I. FREEDOM OF EXPRESSION AND RIGHT TO INFORMATION

Freedom of Expression and the right to seek information are interlinked and fundamental human rights as stated in Article 19 of the Universal Declaration of Human Rights. The Freedom of expression, undoubtedly one of the most basic rights, cannot be effectively exercised without having access to pertinent information and hence, the right to information has also come to be regarded as a fundamental right, essential for the full enjoyment of the right to freedom of expression and meaningful participation in a democratic society. The Importance of the right to information has been seen at various levels in itself, for the fulfillment of all other rights and as an underpinning of democracy.

Based on John Milton's arguments, freedom of speech is understood as a multi-faceted right that includes not only the right to express or disseminate information and ideas, but three further distinct aspects:

(i) the right to seek information and ideas;
(ii) the right to receive information and ideas;
(iii) the right to impart information and ideas;

Freedom of Information, including the right to access the information held by public bodies, has long been recognized not only as crucial to democracy, accountability, transparency and effective participation, but also as a fundamental human right, protected under International and Constitutional Law.

In a general sense, it can be said that the right to information can be derived from the recognition that the democracy, and indeed the whole system for protection of human rights, cannot function properly without the freedom of information. In that sense, it is a fundamental human right upon which the other rights depend.

II. NEED FOR RIGHT TO INFORMATION

Access to Information feeds into the wider development of empowering people by giving them the information that can help them gain control over their own lives. This empowerment supports participatory democracy by giving citizens the capacity to engage in public debate and to hold governments and others accountable.

Mander, a Government Official and an Advocate of the Right to Information, has described the importance of this right as follows: ‘Information is the currency that every citizen requires to participate in the life and
governance of society. The greater the access of the citizen to information, the greater would be the responsiveness of government to community needs\textsuperscript{vii}

Some illustrative examples highlighting the need and importance of the RTI are mentioned as below:

A. EMPOWERING CITIZENS
In terms of encouraging the empowerment of citizens, Freedom of Information is at the heart of a participatory democracy. It promotes a true sense of ownership within society and therefore gives meaning to the concept of citizenship.\textsuperscript{vii}

B. ESSENTIAL TO DEMOCRACY
The open and convenient access to Government information is essential to democracy. Free debate and accountability require transparent governance structures that encourage citizens to engage with public officials.\textsuperscript{ix}

C. IMPORTANCE FOR ECONOMIC GROWTH
Transparency is often referred to as one of the three fundamental principles of the WTO. The role of transparency is perhaps of greatest importance in situations where the extent to which rules of general application determine trading conditions is limited and the scope for discretionary decision making is greatest.\textsuperscript{v}

D. CURBING CORRUPTION
Corruption exists across the globe. India has the dubious tag of being the 94\textsuperscript{th} most corrupt nation out of a total of 174 countries in the survey, as per the Transparency International Corruption Perceptions Index, 2012.\textsuperscript{xii} Corruption in India has spread its tentacles to such an extent that people have to pay bribes to access even the most basic information. Although the media tends to focus on big scams, small scale corruption is wide spread and has unfortunately become a part of the normal routine. The right to information would serve to be a potent tool for counteracting corruption and exposing corrupt officials and prohibit unethical practices\textsuperscript{xii}

E. LIMITING ABUSE OF DISCRETION
Officers, it is well known, often use discretionary powers in affairs relating to the Administrative matters. Though the courts have time and again put a check ensuring that these discretionary powers do not term into arbitrary exercise of the powers, the Right to Information Act would prevent the common man from knocking the doors of the courts, every time, a discretionary power is abused.

F. PROTECTION OF CIVIL LIBERTIES
The right to information would make it easier for the civil society to monitor wrong doing such as in counter claims or the abuse of preventive detention legislation. The fact that the authorities regularly refuse to release information on such issues is indicative of the need for the right to information legislation.

G. KNOWLEDGE OF VARIOUS SCHEMES
The Central and the State Governments come up with a plethora of schemes aimed at social development of the country. In most cases, people are either not aware of the existence of the scheme itself or the salient details of the scheme such as their entitlements under the scheme, paving the way for them to be tricked into accepting less than their entitlement.

H. ACCESSING LAND RECORDS
It has come to the fore that very often people have to face hurdle to access their own land records. Delays, repeated time consuming visits to the offices, bribes for the Patwari, Tehsildar or the Block Development Officer seem to have become a norm. In fact lack of access at times also leads to 'land grabbing'. Under the Right to Information, the citizens can hope to access their records without much difficulty.

