

# A Critical Analysis of Right to Information Under Constitutional Perspective

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**Abstract:** *This research paper manages the different parts of the right to information as a vital piece of the Indian Constitution. The research investigates into the different conditions that prompted the institution of the Right to information Act and the follows its change from that of a suggested principal right to that of a statutory right. The Hon'ble Supreme Court of India deciphered the Constitution identifying with the right to speech and expression under Article 19(1) (a) of the Constitution of India and proclaimed that the right to Information is likewise an essential right. Consequent Judgments of the Hon'ble Supreme Court of India have been featured and relative investigation of the extension and degree of the right to information as it exists in India with that of the world countries has likewise been done by the scientist so as to give a global point of view of the right to information. This Article suggests that the right to information ought to be viewed as an established right, because of its political nature and its one of a kind job in securing vote based system. Such sacred acknowledgment can be acknowledged through legal acknowledgment of this right, got from a state's other protected rights, or through an unequivocal mooring of the right in a state's constitution. This Article will dive into the correct course for tying down the right to information in established law. The main object of this paper are to study about the right to information act, to study about the constitutional provisions relating to right to information such as article 19(1)(a), article 21, article 32 and article 39. Therefore the paper concludes that most of them are aware that right to information is constitutional right of a citizen to get information.*

**Keywords:** constitution, information , right, articles, India

## I. INTRODUCTION

It is regularly said that in current society information is power. By imparting that information to the general population everywhere, we are in this manner, proposing decentralization and participatory administration. It is progressive establishment that has put immense powers in the hands of the normal resident of the nation to request a straightforward and responsible organization. "The genuine Swaraj will come not by the obtaining of power by a couple, yet by the procurement of limit by all to oppose expert when manhandled". At the point when Mahatma Gandhi said this, he might not have envisioned that one day India should make a law to engage individuals for something as fundamental as looking for information about the advancement of the nation. The date of twelfth October, 2005 will be recognized as another period of strengthening for the basic man in India. It is relevant wherever with the exception of the territory of Jammu and Kashmir. This law was passed by Parliament on fifteenth June 2005 and came completely into power on twelfth October 2005. information divulgence in India was confined by the Official Secrets Act 1923 and different other uncommon laws, which the new RTI Act presently unwinds. The compelling date is frequently inaccurately alluded to as thirteenth October 2005. In any case, since the Act came into power on the midnight between the twelfth and thirteenth along these lines the official date is twelfth October 2005. An Act to accommodate setting out the down to earth routine of right to information for natives to verify access to information under the control of open experts, so as to advance straightforwardness and responsibility in the working of each open specialist. It has been oft rehashed that mystery should not to be more than what is completely important. A routine of mystery is contradictory to a vote based society. One of the key guidelines of good administration in a vote based system is receptiveness. The people groups' entitlement to information, along these lines, is an essential to a solid and significant political intercourse between the

general population and the vote based State. The right to information has taken long in finding a firm balance in India. Autonomous India never freed itself of the pioneer culture of the inaccessible, irrefutable, holier-than-thou babus, something that has, for clear reasons, turned out to be a noteworthy hindrance to straightforwardness in the managerial basic leadership process.

**ARTICLE 14:** This article ensures right to break even with security of the laws and the privilege to fairness under the steady gaze of the law, With reference to this Article, if government authorities have information, it must be given to other native additionally to guarantee correspondence among residents. Appointment of optional forces to government authorities in outfitting data makes a peril of separation, which is rebellious to the Equality Doctrine cherished in Article 14 of the Constitution. In this way, under Article 14, each citizen must have rise to right to information

**ARTICLE 19(1)(a) :**This article ensures the right to freedom of speech and expression, which incorporates inside it the right to get to information. The pre-imperative for getting a charge out of this right is learning and information. Hence the right to information turns into a protected right as the right to free discourse likewise ensures Right to get and gather and information. Article 19(2) guarente the State to make such laws as to force sensible confinements on the activity of the opportunities ensured under this arrangement on grounds, for example, security of the state, sway and respectability of India and different grounds as specified in the arrangement.

