CHAPTER-1
INTRODUCTION

1.1 GENERAL

Explosion of Information and exclusion from information are two competing trends in our cosmos of human rights and democracy. Information and communication are powerful tools and have a potential to shape and shake social and political developments of the society. ‘Men make their history, but not as they please, it depends on the quality and quantity of information supplied to them’.

Traditionally man is inquisitive and from the time immemorial he has been busy in his mission of knowing and discovering the truth in whatever field his aptitude and imagination ventured. There is ample evidence in this context in our great Vedic erudition where it is written that Life is a perennial search for the truth. The restless soul is on the journey infinite to find the truth\(^1\). Ancient India had a feudal culture and hierarchical social structure. The Maharaja’s, the Mughals and the British Rulers defended themselves behind ramparts of secrecy. The Britishers passed Official Secrets Act 1923, which was mainly a defense mechanism against the rising tide of nationalism. As Indians were distrusted by British Government, so no body had any access to official information under this Act.

The Indian Legal System, largely being a colonial vintage, stresses on secrecy laws and such provisions are contained besides, Official Secrets Act 1923, in the Indian Evidence Act 1872 (Chapter IX sections 121 to 131), the infamous Rowlatt Act 1919 and Bengal Criminal (Amendment) Act 1925 etc. After the birth of Republic, freedom of speech and expression became a fundamental right under Article 19(1)(a) of the Constitution. Similarly some provisions of other laws i.e. The Representation of the People Act 1951, The Companies Act 1956, The Code of Criminal Procedure 1973, The Bureau of Indian

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\(^{1}\) Rigveda 10.8.18

Freedom of Information has been gradually receiving acceptance and recognition all over the world. The Universal Declaration of human rights adopted by the General Assembly of the United Nations on December 10, 1948 makes provision for freedom of opinion and expression\(^3\). Similarly, European Convention on Human Rights and Fundamental Freedoms also guarantees basic human liberties\(^4\). The United Nation Economic and Social Council (UNESCO) Declaration of

\(^2\) Article 74 there shall be a Council of Ministers with the Prime Minister as the head to aid and advise the President and such advise shall not be inquired into in any Court.

\(^3\) Article 163 there shall be a Council of Ministers with the Chief Minister as the head to aid and advise the Governor and such advise shall not be inquired into in any Court.

\(^4\) Article 19 of the declaration :- “Everyone has a right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, service and import information and ideas through any media and regardless of frontiers”.

Article 10 :- “Everyone has the right to freedom of expression, this right includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent states from requiring the licence of broadcasting, television or cinema enterprise”
1978 also recognizes the exercise of freedom of opinion, expression and information as an integral part of human rights and fundamental freedoms.

The most heavily guarded Communist and Socialist countries of Asia and Europe, have also torn down the ‘iron curtain’ of secrecy and have adopted an open society with free discussion and right to information and have accordingly restructured its institutions. Sweden was the first country to grant to its people the right of access to government information under Freedom of Press Act 1766. Australia, Canada, England, New Zealand and United States of America have also enacted similar legislations.5.

The battle for appropriate legislation for the right to information in our country has been fought on two main planks, the first being a demand for amendment of the draconian colonial Official Secrets Act 1923 and the second in the form of a campaign for an early and effective law on right to information. Very serious objections to Official Secrets Act were raised in 1948 when the Press Laws Enquiry Committee recommended certain amendments in it. In 1977, Working Group was formed by the government to look into possibilities of amending this Act to enable greater dissemination of information to the public. This group recommended that no change was required in the Act as it pertained only to protect national safety and not to prevent legitimate release of information to the public. In 1989, another committee was setup, which identified certain areas where information could be hidden by government and all other spheres of it should be open.

The right to information movement started in Rajasthan in the last phase of 19th century with the efforts of Mazdoor Kisan Shakti

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Sangathan (MKSS), an Non-Governmental Organization led by Megsese Awardee Aruna Rai. This movement led to the enactment of Right to Information laws in several states. Tamil Nadu was the first state to pass such legislation in 1996 and the states of Goa, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan and Delhi followed the suit. Uttar Pradesh passed executive orders for providing access to information. After years of struggle for the central legislation on right to information the civil society groups emerged into the National Campaign for People’s Right to Information (NCPRI) in 1996. Justice P.B.Sawant, the Chairman of Press Council of India and other prominent persons drafted a Bill for NCPRI, known as Press Council Draft. This was the first major draft legislation on right to information in the country that was widely debated and generally welcomed and was circulated by Press Council of India in 1996. The most detailed proposed Freedom of Information Bill was the one drafted by the Consumer Education Research Council (CERC).

For shaping the national legislation, conference of Chief Ministers of States was held in 1997 in which an Action Plan for Effective and Responsive government at the Centre and State levels was discussed. The Government of India agreed to take immediate steps, in consultation with states, to introduce freedom of information legislation, alongwith amendments to the Official Secrets Act and the Indian Evidence Act before the end of 1997. The Government of India appointed a Working Group to examine the feasibility and the need for either a full fledged Right to Information Act or the introduction in a phased manner to meet the needs of open and responsive governance. The Working Group submitted its report on 21 May, 1997 with a proposed Bill titled ‘Freedom of Information Bill, 1997’. The

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6 Right to Information Act, 1997
9 Draft laws can be accessed from Right to Information section of CHRI’s website
10 Shourie Committee headed by H.D. Shourie
draft Bill was further revised and was placed before Cabinet for approval. The Cabinet in its meeting held on 13 May 2000, approved the Bill. After its approval by the Cabinet, the Freedom of Information Bill, 2000, was introduced in Lok Sabha on 25 July 2000. After its passage by Lok Sabha it was referred to Parliamentary Standing Committee on Home Affairs\textsuperscript{11} by the Chairman, Rajya Sabha on 14 September 2000, for examination and report. The Committee recommended that as the subject ‘Right to Information’ is not specifically provided for in Seventh Schedule to Constitution, the Union of India through the residuary clause 97 of List 1, has the right to legislate on the subject. The committee also recommended that the Ministry should take up this matter urgently to facilitate early enactment of the ‘Right to Information Act’.

The Law Commission of India basing on experience and provisions of the Public Interest Disclosure Acts of different countries and contemporary needs of India, proposed the Public Interest Disclosure (Protection of Informers) Bill, 2002\textsuperscript{12}. This Bill encouraged disclosure of information relating to conduct of any Public Servant involving the commission of any offence under Prevention of Corruption Act 1988 or any other law for the time being in force, abuse of official position or maladministration, to protect the persons making such disclosures and for matters connected therewith or incidental thereto.

The Report of National Commission to Review the Working of Constitution, 2002\textsuperscript{13} also stressed on citizen’s access to information. The Commission suggested that right to information should be guaranteed and needs to be given real substance. In this regard government must assume a major responsibility and mobilize skills to ensure flow of information to citizens. The Commission also recommended that the Union Government should take steps to move

\textsuperscript{11} Pranab Mukherjee chairman of this committee
\textsuperscript{12} 179\textsuperscript{th} report of 2001.
\textsuperscript{13} Under Chairmanship of Justice M.N. Venkatachaliah dt. 31 March, 2002.
the Parliament for early enactment of freedom of information legislation which will be a major step forward in strengthening the values of a free and democratic society. In response to recommendations of several committees and judicial decisions, the Parliament passed Freedom of Information Act, 2002\textsuperscript{14}. This Act provided for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration. It is very pertinent to point out that though the Act was adopted in January 2003 but it never came into force.

