Chapter 1

Introduction: The Information Movement and Public Administration

Introduction

1. Prelude:

The global movement towards a knowledge based information society as a prelude to institutional reform has led to many state led initiatives towards achieving this objective. Information as a plea for knowledge based governance and information as a condition for accountable governance has in recent times, become a challenging objective for democracy and citizen’s rights all over the world. Indian governance has also witnessed this rights based approach to access information. Max Weber (Blau 1956), attributes the concept of ‘official secret’ as the specific invention of bureaucracy which is also defended strongly by the bureaucracy and official or government documents are kept secret by the bureaucracy. The core subject of this study is the Right to Information (RTI) Act which was promulgated in India on 12th October 2005 and its relation with the increasing demand and necessity for accountability in the bureaucracy. The Right to Information Act was introduced into public departments to enhance institutional accountability and citizen’s access to seeking information from an otherwise secretive and closed bureaucracy.

The RTI Act has been a phenomenal boost to an otherwise closed and alienated state structure, which over the years had reduced democracy to conducting elections and forming a representative government. The Act makes disclosure of information mandatory to a citizen requesting for information, unless the information sought is specifically exempt under the Act. The Act has been enacted in India after much
public debate, civil society movements and after much resistance from the bureaucracy and reluctance from the political class.

The democratic project has increasingly become associated only with representation and the formation of elected governments. While much scholarship in the field of democratic theory has remained preoccupied with the possibilities and limits of representative institutions and practices, the other side of the democratic relationship – in which people can, on an ongoing basis, hold their representatives to account – is largely missing. Accountability in a democracy should entail answerability for actions taken on behalf of the citizens. It is arguably the right of citizens in a democracy, both as voters and as taxpayers, to hold accountable anyone who handles public resources or holds public office. This is also a necessary prerequisite for responsive governance, such that a democratic political system becomes capable of formulating policies that reflect the preferences of citizens. Accountability has two dimensions: horizontal and vertical. The horizontal dimension is largely concerned with the effective operation of the system of checks and balances and with due process in governmental decision making. The vertical dimension focuses instead on elections and other mechanisms that citizens use to control their government. This research is based on the premise that the process of democracy is strengthened by the presumption of openness which is a pre-requisite in a situation where rules are developed prior to their publication or implementation and accountability is the motive.

The relevant dimension of accountability – horizontal or vertical – may be different depending upon whether our focus is on elected or non-elected holders of public office. It is generally assumed that the accountability of non-elected officials, such as civil servants, is adequately ensured by the presence of mechanisms of horizontal accountability. There is also the further assumption that members of the permanent executive are not directly accountable to citizens. That relationship of accountability is seen to apply only to the political executive, because they are elected by citizens. Hence, vertical accountability mechanisms – such as five-yearly elections – are the pre-eminent instruments of holding elected officials to account. Contemporary discussions of accountability seek to be more encompassing in their coverage of both elected and non-elected holders of public office, as of the vertical and horizontal dimensions of accountability.
However, it is the accountability of the non-elected government officials i.e. administrative officials of the state which is intriguing for this research, since there does not seem to exist any extant mechanism that ensures direct accountability of this section of public representatives to citizens. The concept of horizontal accountability is an area that has not been given due weightage but there is increasingly consensus arising that the non-elected representatives of the public must not only be accountable to each other but also that they must be made responsible and accountable for the actions that they take on behalf of the public at large. There are many ways in which the non elected representatives can be made accountable to the citizens they serve. An important mechanism that can give an impetus to ensuring the accountability of the non elected representatives is access to information that is held by such elected representatives in their official capacity. The implementation of the right to freedom of expression and the right to information are established to be pre-requisites for ensuring the voice and participation necessary for an open democratic society. This implies that the promotion and protection of both access to information itself and flows of information that exist between constituents—both men and women, government, parliament, community groups, civil society organizations and private sector are of equal importance. Moreover, modern reform processes which stress upon the need for institutional building require a sustained democratization process in which the flow of information plays a very important role. It is important to research upon this issue because it is increasingly becoming clear that the problem of governance is intrinsically linked to the issue of systemic accountability.

