

Go Ahead, Ask

Activists Aruna Roy and Nikhil Dey say that the RTI must be empowered to penetrate the veil of corporate India

THE RIGHT to Information Act, 2005 has changed the relationship of the people with the Indian state. The last three years have seen the Indian citizen knocking at the offices of the President, the Prime Minister, the police and state administrations, amongst others, to ask sharp questions and demand straight answers. Many of these applications have been received with indignation by the custodians of information, followed by denials, delays, and appeals; but information has, in most cases, been provided.



One must take note of the effort to undermine the Right to Information (RTI) through acts of omission and commission. In its short history, the RTI Act has

WHAT'S RIGHT

For a nominal fee of Rs 10, a citizen can seek information from government agencies

Successful penetration into rural India, who have benefited at large, filing maximum cases

Successful in getting rations, wages under NREGS, Govt welfare schemes and changes in policy

faced many assaults. It has survived attempts to disable it through amendments, stifle it through lack of administrative support, and discredit it through deliberate misanalysis of its impact. No prizes for guessing who "won" the contract to survey the nationwide impact and implementation of the RTI Act — Price Waterhouse Coopers India (PwCI), associated with attempts to privatise Delhi water supply, and refine the truth in Satyam. They need to be scrutinised by people through many RTIs filed across the country, so that one can finally understand that the best auditors can, and will always be the people. The threat to RTI, however, continues. The latest storm that is brewing, has been triggered by the question asked of Supreme Court registry, about the statement of the assets of the Supreme Court judges. The judges, who occupied high moral ground through assertion and position, and who justifiably ruled in 2002 that candidates seeking election to Parliament and state legislatures must provide affidavits of their assets and liabilities, have inexplicably refused to provide information about their own assets. They have even filed a writ petition in the Delhi High Court against the Information Commission's orders that the office of the Chief Justice of India will fall under the purview of the RTI Act. The decision on this unprecedented writ petition is actually a vital moment of reckoning, not just for the RTI Act, but for the courts of justice in India. Now that the highest Court has decided to adjudicate on itself, it has taken on the highest burden it can — to prove to the people of India that it can, and will, at the very least, rule with justice and equal standards on matters that affect the transparency and accountability of its own judges. A simple RTI application filed in the Supreme Court registry by one active citizen, along with a Rs 10 fee, could determine the nature of judicial accountability in our times. While the judges are in court, the jury are amongst the people.

As the term of the Parliament that passed the law draws to a close, it is a good time to review the act and its implementation. The Indian RTI Act has been hailed as one of the strongest in the world. Its strength lies in the fact that it covers all arms of government, with a small and concise set of exemptions. It is designed to be citizen-friendly, with widely encompassing definitions of information, low fee structures, strong proactive disclosure provisions, independent appeal mechanisms, and mandatory penalty provisions for violations of the Act.

It could, of course, have been better and stronger. Some shortcomings, which have become clear over time, can be attributed to the ingenuity of the Indian bureaucracy. Loopholes are called "Chor Darwaza" in Hindi, and there are some officials handling the Act who have been working hard at

institutionalising the concept. A researcher going into the implementation of the RTI in Rajasthan was furnished with 101 ways in which denial could be justified and sustained by the official responsible for implementing the RTI Act!

Others are problems within the Act itself. The first appeal mechanism has failed to live up to the hope that a senior government servant would overrule his/her immediate junior and thereby save the applicant time and effort of going in appeal to the Information Commission. The vast majority of Commissioners are ex-bureaucrats brought up in a culture and atmosphere of secrecy. The Commissions themselves have not been supported by the government with adequate staff and infrastructure. It is not surprising then, that the agency set up to protect the citizen's RTI has had a mixed trackrecord with increasing frustration amongst the appellants with poor quality decisions, and mounting appeals. THE SECOND appeal has no time limit within which it must be decided. Section 24 of the Act that allows blanket exemptions (except in matters of corruption and human rights violations) has become a place for the government to park any agency under the guise of it being an "intelligence and security agency". The private sector remains largely outside the direct purview of the Act. Although grossly exaggerated, there have been instances of misuse of information and the Act to harass certain officials. Such misuse could have largely been avoided if the 17 points of proactive disclosure under Section Four had been properly implemented. Despite these shortcomings, the awareness, use, and support for the Act has spread dramatically.

WHAT'S WRONG

Scope for Government officials to deny information under 'intelligence and security' agency

Poor quality decisions and pending appeals have been mounting due to low staff

Private sector still remains outside the purview of the Act, when it involves public investments

Many who say that the poor are not using the Act, do not know that the people's demand for the right to know was first raised by the marginalised who linked it to their basic needs. After its passage, the Act has been used very effectively for a range of issues. The preliminary findings of a survey have indicated that rural India has used the Act much more than reported. The survey was initiated by a coalition of citizens' groups to make sure that the PwCI survey did not provide the establishment with an opportunity to weaken the Act. A cursory reading of the numerous e-groups, blogs, newspaper reports and seminars nation wide show that the RTI campaigns have traversed a long distance. People all over the country have used it for accessing rations, getting passports, getting work and wages under NREGA, and even changing policy. The people of Goa, used the RTI to force its government to rescind the SEZ on its territory, and have set an example of how policy can be shaped and changed by a concerned citizenry. One of the first demands from the new government in Kashmir, recently, has been to pass an RTI Act at par with the Central Act.

The Satyam crisis has exposed the dangers of corporatising governance, and made it clear that there is a need to democratise corporations. There have been calls from many quarters to make the RTI applicable to businesses that use the money and investments of people. The experience with the RTI Act over the last three years, has given us an idea of how crucial it is for making power accountable and building a culture of democracy. That much is transparently clear.

Aruna Roy & Nikhil Dey are activists working on the RTI Act.

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