



“RTI and impact of diaspora in Indian society: A need to digitize the process”

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Abstract

The Right to Information Act (RTI) was enacted in the year 2005 to empower the citizen of India with the information hidden in the files of Government machinery and make more accountable the Government Machinery.

Now a days when all states are welfare state and has to give justification for its each and every activity to its people. And from 1776 most of the country enacted Freedom of Information (FOI) in their country to give its people right to ask WHY? WHAT? etc as fundamental right. But as the cultural development and more and more people migrated from its country leaving behind his culture, society, property and become citizen of another country, at that time if he wants some information relating to the country he left, is hindered by Act itself, By this research paper I am trying to analyze the why the government documents must be digitalize and what are the best practice to provide the basic fundamental right as a human being and what are the benefits and limitations to move on the different path.

Keywords: RTI, FOI, POI, OCI

1. Introduction

The Indian Diaspora history goes back to ancient and pre-modern times. The OIC-(Overseas Indian community) has significantly contributed to develop the Indian society and also has emerged as the strong power promoting India's culture, thinking, at international relations as global ambassadors and contributing immensely to the social and intellectual capital of India.

Indian migrants who settled abroad in search of development leaving behind their relatives, friends, property are the people who want to find good environment to groom and good administration for better governance, which was actually not available in India and they went abroad in search of them. But finally they as a Indian origin also have inherent feeling that our country should also grow like any other develop country. So they also want to find out how our Indian government and its administration departments are functioning, for that they want latest information and it is necessity if they are sending their hard earned money in India for investing.

For every country which believes in democratic principles requires informed citizens, investors, people looking to settle in India and without which country cannot grow and the foremost principle for growing country is the valuable transparency of information which are most important and leading and vital to its functioning and also to contain such mechanism to fight against corruption and to hold government and their functionaries accountable to the public. To solve this kind of problem like non providing information, delay on providing information etc, digitalization is the best solution.

Some of the countries had already started to providing required information by digitize mode, we can say it E-democracy or E-RTI or E-FOI, so now a day many more government started to open data or more transparency towards

to their important documents to anyone— there are no restrictions on age, nationality or where they live. Now a day there is open data cloud developed and you can see that one can access so many information without giving a single application, above all the web pages are so interlinked that you can go to any other web page so easily. As per 2015-16 open data ranking index India was at 17th Rank in open data network with 55% of open data network but in 2016-17 India is at the 32nd position with 47% of open data network, the following countries are far ahead in of India in open data-

Table 1

Taiwan	Australia	Great Britain	France
Finland	United Kingdom	Canada	Norway
New Zealand	Brazil	Northern Ireland	Denmark
Maxico	United States	Colombia	Latvia
Japan	Argentina	Singapore	Uruguay
Netherlands	Sweden	Belgium	Chile
Hong Kong	Germany	Romania	Czech Republic
Austria	Poland	Slovenia	Ukraine

2. BRIFF history of RTI ACT in India ^[1, 2].

The Constitution of India does not clearly grant Right to Information. But The Supreme Court of India in the several cases before it clearly said that the right to information is implicit under the Article 19(1)(a)- Right to Freedom of Speech and Expression and Article 21- Right to Life and Liberty. With this inherent idea of right to information within the Constitution of India, the first ruling was given by

¹http://humanrightsinitiative.org/index.php?option=com_content&view=article&id=62&Itemid=71

² <http://righttoinformation.info/about-us/brief-history-demand-for-the-right-to-information/>

Supreme Court of India in 1975 in the case of State of Uttar Pradesh v. Raj Narain^[3]. The Court reasoned that people have the right to know everything that is done by public officials in their official capacity. This right is derived from the concept of freedom of speech. After this and other cases the Central Government or State Government did not even attempt to implement this ruling given by Apex Court. But there were different voices raised from the societies for Right to Information and they also demand for simple procedure to exercise this right.