For the purpose of this research, if the viewpoint of some eminent scholars is taken and taking forth the argument that if information is considered to be a commodity that is to be used by the public, then in many ways it can be argued that providing information to the public is a public service that the government and those who serve the public while working in the government must perform. This research is also influenced by the sayings of ancient philosophers such as Pilates (Doren 1954) who prodded into the meaning of truth and the same question is being asked again and again, over a period of time. In the year 1954, for the celebration of its Bicentennial, Columbia University decided that Freedom of inquiry and expression was the most appropriate subject which a free University in a free country should choose and
therefore the theme that was chosen was -Man’s Right to Knowledge and the Free Use Thereof. Not only is knowledge important but also freedom is necessary in every field of opinion and inquiry. However, with freedom comes responsibility and privilege to exercise the freedom.

**The argument and rationale for accountability:**

The foundation of this research is the assumption that the concept of democracy requires accessible governments which are accountable to its citizens and that the RTI Act has made only a feeble attempt to strengthen accountability of the bureaucracy even though much fanfare has been associated with its start. Though, it must be said that the potential of this Act is tremendous and manifold. It is a basic tenet of liberal democracies such as India to have a government and bureaucracy that functions according to the Rule of Law and the creation and maintenance of representatives who are accountable to the people. This also implies by corollary that these representatives are also removable by the people. It is of utmost importance for citizens to understand the basic nature of these factors of governance since it is the citizens who are being governed through various mechanisms of the government. For gaining an insight into the workings of the government and to enforce accountability of these factors, all citizens need access to information from the government about government documents and records. The World Bank document of 1992 titled ‘Governance and development’ states accountability and transparency as the most important pre-requisites for good governance out of the seven aspects that have been outlined by it. This research tries to ascertain whether the RTI Act has really been able to make visible an invisible bureaucracy or has it just created another form of an invisible government which only appears to be accessible but is actually as distant from the common public as the previous one.

It has been mentioned by Jaytilak Guha Roy (2006:559) that an invisible government is no longer the norm of the day. All the players in the field of democracy, be it the citizens, civil society, business and commercial houses, as on date, demand accountability and transparency from the government. It is common knowledge that everywhere government officials maintain secrecy in public functioning, which serves as a means for avoiding criticism, hindering opposition and maintaining power over citizens and their elected representatives (Mills: 1958). All of these parties demand
information legitimately from the public authorities. According to Guha (2006:561) dissemination of public information is possible only if the government is legally responsible for providing the public with information. The importance of having such legislation in place that ensures accountability from the bureaucracy is reflected in the fact that the Second Administrative Reforms Commission has focused its first report on The Right to Information, which it defines as the Master Key to Good Governance. Thus, even though the mandate of the Second Administrative Reforms Commission is to suggest various methods to be adopted for a complete revamp of the public administrative system and its terms of reference has been given a wide scope that covers all aspects of public governance, it chose to analyse the Right to Information in it first report since it views this legislation as one that would be instrumental in bringing about a paradigm shift in public administration. The Administrative Reforms Commission has highlighted the importance of the Right to Information Act in a maturing democracy such as India’s. It has emphasized the need for such an Act as essential for a democracy to emerge as an accountable and transparent entity that shares information freely with the citizens and leads to a more vibrant, open and accountable form of government.

Anne Marie Goetz and Rob Jenkins (2005:1) have defined accountability as a perpetual struggle when power is delegated in the interest of governability from the many to the few. The question of accountability is a deep and intertwining question. Once the power has been delegated, the power to hold accountable those to whom the power is delegated, is itself delegated. And this delegation is usually to a handful few such as judges, auditors, public accounts committees, tribunals, etc. “The question of who will watch the watchdog is as old as it is unavoidable”. Taking this argument of Goetz and Jenkins forward, this research shall also examine the accountability of the judiciary in India with special focus on the aftermath of this Act and the mixed reaction of the judiciary to demands from the people for access to information from the judiciary.