**ARTICLE 21 :**This article discusses right to life and personal liberty , which incorporates the right to think about things that influence our lives. The articulation life and individual liberty is a wide term, which incorporates inside itself assortment of rights and characteristics. The Supreme Court read into this article as a wide right to incorporate right to know inside its domain. The pinnacle court held that right to know is a fundamental element of participatory majority rule government. It is sufficiently wide to extend to a full scope of rights including the right to hold a specific sentiment and the right to continue and sustain that assessment. It presents on all people a right to realize which incorporates right to information.

**ARTICLE 21 and ARTICLE 19:**Article 21 reveere 'Right to life and personal liberty' are succinct term which incorporate inside themselves assortment of right and qualities. Some of them are likewise found in article 19 and in this manner have two sources in the meantime. In R.P Ltd v Indian express news paper the SC peruses right to know in article 21. The SC held that right to information is an essential element of participatory majority rule government. In perspective on translational improvement when separate are contracting worldwide networks are meeting up for collaboration in different circle and they are advancing toward the worldwide preparative in different field including human right ,the expression liberty must get and extended importance . The Supreme Court is limited non appearance of in essence control. It is sufficiently wide to extend full scope of right to hold a specific opinion and right to continue and sustain that supposition Article 21 give on all individual a right to information which incorporate right to get information . The ambit and extent of article 21 is a lot more extensive when compared with article 19(1)(a).

**ARTICLE 32 and ARTICLE 51 A:** This article ensures a right to established remedy on the circumstance of an violation of the fundamental right of any native. The constitution likewise forces certain obligations upon the citizens under Article 51 A. A completely educated citizen is better prepared for the execution of these obligations. RTI isn't explicitly referenced in the Seventh Schedule of the Constitution, and does not fall under any of three subject arrangements of the Constitution. Thusly it is a residuary issue and the ability to enact on such issues rests with the Central government.

**ARTICLE 39:**Article 39(1)(b)&(c) of the constitution make provision for adequate means of livelihood, equitable distribution of material resources of community to check concentration of wealth and means of production.

**The main aim of this paper is to study about right to information on constitutional basis.**

#### **OBJECTIVES:**

The main object of this paper are to study about the right to information act, to study about the constitutional provisions relating to right to information such as article 14, article 19(1)(a), article 21, article 32 and article 39.

## **II. REVIEW OF LITERATURE**

The Right to information is indisputably a fundamental right. It is a facet of “right to speech and expression” as provided in art 19(1) (a). Right to know has increased the efficiency of decision making process. It has set a

transparency and determines accountability in the working of public department. Reduction in corruption in public department is due to the implementation of Right to Information Act, 2005(Naib 2011b).The right to know is generally classified into two categories, the general right to information and the voter's right to know. The researcher shall be dealing specifically (Naib 2011a)with the constitutional basis for the right to information exploring alongside the Supreme Court's interpretation of the constitutional provisions to provide the right to information for three decades before the Right to Information Act, 2005 (hereinafter referred to as "the Act") came into existence.(Dailey 1993).

RTI act 2005 is a law enacted by the parliament of India, giving citizens of India access to records of the central government and state governments(Shrivastava, n.d.). The Act applies to all States and Union Territories of India, except the state of Jammu and Kashmir – which is covered under a State-level law(Bhat, Arun, and Reddy 2016).Right to information has developed across the world depending on the circumstances that have spawned specific campaigns. Some countries have adopted it to make their government more responsive while others have resorted to it as an effective weapon to eliminate corruption and other scandalous events. (Merino 2011)The object of endorsing the right to information is to end the era of secrecy and authoritarian rule which prevailed for centuries in most part of the world and make the Governments responsive to the people by developing a culture of transparency and openness in the system of governance.(Brooke 2015)

This declaration of the Magna Carta contains undoubtedly the needs of the right to information. It is because the declaration of punishment must be preceded by the opinion of the peers as well as the law of the land. In other words, ("Passing the Buck: Misuse of RTI by Public Authorities" 2017)the judge or the king must be equipped with the proper information regarding the wrong done by the citizen. To put it differently the decision of the judge or any other person performing the duty of the judge must have proper information(Suresh, n.d.).As such it is clear that the said right to information is derived from the concept of Freedom of Speech, however, the said right is also not absolute as in this connection also reasonable restrictions are applicable.