For this they launch different movement in different parts of India, of which leading and most effective movement in India was the Mazdoor Kisan Shakti Sangathan (MKSS), which began its right to information movement work in Rajasthan during the early period of 1990s. The movement of MKSS's was mainly for to access to village accounts and transparency in administration. This MKSS's movement is widely spread the right to information movement across India.

From the mid-1990s, there was a national campaign for the enactment of a central law on right to information spread across the India. While the campaign for national legislation was going on, in the meantime some notable progress were achieved at the 10 different state level for enacting Right to Information law and around 3 states had presented draft bill for RTI law.

During the MKSS movement there was a group of people including social activists, lawyers, journalists, professionals, retired civil servants who started The National Campaign for People's Right to Information (NCPRI) was founded in 1996.

As a first step, the NCPRI and the Press Council of India formulated an initial draft of a Right to Information (RTI) law. The Government finally introduced the Freedom of Information Bill in Parliament, in 2002. In August 2004 the NCPRI forwarded to the National Advisory Council a some suggested amendments to the Freedom of Information Act 2002. These formed the basis of the subsequent Right to Information Bill, introduced in Parliament on 22 December 2004. In the next session of Parliament, the bill was passed after over a hundred amendments introduced by the government to accommodate the recommendations of the Parliamentary Committee and the Group of Ministers. Most important, the jurisdiction of the Bill was extended to cover the whole of India. The RTI Act then came into effect all over India, from 13 October 2005.

3. BRIEF history of digitalization process under RTI ACT in India

India is on its path to digitize the process of administration/justice/governance, as already done in other countries, to built the relationship between citizens and government by increasingly mediated by information systems, and e-governance is clearly seen as the way forward for efficient delivery of public services. This tendency has only grown since the 1980s. Now, India is adopting holistic approach and adopting many new projects for e-governance initiatives. Therefore, it is not only necessary to examine India's ecology of government informatics, but also a very opportune time to do so.

The Indian national government has made clear that in coming years it intends to make publicly available much of its data. In its tenth Five Year Plan (2002-2007), the Indian government announced its intention for India to become a 'S.M.A.R.T.' (Simple, Moral, Accountable, Responsible and Transparent) state. This has led to many e-governance initiatives, but few of them have resulted in publicly accessible databases. Fewer still of those publicly accessible databases are 'open' in terms of data reusability (technologically, in terms of machine readability and openness of formats), data reusability (legally), easily accessible (via search engines, for persons with disabilities, etc.), understandable (marked up with annotations and metadata).

One of the most important changes in the citizen government relationship in India since its Independence has been the passage of the Right to Information (RTI) Act in 2005.

4. Open data policy of India under RTI and impact on Indian diaspora

As per RTI Act, 2005 the person who can ask information under the act is Indian Citizen only. As this act specifically cover Indian citizen only, Persons of Indian Origin (PIO) and Overseas Citizens of India (OCI) are not covered by this Act. It means the POI and OCI cannot ask information regarding Indian Government and it's functioning, so it is clear from the Act itself we should make such an arrangement so that the POI and OCI can avail information under the Act, and make informed themselves how Indian Government Functions and on that basis make well informed decision of their future.

Now a day many countries like UK incorporated such policy of transparency to access recorded information to anyone, no restrictions on your age, and whatever the nationality or wherever you live.

The policy of RTI Act,2005 is restrictive regarding transparency, as it gives right of information only to Indian Citizen, but to grow in a transparent way it requires lot more people to be informed and take decision on the basis of required information. This could be done by making the whole process digital and less complex then now.

5. Development, social transformation and corruption A relationship and impact on Indian diaspora

In the background of above study discussed, some important points raised as below-

5.1 Requirement of Self Mechanized System

It is immense requirement to have self-mechanized system for each and every kind of document except exempted document as per section 8. Except that every document can be accessed easily without much hinder to any person not only to Indian Citizen. This will make the Government more accountable towards public accounts. So to make fast development government has concentrate on core area of development and must leave other matter like to reveal a document by self-mechanized way so that they can save their energy and time.