In the form of its most common usage, accountability refers to democratic accountability. The variety of ways in which officials can be held responsible for their actions has been summarized by Thynne and Goldring (1987: 11) into a four-fold typology of external and internal/formal and informal modes of accountability. Smith
(1991:104) notes that many elements of the Thynne and Goldring model\(^1\) are likely to be absent in developing countries, where external public control are weakly developed and internal mechanisms are vitiated by clientelism, or excessive formalism.

**Handicaps/obstruction in accountability- Information deficit**

Even though Accountability has been established to form an intrinsic part of good governance and it is vital for a democratic discourse between the State and the public, the lack of complete information to the general public creates a situation of information deficit which undermines the purpose of a democracy. It is well-known that bureaucracies everywhere tend to be less than open, preferring to mystify practices of rule. Colonial bureaucracies are particularly immune to norms of transparency, as the Official Secrets Act of 1923 in India shows. This Act was carried over, into the post-independence period, by the bureaucracy, and served to hinder the free flow of information. The bureaucracy functioned under the auspices of the Official Secrets Act 1923 along with provisions of the Civil Service Conduct Rules, 1964 which prohibit communication of an official document to anyone without authorization. This was further augmented by Section 123 of the Indian Evidence Act 1872 which prohibits the giving of evidence from unpublished official records without the permission of the Head of the Department.

In the colonial era, the Official Secrets Act 1923 had been enacted to deal with matters of security and integrity of the nation. However, it created an all pervasive culture of mistrust and thickly guarded information. Confidentiality was the norm and disclosure the exception among the bureaucracy. The Law Commission in its 43\(^{rd}\) Report (1971) summarized the difficulties encountered with the all inclusive nature of Section 5 of the Official Secrets Act, in the absence of a clear and concise definition of official secret.

The rationale behind Section 5 of the Official Secrets Act 1923 was to deal with the potential breach of national security, however, the wording of the law and the colonial times in which it was implemented made it a catch all legal provision

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\(^1\) The Thynne and Goldring model states the various features of accountability as accountability being external, involving social interaction and exchange, and implying rights of authority (to demand information from those who are accountable.)
converting practically every issue of governance into a confidential/classified matter. Moreover, the closed and secretive nature of the Official Secrets Act was complemented by the Civil Service Conduct Rules 1964 which prohibit communication of an official document to anyone without authorization. The Supreme Court in Sama Alana Abdulla vs. State of Gujarat [(1996) 1 SCC427] has held: (a) that the word ‘secret’ in clause (c) of sub-section (1) of Section 3 qualified official code or password and not any sketch, plan, model, article or note or other document or information and (b) when the accused was found in conscious possession of the material (map in that case) and no plausible explanation has been given for its possession, it has to be presumed as required by Section 3(2) of the Act that the same was obtained or collected by the appellant for a purpose prejudicial to the safety or interests of the State. Therefore, a sketch, plan, model, article, note or document need not necessarily be secret in order to be covered by the Act, provided it is classified as an official secret. (Barowalia, 2006)

In this manner, for the purpose of setting an introductory background, based on which the fundamentals of this research shall be established, this research traces how the freedom to discuss, evaluate and analyse the functioning of the government was denied to the people of India through successive measures and even after much agitation and public support now that there is a legislation in place that purports to provide this basic right to the citizens, it is perhaps under threat of being curtailed due to the ambiguities that are present in the legislation itself and the intention of the government to convert the legislation into a token piece of legislation, which lacks a strong character. Complete access to government functions and records should be a norm and routine and limited access, the exception. For natural rights philosophers, the proper end of humans is the realization of their character and potentials as human beings and freedom of opinion and beliefs is an essential ingredient of their individuality. Man is “by indefeasible natural right the master of his own thoughts” and cannot “abdicate his freedom of judgement.” (Elwes, 1883:258). The needle in the form of information is buried deep in the stack of red tape of bureaucracy. Even though the citizen is not always unsuccessful, but this affects his day to day life adversely. Especially, with the coming in of the bureaucratic reforms and the concept of the new bureaucracy, treating citizens as rightfully demanding information is very important. This research tries to trace the lack of the realization that the bureaucrats
have, as far as importance of openness in government functioning is concerned. Large democracies are usually more focused on the press which they perceive as the means of dissemination of information and therefore fail to focus on the needs of the common populace and fail to meet their needs. Most relevance is usually on the press and the press is seen as an important function because it is an important instrument of political communication, such that more attention is paid to the Fourth Estate leaving the citizens feeling helpless.