Non enforcement of Freedom of Information Act, 2002 caused very much resentment among people and they demanded an effective law in this respect. The Government set up a National Advisory Council to supervise the implementation of its programme which discussed Karnataka and Maharashtra Acts and tried to incorporate many amendments on the principal of maximum disclosure and minimum exemptions consistent with Constitutional provisions, independent Appeal mechanisms, Penalties for failure to provide information as per the law, effective mechanism for access to information and disclosure by authorities. This led to the passing of Right to Information Act, 2005\textsuperscript{15} with significant improvements. This Act replaced Freedom of Information Act, 2002\textsuperscript{16}. It also overrides\textsuperscript{17} all existing Acts relating to information, including Official Secrets Act 1923. Under this Act, any citizen of India may get any information from Government and statutory public authorities\textsuperscript{18}. The public authorities are bound to respond in 30 days\textsuperscript{19} but where the information sought for concerns the life or liberty of a person, the same shall be provided within 48 hours of the receipt of the request. An independent Central Information Commission has to be setup at

\textsuperscript{14} Act No.5 of 2003.  
\textsuperscript{15} Act No. 22 of 2005.  
\textsuperscript{16} Section 31.  
\textsuperscript{17} Section 22 Act to have overriding effect  
\textsuperscript{18} Section 6 Request for obtaining information  
\textsuperscript{19} Section 7 Disposal of request
the national level\textsuperscript{20} and State Information Commissions at state levels\textsuperscript{21}. Under this Act there are several subjects\textsuperscript{22} on which information can be refused to a citizen i.e. relating to sovereignty and integrity of India, contempt of Court, Parliamentary privileges, intellectual property, fiduciary relationship, information from foreign government, information disclosure of which endangers the life or safety of any person, obstructing the process of investigation of a case and cabinet papers etc. It is pertinent to point out that information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. There is a list of 22 agencies\textsuperscript{23} like Intelligence Bureau, Research and Analysis Wing, Directorate of Revenue Intelligence, Directorate of Enforcement, Border Security Force, Assam Rifles, Special Protection Group, Border Road Organization, Narcotics Control Bureau, Sashtra Seema Bal etc. to which this Act does not apply. However information has to be given in the cases if it relates to issues of corruption or human rights violations. The Act also provides for penalties on the officials who have failed to give information or have given false or misleading information or destroyed the information\textsuperscript{24} It is relevant to point out here that no Court shall entertain any suit, application or other proceeding in respect of any order made under this Act\textsuperscript{25}.

The Act is in its nascent stage and its implementation is likely to encounter many obstacles and challenges. It can be expected that as the time passes, the Act would be successfully implemented in letter and spirit and only then we could rightly say that the Indian citizenry have true freedom of speech enshrined in the Constitution, of which right to information is a very vital component.

There is no specific provision in the Constitution of India, which provides for the citizens right to know. However, this right can be

\textsuperscript{20} Section 12 Constitution of Central Information Commission
\textsuperscript{21} Section 15 Constitution of State Information Commission
\textsuperscript{22} Section 8 Exemption from disclosure of Information.
\textsuperscript{23} Section 24 and Second Schedule
\textsuperscript{24} Section 20 Penalties
\textsuperscript{25} Section 23 Bar of jurisdiction of Courts.
inferred from Article 19(1)(a) which provides freedom of thought and expression which indirectly includes right to get information. Article 21 guarantees right to life and personal liberty to citizens. Right to life is incomplete if the basic human right i.e. right to know is not included in it. Article 39(1)(b)&(C) provides for adequate means of livelihood, equitable distribution of material resources of the community, to check concentration of the wealth and means of production. All these rights would be remained unfulfilled if right to information is not guaranteed ahead of these rights. Taking material and strength from the above constitutional provisions the Judiciary has attempted and secured the right to know for citizens.

The seeds of right to information was sowed in the landmark judgment of State of Punjab v. Sodhi Sukhdev Singh26 The Supreme Court while interpreting Section 123 of Official Secrets Act, 1923 decided this case in favour of state as it was allowed to withhold documents. But, Justice Subba Rao in his dissenting opinion observed that at the time when the Indian Evidence Act, 1872 was passed, the concept of welfare state was not evolved in India and therefore, the word “affairs of state” used in S-123 of Official Secrets Act, 1923 could not have comprehended the welfare activities of the state. He further observed that if non disclosure of a particular state document was in public interest the impartial and uneven dispensation of justice by Court was also in public interest. Thus, the final authority to allow or disallow the disclosure of document lies with the Court after the inspection of the document. In Amar Chand Butail v. Union of India27 the Supreme Court secured freedom of information to citizens on the basis of public interest doctrine.

Scintillating sparkle of this right was first seen more than three decades ago in State of U.P. v. Raj Narayan28, where the Supreme Court held that Blue Books relating to security of the Prime Minister

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26 AIR 1961 SC 493
27 AIR 1964 SC 1658
28 AIR 1975 SC 865
were held to be not privileged documents. The law was squarely set by the Apex Court in *S.P. Gupta v. Union of India*\(^{29}\) In this case, the Apex Court directed the Indian Government to disclose correspondence between the Law Minister, Chief Justice of India and of Delhi High Court relating to the non-confirmation of Justice S.N. Kumar and transfer of Chief Justice of Patna High Court K.B.N. Singh.

Similarly, in *Bennet Coleman and Company v. Union of India*\(^{30}\), the Apex Court observed that it is indisputable that by freedom of press meant the right of all citizens to speak, publish and express their views and freedom of speech includes within its compass the right to all citizens to read and be informed.

Following the trend, the Supreme Court in *Indian Express Newspaper (Bombay) Pvt. Ltd v. Union of India*\(^{31}\) held that the expression ‘freedom of press’ has not been used in Article 19 but it is comprehended within Article 19(1)(a). Thus the right of the press to freedom of speech and expression has been legally recognized by the highest court of the land.

In *Secretary Ministry of Information and Broadcasting v. Cricket Association of Bengal*\(^{32}\)- The Supreme Court held that right to telecast and right to view sports, games and impart such information is considered to be part and parcel of Article 19(1)(a). The Court observed that right to telecast includes the right to educate and inform present and prospective sportsmen interested in the particular game and also to inform and entertain the lovers of the game.

In *Union of India v. Association of Democratic Rights*\(^{33}\), the Apex Court held that right of the voters to know about the antecedents including criminal past of the candidate contesting election for MP or MLA is very important and basic for survival of democracy and for this purpose, information about the candidate to be selected is must. On

\[29\] AIR 1982 SC 149  
\[30\] AIR 1973 SC 783  
\[31\] AIR 1986 SC 1515  
\[32\] AIR 1995 SC 1236  
\[33\] AIR 2002 SC 2114.
March 13, 2003, the Supreme Court in directed the Election Commission to make it mandatory for Contesting Candidates to disclose their antecedents in an affidavit along with nomination form, so that the voter may think over and make a right choice. This was recognized as part of right to freedom of speech and expression under Article 19(1)(a), which is held to be basic structure of the Constitution and hence inviolative. The Parliament’s plenary power to amend will not extend to tamper with it.

In *D.K. Basu v. State of West Bengal* the Supreme Court held that the detainees have right to know the charges framed or reasons for arrest, place of arrest, right to get the relatives informed about the arrest and to have a lawyer of one’s own choice.

In *P K Dalmia of Noida v. Supreme Court of India*–The applicant sought information from the Public Information Officer of the Supreme Court on what action had been taken on three of his complaints made in 2007 and 2008 against the judges of Allahabad High Court on some matter of embezzlement. The PIO replied in negative as information relating to complaints against High Court judges were not part of the routine SC registry. Though such information was available with the ‘office of the Chief Justice of India (CJI)’, the PIO neither attempted to get it from there nor transferred the RTI application to that office. Dalmia appealed to the Central Information Commission (CIC), which ordered the PIO on 24 February 2009 to provide the information sought by him. At this stage too, the Supreme Court did not comply; instead, this order of CIC was challenged in the Delhi High Court.

This case has similarities to the much-highlighted case of *Subhash Chander Agrawal v. Supreme Court of India* – In this case the applicant had sought information from the Supreme Court whether any declarations of assets have been made by the judges of the Supreme Court and the High Courts to their respective Chief

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34 PUCL v. Union of India, AIR 2003 SC 2363.
35 AIR 1997 SC 610
36 CIC/WB/A/2009/000184
37 CIC/WB/A/2008/00426
Justices, as expected under the resolution passed by the All India Judges Conference in May 1997. The Supreme Court declined to provide this information, arguing instead that the May 1997 resolution was an 'in-house mechanism'. Moreover, the court took the view that assets declared by judges to their respective chiefs, were given 'voluntarily', and received in the 'personal capacity' of the Chief Justices (implying, therefore, that they were not official documents subject to RTI).