If you have knowledge, let others light their candles by it."(Hall 2011) This is the philosophical underpinning of the freedom of movement. Freedom of information and in particular, the right of access to information held by public bodies, has attracted a substantial amount of attention recently.(Satpute 2009)

Right to know laws also promote a democratic decision making and the power of ordinary citizens. Equipped with better information, citizens can participate on a more equal footing it regulated entities permitting, land use and other political decisions.(Hestermeyer 2001).Privacy and RTI are often described as "two sides of the same coin"—mainly acting as complementary rights that promote individuals ' rights to protect themselves and to promote government accountability.(Beytagh 1962).The relationship between privacy and RTI laws is currently the subject of considerable debate around the globe as countries are increasingly adopting these types of legislation. To date, more than 50 countries have adopted both laws.(Lewis 2017)

### **III. METHODOLOGY**

This paper used both primary and secondary information which are collected from the general public through the simple random sampling method. The research paper is done in both doctrinal and non-doctrinal method. The questions related to the was also taken into account. The survey was limited to 2348 samples because of the time constraint. The primary sources of information are taken from the books and statutes and the secondary sources of information are taken from the articles of the journals, working papers, thesis and presentation papers. The dependent variable is Do you agree with the statement that right to get information under this act is a constitutional right? and Are you aware about the constitutional rights of a citizens to get the information under RTI act? The independent variable is gender .The analysis of the survey is done by using chi-square.

**ANALYSIS AND FREQUENCY TABLE**

**3.Gender**

	Frequency	Percent	Valid Percent	Cumulative Percent
	100	4.3	4.3	4.3
Female	1149	48.9	48.9	53.2
Male	1098	46.8	46.8	100.0
Total	2348	100.0	100.0	

From the above table it is clear that the Gender group of Male are with frequency 1098 out of 2348 and percent 46.8 out of 100 and valid percent 46.8 out of 100 and cumulative percent 100.0. The Gender group of Female are with frequency 1149 out of 2348 and percent 48.9 out of 100 and valid percent 48.9 out of 100 and cumulative percent 53.2 . The Gender group of Transgender with frequency 100 out of 2348 and percent 4.3 out of 100 and valid percent 4.3 out of 100 and cumulative percent 4.3.

**HYPOTHESIS :**

**H0:** There is a significant association between the independent variable gender and right to information under constitutional perspective.

**Ha:** There is no significant association between the independent variable gender and right to information under constitutional perspective .

**Do you agree with the statement that right to get information under this act is a constitutional right? \* 3.Gender**

**Crosstab**

**Count**

	3.Gender			Total
	1.	2.		
15. Do you 2 with the statement that right to get information under this act is a constitutional right?				
1.	96	150		246
2.	569	394		963
3.	221	378		599
4.	228	155		383
5.	85	72		156
Total	1149	1098		2348

From the above table it is understood that out of 2348 people , 1149 are Male and 96- STRONGLY AGREE ; 568 - AGREE ; 221- NEUTRAL ; 228- DISAGREE ; 85 - STRONGLY DISAGREE. And 1098 are female out of which 150

- STRONGLY AGREE ; 394 -AGREE ; 378 - NEUTRAL ; 155 - DISAGREE ; 72- STRONGLY DISAGREE. Therefore the majority people answered this survey is Male and most of the total people have agreed to the question that do you agree with the statement that right to get information under this act is a constitutional right.