³ A.I.R. 1975 S.C. 865, 24th January,1975

Case Study: Best digitize practice on RTI in India

Table 1: “Sarathi” Pimpri Chinchwad Municipal Corporation, Pimpri, Maharashtra

Location of City	City of Pimpri-Chinchwad is situated to the north of Pune and is 142 km from Mumbai.
Socio Economic Background	Pimpri-Chinchwad is an industrial area, and has seen a high rate of population growth and development. The city has an area of 177 sq. km, while the population (as per census 2011) is 17.30 lakhs
Administrative Set-up	Pimpri Chinchwad Municipal Corporation (PCMC), established in 1982, has six administrative wards and 15 zonal offices with 32 departments providing nearly 116 different services to the residents of the city.

The Pimpri Chinchwad Municipal Corporation was facing the following three challenges regarding providing information to public:

5.1.1 Difficulties to the public

- As per the current set up public has to visit government offices to seek information, submit applications, register complaint etc.
- Repeated visits, long queues/waiting periods, lack of uniformity in responses obtained, referrals from one office to another leads to frustration amongst the citizens, in addition to wastage of time and money.
- Oftenly the information given by public authorities is incomplete, with variation in information with regards to time, place and person which results in delays, confusion and corruption.
- Without timely and complete information people have no power to make choices and take decisions.

5.1.2 Proactive disclosure: Citizens charter mandate of Law

As per sec 4 of Right to Information (RTI) Act, 2005 every public authorities should disclose proactively as much information suo motu as possible through various communication channels, but this involved much time to do so. So the basic objective that public take minimum resort to the use of the Act to obtain information cannot be fulfill effectively.

5.1.3 Practical Difficulties faced by the Administration:-

- PIO having daily day to day administrative work had to cope with overload demand of information and its grievance redressal.
- Existing system of providing information is time consuming.
- Emerging need to mechanized the system and at the same time satisfy information needs of public.

Practical solution to overcome the problems

Table 2

Main Objective	Overcome communication barriers and expeditiously provide information which the citizens require, to access basic services.
Initiative Taken “SARATHI”	Marathi means one who guides towards the right path or one who drives you through adversities to find the destination. SARATHI in English has been properly given an acronym i.e. System of Assisting Residents And Tourists through Helpline Information.
Steps taken under the “SARATHI” to provide the Information to citizens.	<ul style="list-style-type: none"> ▪ Core committee was formed consisting of the heads of all departments led by the Municipal Commissioner ▪ A weekly meeting held on every Saturday for six months to discuss and finalize the details of the initiative. ▪ Result: completeness, standardization and authenticity of information. The stakeholders in the entire process were the core committee members as well as representatives of the civil society such as IT professionals & representatives of NGOs. ▪ The points considered were <ol style="list-style-type: none"> 1. Format of information dissemination: The prepared FAQ on the basis of previous history of asked information, with the help of NGOs and citizens. 2. Content: A total of 774 Frequently Asked Questions (FAQs) were finalized for 45 departments. And standard answers were framed with the help of respective department. 3. Departments Covered: Property Tax, Water Supply, Sewerage , Building Permission, Town Planning & Development, Unauthorized Constructions, Health, Garden, Electrical Civil, Local Body Tax, Traffic Sky signs Medical Primary Education Secondary Education Environment, Sports, Slum Rehabilitation & Housing Scheme, Licenses, Animal Husbandry, E – Governance , Citizen Facilitation Center Tourism, Science Park, Bus Rapid Transit, Fire, Disaster Management. Women & Child Development, Marriage Registration, Electoral Registration, Registration for U.I.D. Certificates issued by Collector Office ,Ration Card, LPG Connection, Electricity Connection, Driving License, Passport, Food License, etc.
Use of Information and Communication Tools i.e. digitize the sources.	The committee decided to utilize the information technology to provide direct and independent access to information i.e. to become more transparent towards government data, they approach through e-Book, Website, Mobile application, Helpline (Call Center). The SARATHI initiative in the form of a Book, Website and Helpline was launched on the occasion of 66th Independence Day i.e. 15th August 2013. in Marathi. The English version of SARATHI in all these forms was launched on 26th January 2014.