India’s democratic functioning witnessed a drastic change in the post emergency period wherein a number of political activists along with many social activists and public spirited professionals decided to opt against and out of party and electoral politics and to instead work from the grassroots on the micro-level process of social mobilization. Therefore, from sometime during the mid eighties there has been a consistent effort by many political reformers and civil society groups to define and re-articulate the rights of people. A very effective set of proponents of transparent governance have been grass root action groups like the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan, an advocacy organization that sought governmental accountability as part of the citizen’s right to know and the right to participate in governance. Moreover, The National Campaign for People’s Right to Information (NCPRI) formed in the late 1990’s became a broad based platform for action. Therefore, with the collective efforts of various civil society groups and momentum built at the grass root level of democracy, legislation in the form of the Right to Information Act 2005 was promulgated in India and it came into force in India in totality with effect from 12th October 2005. There was an attempt to make this law very comprehensive and it covers almost all matters of governance and has the widest possible reach, being applicable to government at all levels – Union, State and local as well as recipients of government grants. On the lines of the RTI Act, the Civil Services Conduct Rules were modified in October 2005 in a manner that is in consonance with the Right to Information Act. However, a similar change may also required to be made in the Manual of Office Procedure that is followed by most government officials in India. The present research delves into issues such as these to arrive at a conclusion as to whether changes such as those being suggested are in consonance with the spirit of the Act. (Barowalia 2006)
Transparency as a pre-requisite for accountability:

The concept of Accountability cannot be studied in isolation from the concept of transparency. It is imperative for a democratic bureaucracy to be open and unambiguous in its functioning. The creation and establishment of an effective bureaucracy through access to information and transparency are areas on which voluminous works have been done. Scholte (2004) has specified the ‘who’, ‘what’, ‘with’ and ‘from’ that is required by all citizens from their governing authorities and that is an intrinsic part of effective governance. It has been argued by Scholte (2004) that it is well-nigh impossible to hold governors to account if their governance is invisible to constituents. If regulatory operations are to be subject to effective public scrutiny, then they must be open to public view. Citizens need to be aware who is governing them, towards what objective, with what decisions, by what processes and using what resource. Only then can people have adequate grounds to judge the performance of the rules and the rulers that govern them. Public transparency is, therefore, a crucial precondition for effective democratic accountability. Thus, it can be safely assumed for the purpose of this research that public transparency is an indispensable part of governance which is essential to run an accountable government. In the broader framework of a fully effective and efficient democracy, it helps in achieving capacity building.

Being an integral part of the discussion on good governance and capacity building, there have been various definitions given by scholars about openness and transparency which maybe briefly discussed in this chapter since it pertains to the fundamental question that this research is attempting to address. According to Jaczko (2007), openness is measurable and consists of the motive of access to information whereas transparency involves the description of the decisions made in government departments and the ways and means by which such decisions have been reached.

Settembri (2005) gives a broader definition of transparency in the context of complete information that is required by an individual for the fulfillment of a specific function in any given context. O’Neill (1998) has classified the three dimensions that are the vital for transparency to exist i.e. access to information, the reasoning behind the decision, and an understanding that the decision making process is open for public debate and participation. According to Roberts (2006) the right to information
is a basic human right and a derivative right since it arises as a consequence of the human rights commitment.