**Chi-Square Tests**

	Value	df	Asymp. Sig. (2-sided)
<b>Pearson Chi-Square</b>	<b>4801.659<sup>a</sup></b>	<b>18</b>	<b>.000</b>
<b>Likelihood Ratio</b>	<b>946.288</b>	<b>18</b>	<b>.000</b>
<b>N of Valid Cases</b>	<b>2348</b>		

a. 12 cells (42.9%) have expected count less than 5. The minimum expected count is .00.

From the above table it is obtained that the Pearson chi- square value is 0.000. Thus the **alternate hypothesis** is proved and the null hypothesis is rejected.

**Are you aware about the constitutional rights of a citizens to get the information under RTI act? \* 3.Gender**

**Crosstab**

**Count**

	3.Gender		Total
	1.	2.	
<b>16. Are you aware about the constitutional rights of a citizens to get the information under RTI act?</b>			
1.	704	676	1380
2.	495	473	967
<b>Total</b>	<b>1149</b>	<b>1099</b>	<b>2348</b>

From the above table it is seen that out of 2348 people , 1149 are Male , **704 - YES and 495- NO** . And 1099 are female out of which **676 - YES and 473 - NO** .Therefore the majority answered this survey is Male and for the question Are you aware about the constitutional rights of a citizens to get the information under RTI act? most of them have answered yes .

**Chi-Square Tests**

	Value	df	Asymp. Sig. (2-sided)
<b>Pearson Chi-Square</b>	<b>4696.022<sup>a</sup></b>	<b>9</b>	<b>.000</b>
<b>Likelihood Ratio</b>	<b>844.365</b>	<b>9</b>	<b>.000</b>
<b>N of Valid Cases</b>	<b>2348</b>		

a. 8 cells (50.0%) have expected count less than 5. The minimum expected count is .00.

From the above table it is obtained that the Pearson chi-square value is 0.000. Thus the **alternate hypothesis** is proved and the null hypothesis is rejected.

#### **IV. DISCUSSION**

The development of the right to information as a part of the Constitutional Law of the country started with petitions of the press to the Supreme Court for enforcement of certain logistical implications of the right to freedom of speech and expression such as challenging governmental orders for control of newsprint, bans on distribution of papers, etc. It was through these cases that the concept of the public's right to know developed.

The landmark case in freedom of the press in India was **Bennett Coleman and Co. v. Union of India**, the right to information was held to be included within the right to freedom of speech and expression guaranteed by Art. 19 (1) (a).

In **Indira Gandhi v. Raj Narain**, the Court explicitly stated that it is not in the interest of the public to 'cover with a veil of secrecy the common routine business - the responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.'

In **SP Gupta v. Union of India**, the right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries was described.

#### **V. CONCLUSION**

Right to information (RTI) is tackled as a device for advancing participatory advancement, fortifying law based administration and encouraging powerful conveyance of financial administrations. In the learning society, in which we live today, (Florini 2007) obtaining of information and new information and its application have serious and inescapable effect on procedures of taking educated choices. (Mendis 2011) Right to Information Act 2005, is named as the best apparatus for getting Good administration the general public. This Right has been perceived in numerous International instruments and is seen not only a feature of the Right to the right to speak freely and articulation yet in addition as a correct that is important for the activity of common and political rights and financial and social rights (Ishizaka 2019). Right to Information implies the Right to approach information identifying with a lawful right of any individual. (Institute of Medicine et al. 2009) This information could be as records, documents, registers, maps, information, illustrations, reports and so forth told the information with respect to certain issues that could influence an individual's rights (Lana 2016). This implies a constructive obligation is thrown on an individual to give particular sorts of information without hanging tight to be requested it. (Merino 2011) This would incorporate information on issues concerning ventures that straightforwardly influence the general population or the earth, information on wellbeing, farming, climate conditions and so on (Sharma 2016). Thus from the survey the alternate hypothesis is proved. Therefore the paper concludes that most of them are aware that right to information is constitutional right of a citizen to get information.

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