This case center around a key legal issue, namely, whether the 'Office of Chief Justice of India, in his capacity as Chief Justice not sitting in a Court" is subject to the application of Right to Information Act, 2005. The Information Commission's view was that the Chief Justice is a custodian of the information available with him, and that it is available for perusal and inspection to every succeeding office-holder. Therefore the information cannot be categorized as "personal information" even if the CJI holds it in his personal capacity. The full bench of the CIC held that CJI's office comes within the ambit of RTI Act and judges' assets be made public under the transparency law. Even this decision of CIC could not change the Supreme Court's mind on this - instead, the SC filed a writ petition in the Delhi High Court and obtained a stay on the order - *The CPIO, Supreme Court of India v. Subhash Chandra Agarwal*, 38

This proceeding, under Article 226 of the Constitution of India, requires the examination of questions and issues involving declaration as to personal assets of judges of the Supreme Court, made to the Chief Justice of India, pursuant to a Full Court resolution of the Supreme Court of India, made in 1997. The petitioners challenge an order of the Central Information Commission, dated 6th January, 2009, upholding the request of the respondent who had applied for disclosure of certain information concerning such declaration of personal assets, by the judges (of the Supreme Court).

On Sept 2, 2009: Single Bench of Delhi High Court upholds CIC’s order saying that CJI’s office comes within the ambit of RTI Act and

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38 W.P. (C) 288/2009
judges' assets be made public under the transparency law. This decision too could not change the Supreme Court mind and filed Letters Patent Appeal against single bench decision of Delhi High Court - Secretary General of Supreme Court of India v. Subhash Chander Agrawal.

In a landmark verdict against the Supreme Court, the Delhi High Court held that the office of the Chief Justice of India comes within the ambit of the Right to Information (RTI) law, saying judicial independence is not a judge's privilege but a responsibility cast upon him. The 88-page judgement is being seen as a personal setback to CJI who has been opposed to disclosure of information relating to judges under the RTI Act.

“The judicial independence is not a privilege to a judge but a responsibility,” the High Court said, adding that the CJI cannot be said to have fiduciary relationship (between a trustee and a beneficiary) with other judges. Taking a step further to bring transparency in judiciary, the bench while pronouncing the verdict in a packed courtroom, said its judges will be making their assets public within a week.

1.2 AIMS AND OBJECTIVES OF THE STUDY

In view of the foregoing discussion, the main object of the present research work is to examine the study of law relating to right to information in India from socio-legal angle, both intensively and extensively. The researcher has intended to concentrate on those laws and regulatory framework covering rules and principles which relate primarily to the law of right to information. In this context the researcher in the present work has ventured to:-

- Historically trace the origin and evolution of the Right to Information.
- Examine the recognition of this law at international as well as at national level.

39 2010(1)L.D.p-1 Delhi High Court (full bench)
• Analyze the relevant provisions of the Constitution of India and other legislations dealing with right to information.

• Critically evaluate the different provisions of the Right to Information Act, 2005.

• Discover the various lacunae in the implementation and enforcement of right to information law.

• To find out problems faced by Public Information Officer while discharging their responsibilities.

• To find out constraints faced by general public while using RTI.

• Critically examine the judicial approach towards this branch of law.

• Propose amendments in various legal provisions to remove the lacunae, to plug the loopholes and to make it more effective and make suggestions for strengthening the efficacy of existing legal mechanism for this law for achieving the desired results in the changing Indian society.

1.3 SIGNIFICANCE OF THE STUDY

The existing legal, political and social scenario requires a comprehensive understanding of Law of Right to Information in India. No in-depth study of this important branch of law has so far been undertaken. The present study is a humble attempt to ascertain the various nuances of this branch of law and to see as to how this branch of jurisprudence is being used by the citizens and legislature to control the individuals and other organs of the state. The study aims at ascertaining the evolution and enforcement of this right and its interpretation by the judiciary. The study of the subject is of much practical importance in a democratic society like India where freedom of speech and expression is guaranted by the Constitution. It is possible that abuse of these freedoms may happen wherein each citizen is involved in plethora of information and each organization is preoccupied with abundant work burden. On the whole, the study will cover all such aspects which are relevant not only from the research point of view but also from the common man’s angle.
1.4 RESEARCH METHODOLOGY

Research Methodology, by way of systematized investigation, is to gain new knowledge about the phenomena or problems. It consists of the procedures for diligently searching and clearly presenting knowledge on various aspects of the issue. The study of Law relating to Right to Information in India requires a well planned research methodology to investigate the divergent aspects of the theme from different angles. This study will deal with both doctrinal and empirical aspects of the subject. Under doctrinal legal research analysis of case law, arranging, ordering and systematizing legal propositions and study of legal institutions through legal reasoning will be done. Under empirical legal research we will collect and gather data or information by a first hand study into the universe.

It will not be possible to rely upon a single approach or method so both deductive and inductive methods of research will be used. Three principal techniques of socio-legal research Record Reading, to interview people (or send questionnaires) and Observation of activities will be applied. In Record Reading, we will read the relevant records and collect the needful information. In second method, Interviews will be conducted in person; Questionnaires will be given, or it will send to the respondents to complete. In the third method i.e. Observation method, field survey will be conducted to elicit views of persons from different sections of society. In our research problem, both primary and secondary sources will be used. To achieve this purpose we will consult libraries and also the most potent mediums of knowledge will be extensively explored. In this study, help will be taken from various verdicts and observations of Courts as found in Law Reports, Articles in Law Journals, Standard Book on Law, Committee Reports etc. will also be considered in this regard. Statistical data will be tabulated and presented by different

40 Also known as analytical, abstract and a priori method.
41 Also known as historical, empirical and a posteriori method.
methods such as Graphic presentation, Bar charts, Histograms, Pie Chart methods will also be used. Besides this, all other formal and informal modes will be used to extract information from different quarters of society.

1.5 REVIEW OF LITERATURE

In order to accomplish the present work effectively, there was a need to be familiar with the law dealing with right to information. An attempt has been made by the researcher to review some of the most prominent works dealing with this branch. Review of literature has helped the researcher to understand the research problem in a better way. The researcher has studied the literature from the sources like books, journals, newspaper articles, magazines, research articles etc. The relevant and important work on law relating to right to information has been reviewed as under -

Right to Information (Law and Practice)\textsuperscript{43} by Dr. Madabhushi Sridhar is a real attempt to explain this right with all the scope for exploring information and possible implications leading to excluding the information under plethora of exceptions and ambiguous expressions. The book contains an exhaustive commentary on introduction, struggle for information right, an analysis of right to information Act, 2005, regime of secrecy and need for disclosure, voter’s right to information etc. In short the author has made an attempt to educate us about information as a right, as an instrument and as a need. P.K. Dass’s Right to Information Act, 2005\textsuperscript{44} in this field is totally involved with dedication and sincere efforts. A humble attempt has been made by the author to make the full coverage of the subject. The book gives the simple meaning and interpretation of the words used in the Article 19 and clause (1) (a) of the Constitution of India of which Right to Information is the product. He explains how the government functions must be transparent and the three instrumentalities i.e. executive, legislative and judiciary of the state

\textsuperscript{43} Dr. Madabhushi Sridhar, Right to Information (Law and Practice) Wadhwa Publications ,Nagpur 2005.

\textsuperscript{44} P.K. Dass, Right to Information Act, 2005, Universal Publications , New Delhi
should be prevented from deceiving people. He thus explains how one-sided information, disinformation, misinformation, and non-information all equally create uninformed citizen.

Naresh Kumar’s **Right to Information: Implementing Information Regime**\(^{45}\) attempts to outline the significance of the Right to Information and its role in creating a better society. The contents include introduction, access to information, right to information in India, global trends on right to information. The author has made a serious attempt to empower the ordinary citizens by providing authentic information regarding this right.

A. Saxena in his work **Right to Information and Freedom of Press**\(^{46}\) has tried to analyse the relationship between right to freedom of information and freedom of press. He quotes that access to information is lifeline of a progressive society and a vibrant citizenry is a pre-requisite for survival of a democratic system and governance.