Drucker and Gumpert (2007) view transparency as a policy and useful management tool in public and private sectors. Transparency has emerged as a leadership style and many organizations have made transparency their goal which has led to a high level of access to information. With changing times there is no room for secrecy in public functioning anymore considering which Torres(2006) has analysed that public functionaries need to win the trust of the common public by providing more transparency, accountability and openness. It is this notion of trust and openness that this research fundamentally attempts to address. This research is important to understand whether after around three years of the genesis of the right to know for the people of India, in the form of a formal legislation, since it is around that time that this research was initiated, and till the culmination of this research, therefore, in effect, after around six years after the official promulgation of this radical Act; has the intention with which it was initiated been accomplished, and have the executive and the judiciary been able to implement the Act in its true spirit. Record-keeping is important in today’s information society and it has acquired wide-reaching implications as far as maintaining the balance of power in an information society’s structure is concerned. The power balance is also reflected in the relation between individuals and government on one hand and individuals and private/corporate organizations on the other hand. These relationships are in some way dependent on the information about public functioning that is available with these variables. Most of the information that is available with these authorities is obtained from records that are maintained by public authorities. The power balance in a country is bound to be affected with a growth or change in a society’s record keeping capabilities and in some cases, it may even upset the power balance in a society.

**Rationale for the research:**

A transparent government is needed to fulfill the goal of transparency and accountability, which in turn leads to a strong democracy. For transparency to prevail in government functioning, access to information and access to knowledge (A2K) is needed which would then create the solid foundation of information access which
leads to transparency, accountability, good governance etc. Thus one factor is a pre-
requisite for the other and each factor both supplements and complements the other.
This thesis proposes to study the effect of the Right to Information Act 2005 on the
functioning of the bureaucracy and to analyse it from various perspectives so as to
arrive at a conclusion that is able to provide some answers for the performance of the
Act and its effort to meet its objectives and to suggest the way forward to make the
Act better, at least at the implementation level. It is now widely recognized that the
principle of “discretionary secrecy” is no longer relevant in a modern democracy.
This principle implied that the government had the discretion to curtail the
information that it wished to curtail from the public.

In this research, as is the case with most researches, it is easier to draw a critique of
the current stipulations and practices than it is to move on to specific constructive
proposals for improvements. Most administrative reforms across the world are based
on this approach. Chapman and Hunt (2010) have termed this approach as the
piecemeal or incremental approach. According to them, the democratic form of
government not only requires continuous attention but also the willingness of
individuals to participate as citizens. The rationale proposed by Chapman and Hunt,
which is a rationale that this research proposes to adopt is that the elements in a
democracy need to be continuously monitored to ensure that actual changes are
consistent with the intended values and principles, otherwise even the best intentions
may be threatened.

Carrying this proposition into the present research, one may state that it is important
to assess the implementation of the Right to Information act to see if the Act is being
implemented in the right direction and if its implementation remains true to its
intended purpose.

The Right to Information has to be studied within the framework of accountability in
the changing nature of the state. It has attempted to redefine traditional accountability
and contours of a rational legal state held by parliamentary accountability. The new
reforms towards marketization and contractualism have brought new institutional
actors in mobilizing and articulating interests of society. This change has replaced
the rationality bounded state held accountable through parliamentary channels by a
supermarket state model providing services to citizens. Thus accountability has become more instrumental than a design for articulating collective interests. Thomas 1995 rightly points out to the unfortunate replacement of ministerial responsibility by contract based accountability.

Also the Right to Information Act becomes important in a regime where only the rich and powerful have access to resources and a very important component of these resources is information. The balance between secrecy and openness is indeed very delicate and fine.

Rhodes (1997) has studied the process of hollowing out and concluded that this process has been gradually eroding political responsibility. This situation has arrived due to the fact that operative agencies in the new state model have gained more freedom and made managers relatively more autonomous but has in turn undermined political power only to become worse than the traditional bureaucracy. Davis (1997) highlights asymmetry of accountability when a few operating and regulatory agencies control and hold enormous power.

Robert O.Keohane (2003) indicates that the progress towards linear process of the market and management efficiency has increased administrative orthodoxy, which is further leading to isomorphic and global trends which shrink aspects of accountability. This is exacerbated by the fact that history is seldom linear and may require less orthodox arrangements for citizens which the new situation may not be in a position to provide. Keohane and Held (2003) have also raised the issue of ‘organizational entropy’ due to asymmetric accountability which shrink people’s participation and weaken political power. T.M. Isaac and Richard Franke (2000) in Local Democracy strengthen the above argument by bringing in the experience from the way Kerala Panchayats devolved 40% of their budget to 900 Panchayat Village Planning Committees and resolved the issue of weakening accountability of political executives. There are many related issues which have to be surveyed in the process of accountability. Keohane (2003) mentions ‘Performance Metrics’ in which every layer of decision making has to be assessed and evaluated. This would provide a better picture of many hybrid structures which are raised as solutions to decentralized decision making. This would also suggest wherever the need for a ‘cultural creolization’, an added justification for the right to information arrives in this background where the State and its operating agencies are moving towards greater
divergence approach, expanding to absorb global capital and technology on one hand and services on the other. This increased heterogeneity in the state decision making bodies are likely to conceal many facts which citizens have a right to know about. Accountability has three main problems;

