passive approach, knowing that applicants will face long wait times. In some cases, bureaucrats intentionally delay responses, relying on administrative inefficiencies to deter information seekers. The backlog of pending appeals further discourages citizens from filing RTI requests, weakening transparency.

Government officials and bureaucrats can misuse this loophole by deliberately delaying or denying responses, knowing that applicants will struggle to obtain timely information. Politicians and public authorities also benefit from this lack of transparency, especially in cases involving corruption or misgovernance. Additionally, corporations and private entities engaged

in government dealings can exploit these delays to evade scrutiny on contracts, environmental clearances, and financial irregularities.

Citizens seeking information on government schemes, subsidies, or grievances are among the most affected by these loopholes, as they remain uninformed. Investigative journalists and transparency activists also face hurdles in exposing corruption due to bureaucratic roadblocks. Many RTI applicants, frustrated by procedural delays, often abandon their pursuit of crucial information, leading to a lack of accountability in governance.

### **Case Studies**

In 2018, an RTI request was filed to disclose details of electoral bond purchases and their beneficiaries. The Election Commission of India (ECI) admitted the lack of transparency in electoral bonds but cited bureaucratic delays.<sup>19</sup> The case reached the CIC but remained pending for over two years, delaying crucial financial transparency on political funding. This case illustrates how understaffing, and resource shortages hinder timely disclosure of vital information.

In 2010, RTI activists sought information regarding land allotments in the Adarsh Housing Society scam, where politicians and bureaucrats illegally acquired apartments meant for war widows.<sup>20</sup> The Maharashtra SIC faced a backlog, delaying access to crucial documents. By the time the documents were released, key figures involved had already taken legal cover, showcasing how administrative inefficiencies benefit wrongdoers.

Section 26 of the RTI Act mandates the government to conduct training programs for PIOs to ensure proper implementation of the law. However, training initiatives remain largely unimplemented, leading to frequent misinterpretations of the Act. Many PIOs lack awareness of exemptions, deadlines, and appeal procedures, often resulting in wrongful rejections or excessive delays.

Untrained PIOs create administrative barriers that hinder access to information. Many PIOs misinterpret provisions, often invoking exemptions under Section 8 (national security, personal

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<sup>19</sup> Drishti IAS (2020) Electoral bonds and right to information, Drishti IAS. Available at: <https://www.drishtiiias.com/daily-news-analysis/electoral-bonds-and-right-to-information>

<sup>20</sup> Srivastava, A. (2024) The Adarsh Housing Society Scam: A case of institutional betrayal " lawful legal, Lawful Legal. Available at: <https://lawfullegal.in/the-adarsh-housing-society-scam-a-case-of-institutional-betrayal/>

information) without proper justification. Additionally, they frequently ignore statutory deadlines, failing to respond within the mandated 30-day period. Some PIOs further complicate the process by demanding unnecessary documentation, rejecting applications on technical grounds, and forcing applicants to reapply, thereby delaying information access.

Government departments take advantage of untrained PIOs to delay or deny information, preventing the public from accessing crucial records. Law enforcement agencies frequently misuse exemptions to withhold custodial death records, encounter details, and FIR reports. Educational institutions also exploit this loophole by delaying responses related to admission policies, exam result irregularities, and faculty appointments, affecting students and staff seeking transparency.

Common citizens, including students, job seekers, and beneficiaries of government schemes, struggle to obtain relevant information due to bureaucratic hurdles. Whistleblowers who attempt to expose corruption find their RTI requests stonewalled by non-cooperative PIOs. Similarly, RTI activists seeking transparency in public spending often face denials based on vague justifications, frustrating their efforts to hold authorities accountable.

The financial and administrative loopholes in the RTI Act, particularly understaffing/resource shortages and lack of PIO training, significantly hinder the effectiveness of the law. These gaps allow government authorities, corporations, and institutions to delay or deny crucial information, affecting transparency, accountability, and public trust. While judicial interventions have occasionally addressed these issues, systemic reforms such as increased budget allocations for SICs, strict compliance monitoring, and rigorous PIO training programs are essential to uphold the spirit of the RTI Act. Without addressing these constraints, the RTI framework will continue to struggle in fulfilling its objective of ensuring transparency and empowering citizens.

## **PROPOSED REFORM MEASURES**

One of the most crucial reforms needed in the RTI Act, 2005, is the restoration of the independence of Information Commissions. The 2019 amendment significantly weakened the autonomy of the Central and State Information Commissions by granting the government control over their tenure, salaries, and service conditions. To ensure impartial decision-making, it is essential to reinstate fixed tenure and salary protections for Information Commissioners,

aligning them with Election Commissioners. Additionally, the appointment process should be made more transparent by establishing an independent selection committee comprising members from the judiciary, civil society, and the opposition, rather than allowing the ruling government to make unilateral decisions.

Another vital reform is the restriction of overbroad exemptions under Section 8 of the RTI Act. Authorities frequently misuse vague clauses such as "national security" and "Cabinet papers" to deny access to crucial information that does not pose any real threat to the country's integrity. To prevent such misuse, a "harm test" should be introduced, requiring officials to demonstrate actual harm to national security or public interest before withholding information. Furthermore, Cabinet papers should be made public after six months of decision-making rather than being permanently exempt. This would promote transparency in governance and allow citizens to scrutinize important policy decisions.