S. P. Sathe’s **The Right to Know**\(^{47}\) has presented a lucid and analytical commentary on Right to Information Act, 2005. He has traced the history of this legislation and also the evolution of the right to information as a Constitutional right. He has also explained the administrative process involved in the implementation of this Act. He has focused on the judicial decisions on this right and the problems that might be faced while implementing the Act. **Wadia Angela**\(^{48}\) has comprehensively covered the Right to Information Act, 2005 and the challenges thrown by this Act. He has explained the duties of PIOs (Public Information Officers), the powers and functions of CIC (Central Information Commission) and SIC (State Information Commission) and the role of Government in promoting RTI Act. He has also explained the procedure for request of Information. Dr. J.N.

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Barowalia’s *Commentary on The Right to Information Act, 2005* gives the simple meaning and interpretation of the words used in the Article 19 and clause (1) (a) of the Constitution of India of which Right to Information is the product. He explains how the government functions must be transparent and the three instrumentalities i.e. executive, legislative and judiciary of the state should be prevented from deceiving people. S.N. Jain’s *Official Secrecy and the Press* explains how one-sided information, disinformation, misinformation, and non-information all equally create uninformed citizen. As per the author there is one feature which should be particularly noted by the information seekers. They can ask only information on what exists with the Public Information Officer or ask for copies of documents which the Information Officer has in his possession or which he could have called for. The access to information is lifeline of a progressive society and a vibrant citizenry is a pre-requisite for survival of a democratic system and governance.

Rajeev Dhawan’s *Right to Information Act, 2005* in this field is totally involved with dedication and sincere efforts. A humble attempt has been made by the author to make the full coverage of the subject. S.N. Jain’s *Right to Information: Implementing Information Regime* attempts to outline the significance of the Right to Information and its role in creating a better society. The contents includes Introduction, access to information, right to information in India, global trends on right to information. The author has made a serious attempt to empower the ordinary citizens by providing authentic information regarding this right. Besides this V.N. Shukla’s *Constitution of India*, Dr. S.R. Maheshwari’s *Open Government in India*, Justice Krishna Iyer’s *The Right to Know*, etc. have discussed different facets of freedom of speech and expression and right to information in India. V.K. Puri’s *Practical Handbook on Right to*

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Information, is another book which is written in a very simple language and has also been presented in a logical sequence. The book has seven parts. Part one is a commentary on law, practice and procedures relating to RTI and has amply been supported by more than 150 decisions of the Central Information Commission (CIC). Part 2 covers the frequently asked questions. Part 3 provides the formats of the manuals, registers and forms prescribed under the Act. Part 4 contains the text of the CIC letters and circulars. Part 5 incorporates a digest of sixty nine selected decisions of the CIC. Part 6 is a compilation of the text of the Central and State Government Acts, Rules, Regulations and relevant notifications. Part 7 contains a directory of Public Information Officers and Appellate Authorities of Delhi. It also includes the names of some of the important Central Public Information Officers and the Appellate Authorities of ministries of the Government of India. The book is indeed very informative, reader friendly and is easy to comprehend.

Another scholarly exposition on the subject of right to information is a book written by S.K. Sinha Roy, entitled Right to Information Act, 2005. The book has dealt with the right to information from various angles, that is, from the meaning of the right in general to the Right to Information Act, 2005 vis-a-vis interpretation of statutes and fundamental rights in particular. It has an entire part dedicated to the right to information and the obligations of public authorities. This part makes the book stand out amongst the various works on the topic. Apart from this, all state legislations, rules and major international conventions relating to the RTI are appended to the book for quick reference.

Apart from a number of books and commentaries, the researcher has also incorporated and referred to a large number of articles and write-ups published in the prominent journals and periodicals as well as newspapers. One of the noted articles on the topic is one written by Vidya Subrahmaniam entitled “Secrecy is
**Dead, Long Live Secrecy**⁵⁰. In this article, the author questions the callous attitude of the various government ministries towards the RTI Act. Another important article written by Indra Jeet Mistry, **“RTI will Improve Governance”**⁵¹ says that the main thrust of the RTI law is to change the culture of secrecy and aloofness that has long plagued our country’s monolithic and opaque bureaucracy. Another interesting article on the subject is **“RTI, The Most Precious Right”**⁵² written jointly by Venkatesh Nayak and Reshmi Mitra. This article describes the right to access information as being integral to freedom of expression. It says that without it, freedom of expression would be meaningless. The authors emphasize upon the fact that democracy means the rule of the people and for the people to have influence in the government, the citizens must be informed about what is going on and they must then have a way to express their opinion in an effective way so that their opinions can be considered before a final decision is made.

Another article by Shreyas Navare entitled **“Whistling in the Dark”**⁵³ highlighted the necessity of whistleblower protection, which is lacking in the Indian access to information law. It also reiterated the fact that the voices of those who are brave enough to speak up against dishonesty are often throttled and that Right to Information activists all over the country are feeling the heat. Navare goes on to state that Satyendra Dubey of the National Highways Authority of India and Manjunath Shanmugham of the Indian Oil Corporation were killed because they too had stood up against the corrupt and the same was the fate of the activists like Satish Shetty and Datta Patil, who, similarly, had exposed several land scams and corrupt politicians and bureaucrats in Maharashtra. After such incidents, there was much soulsearching about how to protect the whistleblowers and the Public Interest Disclosure (Protection of Informers) Bill, 2006 as well as the

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⁵⁰ Published in *The Hindu* on 30 August 2006.
⁵¹ Published in *The Tribune* on 1 October 2006.
⁵² Published in *The Tribune* on 30 September, 2007
⁵³ Published in *Hindustan Times* on 24th of July, 2006.
Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010 were drafted but have not become a law yet. There are lot of journals which has been relied upon by the researcher such as All India Reporter, Hindu Law Reporter, Supreme Court Cases and Information Decisions. Other journals which provided a lot of valuable information on the subject are Journal of the Indian Law Institute, Orient Journal of Law and Social Sciences and Indian Journal of Public Administration. These Journals are very informative and provide invaluable details pertaining to the freedom laws in general and the Indian law in particular.

The book on **Constitutional Law of India**,54 written by eminent legal luminary, Dr. Subash C. Kashyap, is a systematic explosion of the provisions of the Constitution. He has intended to constitute an objective and faithful commentary on the text of the Articles of the Constitution without any pre-conceived notions or encumbrances. The emphasis is on the original source of each Article, how it evolved through the different stages of the Constitution-making in the Constituent Assembly and ever since 1950. The study spread over two compact volumes, is divided into four parts, viz. (1) Introduction and Background, (2) Provisions of the Constitution and a commentary on their evolution, operation and interpretation, (3) Evaluation, Review and Reforms, and (4) Documents. The significance of this book is that it combines all aspects of the Constitution.

The book **Law of Writs Jurisdiction and its Efficacy**55 is an attempt to analyses the broad concept of writ jurisdiction as envisaged under Articles 32 and 226 of the Constitution of India. To be more specific, it examines the efficacy of writ jurisdiction being exercised by the High Courts under Article 226 of the Constitution of India. In this book the subject matter has been divided into two broad parts. The first part of the book contains an analysis of the broad

contours of the writ jurisdiction including various aspects attached to it. The second part deals with the efficacy of writ jurisdiction. The broad conclusions were reached at during the study after a random survey of about one thousand judgments delivered by Punjab and Haryana High Court in admitted civil writ petitions. An attempt has been made to identify and highlights the major trends appearing in the exercise of writ jurisdiction at the level of the High Court and various factors affecting the efficacy of writ jurisdiction have been substantiated with a selective case study to fortify the same. Although the study pertains to a particular High Court, it tends to indicate a general trend. It is followed by some remedial measures suggested at the conclusion of this piece of work.

PSA Pillai’s Criminal Law\textsuperscript{56} has been regarded as a classic text on the Indian Penal Code, 1860, for over five decades. This edition retains the scheme and essential facets of the previous editions. In the light of leading judicial pronouncements and emerging trends in the field, it offers an in-depth analysis of all the substantive offences incorporated in the Indian Penal Code. It also delves into and offers an analysis of the proposals for reform in each of the offences. Though the book is primarily about the substantive law of crime in India, provisions of the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, are referred to wherever necessary. Written in a simple and lucid style and supported with rich authorities, judicial as well as juristic, this book retained its decades old appeals for all person interested in the field of criminal law.