1. Institutional: because the organizational links between political responsibility and managerial accountability is loose and disjointed.

2. Political processes: Managers have no clear norms for neutrality and value free decision making.

3. Organizational Structure: Managers are not allowed to answer for the direct action or performance of a service provider to people or stakeholders.

Thus Peters and Pierre (1998) warn about the ambiguity in the processes of accountability which is more than what it was in traditional rational –legal model of State. Pollit and Bouckaert (2000) sum up the three pillars of accountability which strongly recommend the need for information as a right to citizens. These are:

1. Authorization: An identifiable superior

2. Support: Those who support the political leadership have to claim rights and hold rulers accountable.

3. Impact: Those who are choice determining for some people should be accountable for their action.

Access to information is a pivotal empowerment tool that underpins effective interventions in the area of democratic governance, which is central to any democratic structure. Accessible and understandable information and the means and ability to communicate are important for enabling people to participate in policy making processes and the decisions that affect their lives.

The implementation of the right to freedom of expression and the right to information are pre-requisites for ensuring the voice and participation necessary for an open democratic society. This implies that the promotion and protection of both access to information itself and flows of information that exist between constituents-both men and women, government, parliament, community groups, civil society organizations and private sector are of equal importance.

The proposed research would critically examine the present form of the Right to Information Act 2005, since there is a need to analyse whether the legislation has
been able to fulfill its intended purpose of facilitating the process of accountability and transparency in the Indian democratic framework. The Right to Information Act 2005 is an attempt to codify this right to receive information from public functionaries which is in fact an important pillar of democracy where all citizens have the right to freedom of speech and expression which is slated to include the right to information. This helps in making the democratic framework of a country stronger more dynamic and truly representative of the people. The study would draw from the work of Bruce Ackerman and James S. Fishkin who argue that information in fact is a first step to strengthen democracy. It is further stated that an informed citizenry will lead to dialogue, deliberation and creation of community. However, the intended purpose and the meaning of the Act has not been implemented in practice. The proposed research would specifically attempt to critically examine the Right to Information Act 2005 and focus on the key lacunae such as interpretation of the exemption clause of the RTI Act 2005, applicability of Act only on public authorities, overriding effect of the Act, bar on the jurisdiction of courts and lack of redressal after receiving information under the Act. This would be located in the theoretical framework incorporating the key concepts of horizontal accountability and public accountability regimes.

Accountability for the purpose of this study would be defined as the obligations of the elected as well as non-elected representatives of a democracy towards the citizenry for all actions taken on behalf of the citizens and thereby involving public resources. The study would draw on the key arguments by O’ Donnell on mechanisms of vertical accountability. In the context of RTI what is particularly relevant is the thrust on system of checks and balances and due processes in government decision making. A step further in the research, would be an attempt to locate why in practice this has not been achieved. The key variable for examination would be a redressal mechanism which is absent in the current legislation that has been promulgated by the Parliament. The study would then attempt to locate the rationale for an in built redressal mechanism which would strengthen the process of public accountability. Here Dicey’s (1959) emphasis on the idea of Rule of Law becomes pertinent particularly the need for a strong judicial check on the State.
One of the most important features of the Rule of Law is the redress afforded by courts for the damage caused by illegal interference in any person’s personal freedom. The right to receive information from the State has been established to be a valuable personal freedom. To bar the jurisdiction of courts seems against the basic tenets of Rule of Law to say the least.

A second key variable for examination would be the need for extension and applicability of the Right to information Act 2005 on private entities and not limiting its scope only upon public authorities.