Strengthening accountability for Public Information Officers (PIOs) is another necessary reform to address delays and wrongful rejections of RTI applications. Although the Act prescribes penalties for PIOs who fail to provide information within the stipulated time, these provisions are rarely enforced. To ensure greater compliance, stricter penalties should be imposed, including fines exceeding ₹25,000 in cases of deliberate obstruction. Additionally, an independent monitoring body should be set up to track compliance, and delayed responses should be automatically escalated to higher authorities for immediate review. These measures would prevent bureaucratic inefficiency from hindering citizens' right to information.

Expanding the RTI Act to include political parties is also essential, as they play a critical role in governance and receive substantial government benefits, including tax exemptions and subsidized land. Currently, political parties are not classified as public authorities, allowing them to function without transparency regarding their funding sources, internal decision-making, and electoral finances. Amending Section 2(h) to explicitly bring political parties under the RTI Act would compel them to disclose financial transactions, donations received through electoral bonds, and expenditures. This reform would significantly reduce opaque political financing and enhance public trust in the electoral process.

Finally, ensuring the protection of RTI activists and whistleblowers is of paramount importance. Many RTI activists have faced threats, harassment, and even fatal attacks for

exposing corruption and misgovernance. However, the RTI Act lacks any specific provisions to safeguard those who use it to hold authorities accountable. To address this, the Act should be amended to introduce comprehensive whistleblower protection, ensuring anonymity for applicants seeking sensitive information. Furthermore, the Whistleblower Protection Act, 2014, must be strengthened with strict legal consequences for individuals or entities that threaten, harm, or retaliate against activists. Without such measures, the fear of retribution will continue to discourage individuals from using the RTI Act effectively.

## **CONCLUSION**

The Right to Information Act, 2005, remains one of the most significant tools for ensuring government transparency and accountability in India. However, its effectiveness has been diluted by several loopholes, including political and bureaucratic interference, weak enforcement mechanisms, and procedural complexities that discourage applicants. The increasing misuse of exemption clauses, delays in information disclosure, and threats to RTI activists further undermine its objectives.

To restore the Act's original intent and strengthen its implementation, urgent reforms are needed. Restoring the autonomy of Information Commissions, restricting broad exemptions, imposing stricter penalties on erring officials, expanding RTI coverage to political parties and private entities, and ensuring the safety of whistleblowers are critical steps in this direction. Addressing these gaps will not only enhance transparency and reduce corruption but also reaffirm the democratic principle that governance should remain open and accessible to the public. Strengthening the RTI framework is essential for empowering citizens and ensuring that information remains a fundamental right rather than a privilege selectively granted by authorities.



## REFERENCES

- <https://visionias.in/current-affairs/monthly-magazine/2024-11-14/polity-and-governance/right-to-information-rti-act-2005>
- <https://documents.doptcirculars.nic.in/D2/D02rti/RTI-A.pdf>
- <https://rti.img.kerala.gov.in/rti/pdf/Article-JSA.pdf>
- <https://www.drishtias.com/daily-news-editorials/challenges-related-to-rti-act>
- <https://www.nextias.com/blog/right-to-information-rti/>
- [https://rti.gov.in/rticorner/studybypwc/key\\_issues.pdf](https://rti.gov.in/rticorner/studybypwc/key_issues.pdf)
- <https://rti.gov.in/>
- <https://uppcsmagazine.com/the-role-of-right-to-information-rti-in-ensuring-transparency-in-governance/>
- <https://prsindia.org/theprsblog/tenure-and-salaries-cic-and-ics-under-right-information-rules-2019?page=2&per-page=1&utm>
- <https://jotwani.com/a-decade-of-rti-in-india-achievements-and-challenges/>
- <https://unacademy.com/content/upsc/study-material/governance/right-to-information-achievements-and-challenges/>
- [https://en.wikipedia.org/wiki/Attacks\\_on\\_RTI\\_activists\\_in\\_India](https://en.wikipedia.org/wiki/Attacks_on_RTI_activists_in_India)
- <https://www.vifindia.org/article/2020/january/09/right-to-information-act-its-use-and-misuse%20>
- <https://www.shankariasparliament.com/current-affairs/mains/misuse-of-rti>
- [https://rti.gov.in/rticorner/studybypwc/key\\_issues.pdf](https://rti.gov.in/rticorner/studybypwc/key_issues.pdf)
- <https://www.mcrhrdi.gov.in/6thmesfc2023/week7/RTI%20Act%20and%20Challenges%282%29%20-%20FInal%20as%20on%201-2-24.pdf>
- <https://www.iitrpr.ac.in/sites/default/files/Misuse%20of%20RTI%20Act%20by%20Priya%20Rathi.pdf>
- <https://www.ndtv.com/india-news/misuse-of-rti-act-causing-paralysis-fear-among-government-officials-court-4712260>
- <https://indiapolicelaw.blogspot.com/2015/10/rti-activists-whistle-blower-murders.html>