In Dynamic Lawyering,\textsuperscript{57} Justice V. R. Krishna Iyer written on each and every aspect of law and beyond, maintaining lucidity and depicting ocean deep knowledge of the subject. His dynamic and enlightened idea on law and contemporary jurisprudence is a path-making course for the present and future judicial system. The

\textsuperscript{56} Dr. KL Vibhute, PSA Pillai’s Criminal Law, 10\textsuperscript{th} edition, LexisNexis: Butterworths Wadhwa: Nagpur, 2008.

The collection contains articles on judges, judicial system, Constitutional Law, Democracy, Arbitration, Jurisprudence, Indian and International Socio-Political topics and much more. This bouquet of articles was specially handpicked by the author himself to cater to different flavours of lawyers, laymen and judges in India and abroad. The revised, updated and enlarged eighth edition of *Constitutional Law and History of Government of India* aims to present the sequence of historical developments chronologically and concisely from the grant of the first Charter to the East India Company by the Crown in the year 1600 to the Government of India Act, 1935 with the critical appreciation and commentary thereon. Since our present Constitution which came into force from 26th January, 1950 is a result of the gradual historical and constitutional evolution and development extending over more than three and half centuries and has besides other sources of inspiration adopted large portion of the 1935 Act, a knowledge of the rationale, background and foundation of these developments is indispensable for a clear appreciation and comprehension of the principles and features of the Constitutional Law on which our Constitution based. This book also contains the text of Constitution of India duly updated as it stands now.

B.M. Gandhi in *Indian Penal Code* claims it to be a book presenting the crime in its modern perspectives and an effort to present the law of crimes in context of modern social situations. In spite of it, the book is a mini volume useful to competitors, police officers and busy lawyers. For this purpose, it incorporates, though in brief some crimes like transsexualism, wife beating and domestic violence, and deals with them to the best advantage of the readers. The book can, for this reason, be said to be different from many others.

Arrangement of the subject matter follows the arrangement in the Indian Penal Code itself except that sections pertaining to a

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particular subject have been grouped together and commented upon. The book is therefore not a section-wise commentary of the I.P.C. This arrangement is easy to grasp and makes understanding of the subject easy. The book can be claimed to be a rational combination of a text book and lawyers commentary and this feature has been rightly claimed as its novel feature. The book mentions large number of decided cases of various high courts and Supreme Court which makes it impressive.

The Textbook on the Code of Civil Procedure\textsuperscript{60} presents the accurate exposition of the statutory provisions and complicated provisions of Civil Procedure Code in a facile manner with the help of leading cases, illustrations and decisions of the Supreme Court as well as various high Courts. Different amendments made in the year 1976, 1999 and 2002 have been incorporated in appropriate areas. Moreover, impact of limitation on civil suit and advantages of \textit{Lok Adalat} have also been interested to enhance the qualitative value of the book. A large number of decided cases have been included in the book in a simple and lucid manner, so that students of law and aspirants of various competitive examinations can easily understand the convoluted and complicated questions of law.

The book \textit{Natural Justice, Judicial Review and Administrative Law}\textsuperscript{61} explains the extent, limit and content of the power of an executive authority which has to be exercised judicially, fairly, justly, and according to the rule of laws, i.e. rule of reason, rule against arbitrariness and discrimination, rules of fair play and natural justice. It explains such concepts are judicial reviews, jurisdiction, discretionary powers, and doctrines such as natural justice, legitimate expectation, promissory estoppels and burden of proof with the help of the decisions of the Indian and foreign courts. This is done by taking income-tax statute as the base.


The Mulla's Code of Civil Procedure\textsuperscript{62} presents in a convenient compass the niceties of the most developed branch of Indian Law. Even the busiest practitioner cannot afford to be without this book and for the young lawyer it is a must. The present edition maintains the quality and level of the previous editions. It is a lucid and concise exposition of the provisions of the Code of Civil Procedure and takes into account the amendments introduced in the Code of Civil Procedure by the Amending Acts of 1999 and 2002. Further, latest developments in case law have been incorporated at relevant places. The book serves as an accurate and concise guide to Indian procedural law and is an indispensable tool for students, practitioners and the judiciary.

The book Administrative Law\textsuperscript{63} by I.P. Massey summarises all the aspects of Indian administrative law spread over fourteen chapters each having a set of propositions, bibliography, and cross-references of cases cited which provide the reader with an insight on the subject. It covers all aspects and dimensions in the light of latest developments in this field including the concept and concerns of global administrative law.

Ratanlal and Dhirajlal’s The Code of Criminal Procedure\textsuperscript{64} is the most original, authentic, dependable and brilliant work having a profound impact on its vast readership that covers judges, lawyers, police officers, administrators, law teachers and academicians, students, research scholars and in fact every one who is in any way concerned with the administration of Criminal Law and Justice in this country. While time has always beaten men and matter, this gem of a classic has literally scored over it and lives today to immortalise its authors. This book has been thoroughly revised in the light of all statutory amendments including drastic changes made by the Code of

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Criminal Procedure (Amendment) Act, 2005 (25 of 2005) and the Criminal Law (Amendment) Act, 2005 (2 of 2006) as majorly enforced from June 2006 and plethora of cases that have emerged during the last 5 years. So also, the entire impact of drastic changes brought out in the Criminal Law by the passage of the said two Amendment Acts of 2005 in the Code of Criminal Procedure, 1973 have been absorbed wherever required and discussed at length with original comments in this revised work. State Amendments have been incorporated under appropriate sections in the body of the book. This glorious work of the celebrated authors in its present edition, will find ready and whole-hearted acceptance.

Review of literature has helped the researcher to study the different dimensions of Right to Information Act and to gain a deep knowledge on this subject.

1.6 CHAPTER SCHEME OF THE STUDY

This study has been divided into seven chapters and the chapter scheme of the study is given below:-

Chapter I: Introduction

The first chapter of research work that is an introductory one briefly introduces the topic and analyses the importance of the right to information. It seeks to demonstrate the need for and the unique role played by information in a civil society and the fact that information is a public good that we all own collectively. It gives a brief exposure of the importance of the right to information law in India. An attempt has also been made by the researcher to discuss the aims, objectives and significance of this study. In Research methodology, deductive and inductive methods of research have been used. Three principal techniques of socio-legal research i.e. record reading, to interview people (or send questionnaires) and observations of activities have been applied. In record reading, we have read the relevant records and collect the needful information. In second method, Interviews have been conducted in person; questionnaires have been given to the
respondents to complete. In the third method i.e. observation method, field survey have been conducted to elicit views of persons from different sections of society. In our research problem, both primary and secondary sources have been used. To achieve this purpose we have consulted libraries and also the most potent mediums of knowledge have been extensively explored. In this study, help has been taken from various verdicts and observations of Courts as found in Law Reports, Articles in Law Journals, Standard Book on Law and Committee Reports etc. Statistical data has been tabulated and presented by different methods such as Graphic presentation, Bar charts, Histograms, Pie Chart methods. Besides this, all other formal and informal modes have been used to extract information from different quarters of society. The researcher has done extensive review of literature. In this context relevant books and journals related to this branch of law has been thoroughly consulted. Chapter scheme of study has also been discussed in this part.

**Chapter II: Concept and Genesis of Right to Information Law**

This chapter of research work deals with the concept and genesis of right to information law and discuss in detail the meaning, definition and concept of right to information. The historical background that led to the passing of the *Right to Information Act, 2005*, that is to say, from the constitutional protection to the enactment of a right to information laws at Centre and State levels has also been discussed. It traces the events that expedited the passage of the 2005 Act, which provided the citizens of our country an important instrument to ensure transparency in governance. An instrument, which if used wisely, can bring a remarkable change in the socio-economic as well as in the political arena of the nation, laying the foundation for good governance, embodying openness, transparency, responsiveness and participation of the citizens. Beside this the evolution of this law at international level has been discussed. Right to Information which is the cynosure of this discourse is not
something new. In fact there is also a long history at international level towards the attainment of this right and mobilization of the masses for achieving it. With development of human ideals and establishment of democratic governments in most of the civilized countries, this topic came to the fore. The United States and Sweden constitute the two main models for Freedom of Information. While the Swedish law is a precedent to the American one but both are considered important legal precedents that helped shape other Freedom of Information laws around the world. In this context, beside Sweden and United States of America, freedom of information laws of England, Finland, and South Africa have also been discussed. The right to Information vis-a-vis International Conventions, Covenants, Declarations and Treaties such as United Nations, Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1968, The Commonwealth and Organization of American States also discussed in this part of research work. These International Conventions which sets down the international as well as regional human rights instruments that form the legal framework.