Further the study would also examine the role of the quasi judicial bodies i.e. the Central Information Commission (CIC) which functions through the Information Commissioners and whether it would result in a parallel body of judicial activism which may or may not be justified. This would be located in the current debates on judicial activism.

This research is also important from the point of view of the fact that it is estimated that approx. 70% of India’s total population is going to become a middle class society in the coming 15 years if a recent report by the Asian development Bank which is based in Manila is to be believed.\(^2\) If this is so, then there is all the more reason for the RTI Act to be implemented in a proper manner because more and more citizens of the country are going to be aware of their rights and are going to demand their rights. In the first reading itself, it may be noted that the RTI Act is a very comprehensive Act that provides the citizens with the right to access information and the guidelines on how to access such information is also clearly given. Moreover, a well defined procedure for acquiring information, a time limit for providing such information, defining the procedure for making appeals against the decision of the government department, the appointment of an Information Commissioner who would receive, investigate and decide upon complaints and the exemptions that are provided for under the Act. However, the issues that emerge at the time of implementation of the Act are diverse and are basically a result of vague exemptions and the even though the original intent of the exemptions initially was for them to be as specific as possible, however, these exemptions are sometimes very

\(^2\) (News article Times of India on 05\(^{th}\) May 2011)
restrictive and sometimes they are very generous. This creates huge ambiguities in the minds of the applicants and the executors of the Act. The tradition of government secrecy is something that is very incompatible with the people’s right to know. The basic principle is that openness is an exception and secrecy is a norm. This also implies that until the government decides otherwise, all administrative information is to be kept a secret. This is sometimes also known as the principle of “discretionary secrecy” which implies that the government has the discretion to keep secret whichever records, documents and information that it wishes, and it is free to do so to protect its own partisan interests. However, by now almost all democratic countries have evolved at a conclusion through their democratic process that this principle is in effect faulty and in fact in today’s times it should be just the reverse i.e. the secrets that are to be kept by the government shall be those that will be dictated by law and the rest of the information shall be open to the general public. In accordance with this changed perception of secrecy, several such democracies have adopted laws that establish the principle of governmental openness and which provide a public right of access to all administrative documents and information except for specific matters that are narrowly defined.

**Methodology:**
The main research that has been carried out in this thesis is outlined in the fifth and sixth chapters of the thesis which pertain to the fieldwork that has been carried out in the course of this research. Mainly, this is an empirical research which is based on field work. Both interview and observation methods have been used to carry out the research during the course of the study. Observation method has been used to understand the various cases that are being dealt by the Central Information Commission (CIC) and the various Appellate Authorities and Public Information Officers (PIOs). The interview method has been used to take the opinion and feedback of the officials who are working to make the RTI Act a possibility such as the Appellate Authorities, Public Information Officers, Assistant Public Information Officers, Staff workers in public information offices, etc. Also some applicants were also interviewed to gather the other side of the story, their experience with the RTI Act and the response that they received or not received. The opinions and experiences of the officers dealing in the Act as far as pre and post the Act was also collected and analysed. Moreover, record keeping in public offices was also studied.
closely by the researcher to analyse the manner in which record keeping has changed over the years in government offices. Since the researcher is a lawyer, some important court proceedings pertaining to RTI appeals in the High Court were also observed by the researcher to determine the impact of the Act on various judicial pronouncements. Thus the method of observation played a crucial role in the research. For corroboration facts various secondary forms of data, RTI reports, government records, manuals, websites etc. were used.

Various NGOs working in the area of information laws were also consulted to provide the grassroots level information about the beginnings and workings of the Act. Some of these NGOs also were rich sources of secondary records and trends.

**Period of research:**
The period of research for the present thesis starts from the date of promulgation of the Act i.e. 12th October 2005. However, within this period a smaller period was minutely examined to determine the true impact of the Act, a few years after its promulgation. Applications and appeals submitted to the focus government department of the research during the research were studied in detail during the target period. During the field research, the court proceedings regarding RTI were observed by the researcher and court records were also collected and analysed. The records available with NGOs regarding RTIs were also referred to for the period of research.