5.2 Requirement of open data bank

The basic object of the Right to Information Act is to empower the citizens, but in today’s world where world

become smaller and smaller you cannot restrict information to your citizen only, except prohibited information as described in the Law, and it is the requirements of today’s world to

become more transparent than never before, so as to make its official more accountable, but until you give this power into public their hand the object of RTI will not be fulfilled, meaning thereby the right of information is basic fundamental right as any another right like right of freedom and expression, and this right must be exercised without delay and hinder except the provision given under sec 8. So it requires more open data bank.

6. Comparing land mark judgment under RTI act with the “SARATHI” best digitize practice on RTI in India

6.1 Case Study: Jarnail Singh vs. Registrar, Cooperative Societies Delhi, Complaint No.CIC/WB/C/2006/00302, dated 9/4/2007.

6.1.1 Main issue

Whether the information regarding non public authority can be obtained indirectly from public authority? In this case Applicant had sought some information from the Registrar, Cooperative Societies regarding the alleged irregularities in the allotment of a house to him by a cooperative group housing society.

6.1.2 Judgment of case

The Commission held that a cooperative society is not a public authority, *but because the information sought by the applicant/ appellatant is available to the Registrar under the Delhi Cooperative Societies Act, such information can be provided to the applicant*, under Sections 2(f) and 2(g) of the RTI Act. It was also ordered by the Commission that the applicant will be provided the required information from the office records of the cooperative society under the supervision of a competent officer of the RCS.

7. To justify the urgent need of open data in India following data is more important to consider (Requirement of Open Data Bank)

The basic object of the Right to Information Act is to empower the citizens, but actually the word “citizen” should be replaced by “people from anywhere” because world today become global village only if people in the world gets every information from everywhere in the world, but until you give this power into their hands the object of RTI will not be fulfilled, meaning thereby the right of information is basic fundamental right as any another right like right of freedom and expression, and this right must be exercised without delay and hinder except the provision given under sec 8. So it requires more open data bank. To justify my submission following data is more important to consider-

Table 3

Open Data Ranking ^[4] (as per 2016-17 data base)	India Ranking 31 th Score 47%	1 st rank Taiwan and score is 98% 2 nd rank Australia and score is 79% 2 nd rank Great Britain and score is 79% 4 th rank Franc and score is 70% 5 th rank Finland/Canada/Norway score is 69%
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⁴ <http://index.okfn.org/place/>

8. Conclusion

The main object of RTI is to fight against corruption and it is not required who revel the corruption i.e. citizen of India or PIO or OCI, and to establish transparency, Commission rightly given its decision, but every time a applicant ask for information PIOs who are in custody of documents have less interested to give required information or make some arrangement to fulfill the object of RTI Act, 2005.

Now comparing the relevant case of *Jarnail Singh vs. Registrar, Cooperative Societies Delhi, Complaint No.CIC/WB/C/2006/00302, dated 9/4/2007*, with the “SARATHI” - *Pimpri Chinchwad Municipal Corporation, Pimpri, Maharashtra* we can see that the whatever the information sought by Mr. Jarnail Singh from Delhi Co-operative Society was in e-form then there won’t be any litigation for non providing information under RTI act, and which also fulfill the requirement of Proactive disclosure requirement under sec- 4 of RTI.

In *People’s Union for Civil Liberties v. Union of India* - (2004) 2 SCC 476, the Supreme Court held that right of information is a facet of the freedom of “speech and expression” as contained in Article 19(1)(a) of the Constitution of India and such a right is subject to any reasonable restriction in the interest of the security of the state and subject to exemptions and exceptions. The honorable Supreme Court rightly expressed its view but this view was taken as a shelter by PIO as shown at above given illustrative cases, but if the POI as shown in CASE study of *Pimpri Chinchwad Municipal Corporation, Pimpri, Maharashtra* in SARTHI case we can see that it is only the approach by POI to fulfill the basic need of Right of Information to not only the citizen but also the tourist should be satisfied by the government.

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