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66 United Nations, General Assembly in 65th plenary meeting passed resolution that “freedom of information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated.”
67 The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly on 10 December 1948 at Paris. Article 19 of the Universal declaration of Human Rights of 1948 states that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”
68 The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on December 16, 1966. Article 19 of the Covenant states that “Everyone shall have the right to hold opinions without interference and Everyone shall have the right to freedom of expression, this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.”
69 The Commonwealth is association of 54 countries which affirmed the existence of RTI by emphasizing the participation of people in the government processes. The law ministers of the Commonwealth at their meeting held in Barbados in year 1980 stated that ‘public participation in the democratic and government process would be most meaningful when citizens had adequate access to official information.
70 Article 13 of the Organization of American States provides that “Everyone has the right to freedom of thought and expression. This right shall include freedom to work, receive and impart information and ideas, of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one’s choice.”
for the protection of the right to information. It not only looks at the specific protections to the freedom of information but also at the way right to information is being given increasing recognition in more recent human rights treaties.

**Chapter III: Right to Information and Indian Constitution**

The Constitutional aspects of Right to Information have been discussed in this chapter. The meaning, concept of freedom of speech and expression, pre and post constitutional position, the Constituent Assembly Debates and its various Committees and Sub Committees which considered and debated the provisions relating to the freedom of speech and expression have also been mentioned in this part of research work. The makers of the Constitution incorporated this freedom of speech and expression not only in Article 19(l) (a) and Article 21 of the Constitution but also in different provisions like Preamble, privileges of the legislature, protection against arrest and detention in certain cases and doctrine of pleasure. The horizon of RTI has expanded so much so that Supreme Court has considered RTI to be the offshoot of Article 21 of the Constitution of India.

The phrase Speech and Expression’ used in Article 19(1) (a) has broad connotation. To know the attitude of Supreme Court and High Courts towards this aspect some important decisions of the Supreme Court and High Courts have been discussed. Judicial activism has carved the sculpture out of Article 19 (1) (a) which is the bedrock of democracy. Upon a thorough analysis it can be safely stated that

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72 Article 19(1) (a) provides that all the citizens shall have the right to freedom of speech and expression.
73 Article 21 states that no person shall be deprived of his life or personal liberty except according to procedure established by law.
75 Article 22 (1) of the Constitution of India entitles every person who is detained to know the grounds of his/her detention.
76 Article 311 (2) of the Constitution provides that a government servant is entitled to know why he/she is being dismissed or removed or reduced in rank and to be given an opportunity to make representation against the proposed action.
direction towards the realization of RTI within the constitutional ambit incepted right from the verdict in *Hamdard Dawakhana v. Union of India*.77 In the similar fashion the Supreme Court declared RTI to be part of Article 19 (1) (a) in *Bennett Coleman v. Union of India*78 where it was held that “It is indisputable that by freedom of the press is meant the right of all citizens to speak, publish and express their views. Following the trend the Supreme Court in *Life Insurance Corporation of India v. Manubhai D. Shah*,79 and *Secretary Ministry of I & B v. Cricket Association of Bengal*80 cases has held that right to know is part of personal liberty, and that Freedom of Speech and Expression includes right to acquire information and to disseminate it. In the similar fashion the Calcutta High Court in *Usha Uthup v. State of W.B*81 has held that right to paint, sing, dance, to write poetry or literature and right to read is also covered by Article 19(l)(a) as the basic characteristics of all these activities is included in Freedom of Speech and Expression. In this chapter Constitutional aspects of right to information of different countries and legal entities have also been discussed. The right of access to official information is now protected by the Constitutions of many Countries which expressly guarantee a “right” to “information” or “documents,” or else impose an obligation on the government to make information available to the public. The top Courts of many Countries 82 have interpreted the Constitution to recognize the right implicitly. Almost all of the Countries also have Statutes that elaborate and implement a right to information.

**Chapter IV: Right to Information under other Statutory Provisions**

Under this chapter history of secrecy in India, administrative secrecy, secrecy by persuasion, secrecy by Statute like Official Secrets Acts, 1889, 1911 and 1923, Right to Information and the Privacy Act
has been discussed in detail. Apart from the Right to Information Law, some other important Statutes which are in favour of secrecy and which are against secrecy, related to information have been discuss in detail such as:

(A) **Laws that Licence Secrecy**

The Official Secrets Act, 1923, a legacy of British rule in India, contains several provisions which stresses on secrecy and prohibit free flow of information from the Government to ordinary people. It was enacted to protect against spying, but its provisions are far-reaching. They serve not only to restrict access to information, but also to punish the disclosure of certain kinds of information, by any person. The Official Secrets Act still penalizes the giver, taker, possessor of the categorized information besides a spy. The Apex Court in *Sama Alana Abdullah v. State of Gujarat* held that the test of whether certain disclosure compromised a secret depended on whether an official code or password had been divulged in terms of section 5 of the Official Secrets Act 1923. It can be said that from the time immemorial certain journalists, bureaucrats and corporate giants has to face this draconian law. Similarly, the chapter IX of Indian Evidence Act mentions three kinds of communications as privileged from disclosure such as Matrimonial communications, Official communications and Professional communications. Under

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83 Section 5 of the Official Secrets Act, 1923 states that if any person having in his possession or control any secret official code or password or information which relates to or is used in a prohibited place or relates to anything in such a place, or which is likely to assist, directly or indirectly, an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States or which has been made or obtained in contravention of the Act, or which has been entrusted in confidence to him by any person holding office under Government.

84 AIR 1996 SC 569.


87 Section 122 of the Indian Evidence Act, 1872 provides that no person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married.

88 Section 123 of the Indian Evidence Act, 1872 provides that no one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the
Matrimonial communications only husband or wife is protected but not a third person. The Supreme Court in *Channo v. State of Haryana*\(^{90}\) observed that there is no reason for false deposition by wife where she gives evidence against her accused husband. Such evidence of wife can be relied for conviction.

Official communications under the Act does not lay down as to what documents are to be regarded as unpublished official records relating to affairs of State or communications made to an officer in his official capacity. It is not every official record or register or every official communication which can be regarded as privileged. The principle to be applied in every case is that documents otherwise relevant and liable to production must not be produced if the public interest requires that they should be withheld. Professional communications mean a confidential communication between a professional legal adviser and his client made to the former in the course, and for the purpose, of his employment as such advisor. In the similar fashion the Medical Termination of Pregnancy Regulations, 2003 also stresses on secrecy. In this regard Admission Register kept for the pregnancy details of the women shall be a secret document and the information contained therein as to the name and other particulars of the pregnant woman shall not be disclosed to any person.\(^{91}\) The next law following the same trend is the Competition Act, 2002 which also stresses on secrecy and lays down that no information relating to any enterprise, being an information which has been obtained by or on behalf of the Commission for the purposes of this Act, shall, be disclosed.\(^{92}\)

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\(^{89}\) Section 126 of Indian Evidence Act, 1872 provides that no barrister, attorney, pleader or vakil, shall at any time be permitted, unless with his client’s express consent, to disclose any communication made to him in the course and for the purpose of his employment.

\(^{90}\) 1996 Cri LJ 2514 (SC).

\(^{91}\) Section 5 of the Medical Termination of Pregnancy Regulations, 2003 provides that every head of the hospital or owner of the approved place shall maintain a register for recording therein the details of the admissions of women for the termination of their pregnancies. Such Admission Register shall be a secret document and the information contained therein as to the name and other particulars of the pregnant woman shall not be disclosed to any person.