I. PARTICIPATION
Participation in political and economic processes and the ability to make informed choices is restricted to a small elite of our country. Consultation on important policy matters, even when they directly concern the people, is rare. Even where consultation is mandatory, for example, under the Environment Protection Act, information sharing is limited, undermining the whole consultative process.

The impact on local people of globalisation and the ‘economic reforms’ has not been as satisfactory as hoped for. For example, small dairy farmers were not informed about the opening up of the Indian Market to imports of milk products under the World Trade Organisation Rules. As a result, they failed to prepare for this change and many of them were forced out of the Market.

J. ELIXIR FOR THE MEDIA
The media plays an important role by providing a link between the people and the Government and hence the need for the media to be able to access information is of crucial importance.

It can thus safely be concluded that the Supreme Court has played a pivotal role in ensuring that the citizens are not deprived of the basic human right of preparing one's thoughts, beliefs and opinions - not only by ensuring the application of Article 19(1)(a) but by giving it a broad interpretation by including within its ambit various facets of the freedom and categorically stating that there is scope for the expansion and adaptation of the provision, through interpretation, as per the changing needs of the society and hence playing a yeoman’s role in safeguarding one of the most vital freedom essential for the development of man - Freedom of expression! All information cannot be disclosed all time as observed by High Courts in different cases.
K. RESTRICTION ON FREEDOM OF SPEECH AND EXPRESSION

The topic of free speech is one of the most contentious issues in liberal societies. If the liberty to express oneself is not highly valued, as has often been the case, there is no problem: freedom of expression is simply curtailed in favor of other values. Free speech becomes a volatile issue when it is highly valued because only then do the limitations placed upon it become controversial. Every society places some limits on the exercise of speech because speech always takes place within a context of competing values. It has been realized that in any modern State, freedoms cannot be guaranteed in absolute terms and cannot be uncontrolled. For an organized society, is a pre-condition for civil liberties. Patanjali Shastri, J. in A.K. Gopalan v. State of Madras, observed:

‘Man as a rational being desires to do many things, but in a civil society his desires have to be controlled, regulated and reconciled with the exercise of similar desires by other individuals.’

I. REASONABLENESS OF RESTRICTIONS

The restrictions, which may be imposed on the freedoms guaranteed under Article 19(1), must satisfy the following three broad tests:

1. The restriction can be imposed only by or under the authority of a law made by appropriate Legislature. Thus, no restriction can be imposed by executive action alone without the authority of a law to back it up.

2. The restriction must be imposed in the interests of or for the particular purpose mentioned in the Clause permitting the imposition of the restriction on that particular freedom, i.e. there must be a reasonable nexus between the restriction imposed and the objects enshrined in the respective Clause.

3. The requirement that a “restriction”, which may be imposed on the freedoms guaranteed under Article 19(1), must be "reasonable", incorporates the concept of judicial review, for, nowhere in the Constitution defines the expression "reasonable restriction". It is thus, for the courts to determine.

III. CONCLUSION AND SUGGESTIONS

In the six decades of independence from alien rule, India, despite its burgeoning population, grinding poverty, large scale illiteracy and unparalleled diversity, remained successfully afloat in the democratic ark, but can also rightfully boast of significant advances made in a number of fields.

One such instance that can be cited is, the enactment of the Right to Information Act, 2005 and it would be no exaggeration if it is said that this single piece of legislation has considerably changed governance in India.

In a democratic society, people are the most powerful element and the Right to Information empowers them to fully realise a democratic set up. In order to introduce openness in every sector of the Government, a whole new approach is needed. Not only the Government officials but even the citizens are to be educated of their rights and obligations. The initiative that has been taken in the form of the enactment of the RTI Act, 2005 must reach all levels of society and throughout the country for it to function properly so much so that a person living even in the remotest part of the country should be able to access the information he needs. Concerted efforts by all the public authorities should be made to make information available in order to improve accountability, transparency, legitimacy and openness in the government.

The Act is frequently being used by Government servants, mostly disgruntled under disciplinary proceedings and even dismissed to settle their service matters and by people interested in gathering evidence in their litigation cases or in finding out whether the property they intend to purchase is free from encumbrances. The CIC is at pains, in decision after decision, to explain that the Act is not a mechanism to redress grievances. The public interest, which the Act intended to secure, is missing in a good number of applications. There are very few instances where applicants seek policy related information. Such a selfish and unintelligent use of the Act will defeat the very objectives of the Act.

In effect, there is greater transparency than before in the working of the public bodies. The disclosure of vital information has also resulted in checking corrupt practices in delivery of services.