**Universe of research:**
As the title of the research suggests, this research involves a case study that was conducted on the application of the RTI Act on the Delhi Secretariat. Thus the researcher had to make frequent research trips to the Delhi Secretariat to collect material and to interview candidates and to various offices of the concerned NGOs to gather data for the research.

**Area covered:**
The area covered for the research was the Delhi Secretariat which was taken into consideration because Delhi being the capital of the country it would have the likelihood of having the most number of aware applicants. With the high number of literates in the capital the number of applications received in the Delhi Secretariat is
huge. The overall response of the Delhi Secretariat has also been very positive as far as the Right to Information Act is concerned. Even in cases where the Delhi Secretarial has been lax or careless or unable to provide information under the RTI Act, it makes for a good case study because most applicants have pursued matters as appellants and rich observations could be made from these patterns. The Delhi government strives to act as the model government as far as the implementation of the Act is concerned and therefore the Public Information Officers are also active in the dissemination of information. Moreover, because the Delhi Secretariat is a large body, a comparative study could be made within the various the departments of the Delhi Secretariat.

Moreover, each department in the Delhi Secretariat maintains an official website which is updated on a regular basis and provides details about the number of applications filed and the current status of the applications or appeals. This study has tried to tap into the resources that are available online on the Delhi Secretariat website. Thus the efficacy of the website of a prominent government department such as the Delhi Secretariat can also be studied upon through the present research.

**Design of Chapters:***

The present research is organized into a scheme of six chapters, with the last chapter being conclusions and recommendations. The brief framework for each chapter is as follows:

**Chapter 1: Introduction-**

The first chapter of the thesis provides a brief overview of the Right to Information Act and outlines the rationale for the research. It gives reasoning to exploring the lacunae that exist in the Act which act as a deterrent in the Act. Towards this end, the research explores the various dimensions of freedom of information laws.

**Chapter 2: Theoretical Framework and Research Methodology-**

This chapter is a detailed description of the various theories on the subject and gives a detailed review of literature which helps in forming a basis for the arguments that the researcher seeks to explore during the course of the research. The research methodology
Chapter 3: Tracing the Freedom of Information Act in the global perspective-
The research has grown richer manifold by the addition of this chapter which reflects upon the Freedom of Information Laws of other countries and makes a comparative analysis of the same with the Freedom of information law in India. Many past experiences of these countries can serve as learning experience for our country.

Chapter 4: The Legal Framework- strength and implementability challenges-
Out of the large volume of legal framework available for the research problem at hand, this chapter traces the research problem in the existing and available legal framework for Right to Information. Various constitutional provisions and court judgements have been analysed in order to derive a conclusion for this chapter.

Chapter 5- Case Study of the RTI desk at the Delhi Secretariat- A specific case study within the research was felt necessary during the course of the research to analyse the specific impact of the Act on the various facets of the workings in a public department. This chapter throws light on the intricacies of the workings of the Act on a specific department of the Delhi Secretariat and contributes significantly to the research.

Chapter 6- Conclusion and recommendations:
The final chapter of the thesis gives a summary of the research done in the previous chapters and draws conclusions from the field research and also from the primary and secondary sources of data. Towards the end of the chapter, it also gives recommendations for the topic at hand.

Conclusion:
The first chapter of the thesis lays the foundation on which further research on the topic at hand has been carried out. It highlights the crucial relationship between accountability and the right to information and the challenges that arise while implementing the Right to Information legislation. Out of these challenges are the research questions that are raised that are tackled in this research. The reason for the secrecy maintained by the non-elected officials of the government i.e. the bureaucrats, is explored in this chapter. The factors that have led to the promulgation of the Right to Information Act 2005 have also been elaborated in this chapter. The difficulties in the promulgation of the Act and thereafter the implementation of the Act are two different realities which have been explored in this chapter. The manner
in which the RTI act is being implemented raises questions about the fulfillment of the spirit of the Act. A broad introduction to the chapters that are a part of this thesis also find place in this chapter, such as the chapters on theoretical framework, legal framework, the global trajectories of the right to information legislation, the chapter on field research, etc.

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