\(^{92}\) Section 57 of the Competition Act, 2002 says that no information relating to any enterprise, being an information which has been obtained by or on behalf of the Commission or the Appellate Tribunal for the purposes of this Act, shall, without the previous permission in writing of the
(B) Laws Which Facilitate Disclosure of Information

Though the Indian Penal Code 1860 does not deal explicitly with a citizen’s right to information as the Indian Evidence Act 1872 does, it however contains various provisions which have close bearing on the responsibility of a public servant to provide correct information to the public, failing which the public servant concerned is liable to punishment for his acts of omission and commission in this regard. Following the trend certain provisions of the Code of Criminal Procedure, 1973 facilitate disclosure of information such as the rights of arrested person. The Apex Court in Hari kishan v. State of Maharashtra held that it is reasonable to expect that the grounds of arrest should be communicated to the arrested person in the language understood by him otherwise it would not amount to sufficient compliance with the Constitutional requirement. In the similar fashion the Factories Act, 1948 makes it mandatory for every occupier of factory involving a hazardous process shall disclose information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the chief inspector, the local authority within whose jurisdiction the factory is situate. Following the trend certain provisions of the Representation of the People Act, 1951 also deals with disclosure of information such as a candidate contesting elections is required to furnish in his nomination paper the information in the form of an affidavit concerning accusation of any offence punishable with two or

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93 Section 50 of the Code of Criminal Procedure, 1973 provides that every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest. Similarly Section 50 A of the Code of Criminal Procedure 1973 deals with the obligation of person making arrest to inform about the arrest, etc; to a nominated person and Section 207 of the Code of Criminal Procedure 1973 provides that the supply of copy of police report and other documents to accused.

94 AIR 1962 SC 911.

95 Section 41(b) of the Factories Act,1948 lays down that the occupier of factory involving a hazardous process shall disclose in the manner prescribed all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the chief inspector, the local authority within whose jurisdiction the factory is situate and the general public in the vicinity.
more years of imprisonment in any case including the framing of charges in pending cases and conviction of an offence and sentence of one or more than one year imprisonment.\textsuperscript{96} The Supreme Court in \textit{Union of India v. Association for Democratic Reforms}\textsuperscript{97} held that voter’s right to know antecedents including criminal past of a candidate to membership of Parliament or Legislative Assembly is also a fundamental right.

Beside these provisions a number of international bodies with responsibility for promoting and protecting human rights which have authoritatively recognized the fundamental and legal nature of the right to freedom of information, as well as the need for effective legislation to secure respect for that right in practice have also been discussed in this chapter. These include the United Nation, the Commonwealth, the Organisation of American States and the Council of Europe.

\textbf{Chapter V: The Right to Information Act, 2005: A Critique}

The fifth chapter deals in detail with the provisions of the Right to Information Act, 2005. In this Chapter consistent efforts have been made to critically discuss the provisions of the Act with relevant case law. This chapter aims to analyse \textit{inter alia} who all are covered by the 2005 Act; what information is accessible under the Act; how information can be accessed in practice; what options people have if they are not given the information they want; and how people can get involved and ensure that the Act is implemented effectively to make the Government more accountable, efficient and responsive. This Chapter analyses the important provisions of the Act such as the application of exemptions provided in Section 8 and 9.\textsuperscript{98} Exemptions

\textsuperscript{96} Section 33A of the Representation of People Act, 1950 provides for disclosure of information on the part of candidate that whether he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction.

\textsuperscript{97} AIR 2003 SC 1743.

\textsuperscript{98} Section 8 of the Right to Information Act, 2005 provides that there shall be no obligation on the part of public authorities to give any information to citizens which is exempted from disclosure under the Act.
which are given under the Act can be divided into two types such as absolute exemptions and qualified exemptions. Exemptions which are not subject to public interest test are absolute exemptions and Section 9 of the Act is the only absolute exemption. Whereas qualified exemptions are those exemptions which are subject to public interest test. All the exemptions under the section 8(1) are qualified exemptions. Qualified exemptions can be further divided into Class exemptions and Prejudice-based exemptions. This part of research work also discusses the composition, powers and functions of the Information Commissions,99 which are the very backbone of the RTI law. This chapter also seeks to elaborate the different rights, responsibilities and practical operations of the Information Commissions, which the RTI Act requires to be set up at the Central and State levels. These Commissions are meant to be the appellate machinery with the investigating powers to review decisions of the Public Information Officers and deal with the matters connected therewith and incidental thereto. This chapter also talks about the composition of State Information Commissions as well as the conditions of service of the Information Commissioners. Another debatable issue discussed in this part of research work relates to the disclosure of file notings under the RTI Act. Though the Department of Personnel and Training on its website has mentioned that file notings cannot be disclosed, however, the CIC is of the opinion that file notings are very much within the ambit of the Act. The CIC has on a number of occasions expressed this view such as in Satyapal v. TCIL100 where it was held that the “file notings” are an integral part of the file and are, therefore, not exempt from disclosure. The Central

99 Section 12 of the Right to Information Act, 2005 says that the Central Government shall, by notification in the Official Gazette, constitute a body to be known as Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

100 I.D. 2006(1) 221 CIC - In this case it was held that the “file notings” are an integral part of the file and are, therefore, not exempt from disclosure.
Information Commission has addressed two very serious constitutional issues pertaining to higher executive and judiciary, namely, disclosure of correspondence about appointment of judges and the need for declaration and disclosure of assets by the higher judicial officers. In this regard relevant decisions of the Central Information Commission such as Subhash Chander Agrawal v. Secretariat of President,101 Subhash Chander Agrawal v. Supreme Court of India,102 P K Dalmia of Noida v. Supreme Court of India,103 Subhash Chandra Agrawal v. Department of Justice,104 has been discussed.

Recently, the Central Information Commission in one of its decision Subhash Chander Aggarwal & Anil Bairwal v. National Political Parties of India105 has held that the political parties are public authorities under section 2(h) of the said Act. After this judgment, the Government has proposed to amend the RTI Act and in this regard the bill106 has already been placed before Lok Sabha to keep the political parties out of the ambit of RTI Act.

**Chapter VI: Right to Information and Indian Judiciary**

The sixth chapter deals with attitude of judiciary concerning right to information. However, judiciary in several landmark cases has

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101 I.D. 2006(2) 460 CIC - In this case the disclosure of the information sought pertains to third parties, the Central Information Commission directed the PIO to process the disclosure after duly issuing notice to third parties concerned.

102 I.D. 2008(1) 426 CIC - the applicant had sought information from the Supreme Court whether any declarations of assets102 have been made by the judges of the Supreme Court and the High Courts to their respective Chief Justices, as expected under the resolution passed by the All India Judges Conference in May 1997. The Supreme Court declined to provide this information. The Full Bench of the CIC held that CJI's office comes within the ambit of RTI Act and judges' assets be made public under the transparency law. The Supreme Court filed a writ petition in the Delhi High Court. The Single Bench of Delhi High Court upholds CIC's order saying that CJI's office comes within the ambit of RTI Act and judges' assets be made public under the transparency law.

103 I.D. 2009(1) 184 CIC - the applicant sought information from the Public Information Officer of the Supreme Court on what action had been taken on three of his complaints made in 2007 and 2008 against the judges of Allahabad High Court on some matter of embezzlement.

104 I.D. 2010 (1) 275 CIC - In this case it was held yet again that the class of documents consisting of correspondence exchanged between the Law Ministry or other high level of functionaries of the central government, the Chief Justice of the state and the CJI in regard to the appointment or non appointment of a High Court Judge, a Supreme Court Judge or the transfer of a High Court Judge cannot be regarded as a protected class entitled to immunity against disclosure.