With the coming of the Act, conducive conditions have been created wherein every person has now got a better understanding of how the Government works or how a particular decision is arrived at. This goes a great way in empowering them in order to make appropriate choices of leadership.

The Government, it is known, spews out various schemes and programmes allegedly for alleviating the needy and allegedly enabling the people to build their strengths and abilities to realize their socio-economic objectives. However, it has been noticed that all such programmes though implemented fall way below the general expectations. With the coming of the RTI Act, empowering citizens and a free flow of information, there is a significant quantitative and qualitative improvement in the delivery of services and realisation of benefits of the programmes designed and implemented.

Under the Right to Information regime, citizens' participation has been promoted through:

(a) Access to information and involvement of effected groups/communities in design and implementation of projects; and
Empowerment of local government bodies at village level through the involvement and cooperation with NGOs or self help groups.\textsuperscript{xviii}

IV. SUGGESTIONS

Based upon the provisions and the working of the Act so far, the following suggestions may be made:

1. DISPLAY OF DETAILS OF ASSISTANT PUBLIC INFORMATION OFFICERS/ PUBLIC INFORMATION OFFICERS

Eminently visible display of details of APIOs/PIOs and making such information available on electronic network along with high level monitoring of the same would go a long way in making available the APIOs/PIOs.

2. PUBLICATION OF DIRECTORIES OF PUBLIC INFORMATION OFFICERS.

Apart from publishing a comprehensive directory of the information officers, contact information of PIOs/APIOs should be prominently placed at points of ingress and egress on the premises of any public authority.

3. AVAILABILITY OF PUBLIC INFORMATION OFFICERS

Necessary steps should be taken to ensure that PIOs are available in the office of the public authority concerned and that any citizen desirous of wanting any information should not be harassed by having to wait or make repeated visits to the concerned office. Availability would further ensure speedy disposal of applications for information.

4. IMPROVEMENT OF RECORD MANAGEMENT.

Adequate budget allocation and continuous high level monitoring; scientific and computerised record management must be topmost priority.

5. OPTIONS FOR PAYMENT OF FEES

Maximum options including cash, demand drafts, Indian postal orders etc., should be made available. Public authorities should be allowed to retain all or a portion of the fees collected to meet the logistical costs of honouring applications from the persons belonging to BPL category since the funds available with the public authorities fall short at times.\textsuperscript{xxv}

6. SUPPORT TO INFORMATION COMMISSION

A separate building and all the other state of the art facilities as also dedicated staff needs to be provided to information commissions in order to available them to function smoothly, independently and more efficiently to protect the freedom of speech and expression.

References

\textsuperscript{[i]} Universal Declaration Of Human Rights. adopted and proclaimed by General Assembly resolution 217A (II) of December 1948, Article 19: “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.”


\textsuperscript{[iv]} The Registrar v. The Registrar,W.P.NO. 1853 decided on 30 April, 2013(Madras High Court)

\textsuperscript{[v]} http://www.indiankanoon.org/doc/149874576/

\textsuperscript{[vi]} Dr. Sheila Rai, ‘Transparency and Accountability in Governance and Right to Information in India’, in rti.img.kerala.gov.in

\textsuperscript{[vii]} www.transparency.org/policy_research/surveys_indices/cpi/2012/results

\textsuperscript{[viii]} Supra note 11

\textsuperscript{[ix]} Alka Matoria  v. Maharaja Ganga Singh University and Others, AIR 2013 Raj.126

\textsuperscript{x} AIR 1950 SC 27 at 32, See also The Registrar General v. R.M.Subramanian decided on 14 June, 2013 available on http://www.indiankanoon.org/doc/149874576/

\textsuperscript{[xi]} http://commons.globalintegrity.org/2009/03/Freedom-of-information-comparative.html

\textsuperscript{[xii]} http://www.wto.org/english/tratop_e/whcom_e/com_01_e/brief_gbhed 14_e.htm

\textsuperscript{[xiii]} [180312e.pdf]

\textsuperscript{[xiv]} Jha Kharak Singh v. State of UP, AIR 1963 SCC 1295 at 1299

\textsuperscript{[xv]} Romesh Thaper v. State of Madras, AIR 1950 SC 124 at 125

\textsuperscript{[xvi]} [180312e.pdf]

\textsuperscript{[xvii]} Dr. Sheila Rai, Transparency and Accountability in Governance and Right to Information in India', in rti.img.kerala.gov.in

\textsuperscript{[xviii]} www.apis.gov.in/uploadedfiles/overall_summary_ToRs_1-6.pdf