105 I.D. 2011(2) 386 CIC.

expressly held right to information as natural concomitant of Article 19 (1)(a) and Article 21 of Constitution of India, i.e., right to freedom of speech and expression and right to life and liberty include right to information. Right to life loses much of its meaning if a citizen’s right to information is denied. To know the attitude of Indian judiciary towards this branch of law all important judicial pronouncements of the Supreme Court, Central Information Commission, different High Courts and State Information Commissions i.e. Bennet Coleman and Co. v. Union of India,107 State of U. P., v. Raj Narain And Others,108 S.P. Gupta v. Union of India,109 Indian Express Newspapers (Bombay) Private Ltd., And Others, v. Union of India And Others,110 Reliance Petrochemicals Ltd., v. Proprietors Of Indian Express Newspapers, Bombay Pvt. Ltd. And Others,111 Life Insurance Corporation of India, v. Prof. Manubhai D. Shah,112 Govt. of India, and Others v. Cricket Association Of Bengal and Others,113 Dinesh Trivedi, M.P. And Others v. Union Of India And Others,114 Tata Press Ltd., v. Mahanagar Telephone Nigam Limited And Others,115 Union of India And Others, v. Motion Picture Association And Others,116 Union Of India v. Association For Democratic Reforms And Another,117 People’s Union For Civil Liberties (PUCL) And Another v. Union of India,118 Secretary General of Supreme

107 AIR 1973 SC 60 : In this case Supreme Court held that the freedom of speech includes within its compass the right of all citizens to read and be informed.
108 (1975) 4 SCC 428 : In this case Supreme Court held that the people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries.
109 (1981) Supp. SCC 8 : In this case Court held Democracy expects openness and openness is a concomitant of a free society.
110 (1985) 1 SCC 641.
112 (1992) 3 SCC 637.
113 (1995) 2 SCC 161 : In this Case the Court held that the right to freedom of speech and expression means right to education, to inform, to entertain and right to be educated, informed and entertained. Right to telecast is, therefore, within the ambit of Article 19(1) (a).
115 (1999) 5 SCC 139.
117 (2002) 5 SCC 361: In this case Court issued an order directing the Election Commission to make available the criminal, financial and educational records of candidates for political office.
118 AIR 2004 SC 1442: In this case Court held that right to information is facet of the freedom of speech and expression as contained in Article 19(1) (a) of the Constitution of India. Right to Information, thus, indisputably is a fundamental right.
Court of India v. Subhash Chander Agrawal,\textsuperscript{119} Central Board of Secondary Education v. Aditya Bandopadhyay,\textsuperscript{120} Subhash Chander Aggarwal & Anil Bairwal v. National Political Parties of India,\textsuperscript{121} Central Information Commission v. State of Manipur,\textsuperscript{122} S.C. Aggarwal v. Coal Ministry,\textsuperscript{123} etc., have been examined in detail.

The Right to Information Act, 2005, has affected all wings of the government, be it the judiciary, executive or legislature. The ambit of the Act is increasing as is evident from the pro-disclosure judgments that are coming not only from the Information Commissions, but also from the higher judiciary. Slowly but surely, there is a growing realisation that access to information is beneficial for one and all in the long run. The present chapter analyses various landmark decisions relating to important and at times, controversial issues, related to the RTI law. An attempt has been made to discuss some of the rulings on a particular issue such as file notings, disclosure of assets by higher judiciary etc and to indicate the current stance of the Information Commissions and courts on it.

**Chapter VII: Actual Enforcement of Right to Information in the State of Punjab: An Analysis**

In this Chapter, an attempt has been made to discuss actual enforcement of right to information law in the State of Punjab. This Chapter is based upon the primary data collected through two interview schedules, one for the PIOs working for the RTI Act and other for the respondents from among the users of the RTI among the general public to know about their experience and problems faced by

\textsuperscript{119} AIR 2010 Delhi 159 - The Apex Court filed Letters Patent Appeal against single bench decision of Delhi High Court In this case the Full Bench of Delhi High Court held that the office of the Chief Justice of India comes within the ambit of the Right to Information (RTI) law, saying judicial independence is not a judge’s privilege but a responsibility cast upon him. In fact, perhaps at least partly in response to public pressure and perception, judges of the Supreme Court and various high courts (including Delhi) and other states had already put the list of their assets on the web.

\textsuperscript{120} AIR 2011 SCW 4888.

\textsuperscript{121} I.D. 2011(1) 1386 CIC.

\textsuperscript{122} AIR 2012 SC 864.

\textsuperscript{123} I.D. 2013(1) 289 CIC.
them. In order to analyse the response of general public about their experiences in using the Right to Information Act, 2005 the help of schedule was taken. Samples of 100 respondents from the general public who have used the Right to Information Act, 2005 were taken for the present study. These 100 applicants were selected through stratified random sampling selecting 20 from each category of Students, Teachers, Advocates, Government Employees and Businessman in Patiala (selecting 50 percent women from each category). For these 100 respondents respective tables have been made to divide applicants according to their age and caste. Age wise the total number of respondents have been divided into four categories, namely, 21 to 30 years, between 31 and 40, between 40 and 50 years and 51 years and above 51 years. Category of the applicants is also an important factor to know about their social background. There are only three categories viz, General, Schedule Caste (SC) and Other Backward Classes (OBC). The success of RTI depends a lot on the extent of awareness among general public about the Act. In this context role of media, RTI activists, workshops, and seminars is quite prominent. It is evident from analyses of data tabulated in form of tables, graph and pie charts that majority of 62 percent general public told that they came to know about RTI Act through media and only 20 percent through friends whereas the other and RTI Activists had contributed only 6 and 4 percent respectively. In present study Questions were asked about the problems faced while getting the information through RTI from 100 respondents. The main problems were analysed and tabulated in the table. After analysing the tables it was found that there was unawareness on the part of maximum number of the applicants many of the applicants complained about the non-cooperative behaviour of the PIOs. Few

Study has been done in Patiala district of Punjab. In this regard, an attempt has been made by the researcher to get feedback from 100 respondents on various operational issues and constraints and from the various Civil Society Organizations and social activists who are contributing towards building awareness at the grassroots levels. While the survey has been the prime mode of data gathering.
respondents revealed that the information proved to be very expensive as it contained more number of irrelevant pages and was not compiled properly.

For the study of information provider side, five departments in Punjab viz, Public Works Department, Police Department, Rural Development and Panchayati Raj Department, Elementary Education Department and Irrigation Department were selected and from each department five PIOs were selected. These departments were selected on the basis of higher number of applications received. In this part certain important aspects relating to PIOs was discussed such as Training Level among PIOs, the awareness level about the latest amendments in the RTI Act, overburdened on PIO’s, Availability of Basic Infrastructure, Separate Budget Allocation for RTI and Separate Staff for Dealing with RTI etc. The opinion of PIOs on above mentioned aspects were analysed and data was interpreted by way of tables, graph and pie charts.

Chapter VIII: Conclusion and Suggestions

This part of the work comprises conclusion and suggestions for the effective application and implementation of right of information. It discusses the various possibilities of better enforcement of the RTI Act. It examines the ways in which the right to information can practically be implemented at the local, state and national level. From the constitutional protection to the enactment of the RTI Act, it explores the ways public can protect their right to know. The chapter also incorporates the personal views of the researcher as well as views gathered by way of interaction and interview with the personalities like judges, jurists, academicians and scholars. Observations of common information seekers, who have sought information under the Right to Information Act, either successfully or otherwise, have also been incorporated in the chapter. An endeavour has been made to discuss some of the prominent challenges before the information law and to chart out a possible solution or a road map ahead for the effective implementation of this legislation. Concluding reflections in the last
chapter dilate on the loopholes and lacunae in Right to Information law and trend for the reform in the Indian law. Various conclusion have been discussed on the basis of theoretical and empirical aspects of the study. To make the law on the subject clearer, certain and effective, suggestions and submissions have been made in this part of research work.

1.7 CONCLUSION

The RTI Act has certainly proved to be an important milestone and a major step towards ensuring a participatory and a transparent development process in the country. However, we need to sustain the momentum of this legislation and should not allow it to die down or to become just another toothless piece of legislation languishing on paper which is just barking and not biting. It is in the interest of all the stakeholders to remain committed and vigilant so that the aims and aspirations of the Act do not get frustrated by political and bureaucratic manipulations. We need to strengthen the values and culture of openness so as to have healthy democratic governance where everyone has the right to know and to be heard in a fair, transparent unbiased and impartial manner.

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