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Economic Impact of Right to Information Act, 2005

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There was a demand for greater transparency and accountability from the government to its citizens. To increase the participation of the people in the process and give them access to information about the functioning of the government and the government institutions, the Right to Information Act, 2005 (RTI) was passed by the Indian Parliament. The act aims to promote good governance. It also served the purpose of maintaining the integrity of the government and aimed to garner the trust of the people in the way it operates. It is in tune with Article 19 of the Indian Constitution, which provides freedom of speech and expression to every citizen of India. This right has been interpreted liberally by the Supreme Court of India as the right to receive and impart information as well. The act has served the purpose of reducing corruption and improving the overall economic situation of the country. It has also given democracy a boost with the citizens having access to information and making the government more accountable. However, all has not been perfect with the implementation of the act hitting certain roadblocks and reluctance to provide information at times. This paper will analyse the economic impact of RTI over the years through available data and provide suggestions as to how the Act can be made more effective to enhance its economic utility.

Keywords: RTI, economic impact, corruption, accountability.

INTRODUCTION

The Preamble to the RTI Act states, “An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public

authorities, to promote transparency and accountability in the working of every public authority.” This in a nutshell represents the whole purpose of the RTI Act. The act has been one of the most significant introductions to our democracy and has helped ensure more openness in governance while also increasing the participation of the people in the democratic process which was also encouraged by the Supreme Court in the case of *Dinesh Trivedi v. Union of India, 1997*¹. This was one of the decisions that had an influence on the making of the RTI Act. The act also puts a responsibility on government institutions to ensure that their functioning is fair and just². It has enabled citizens to enquire into their expenditure, selection processes, databases, and other similar records. This has ensured that they are motivated to function optimally while dissuading malpractices like corruption and bribery. This has had a positive impact on the Indian Economy³.

It must be noted that despite the merits of the act doubts remain and the impact and the effectiveness of the act need to be analysed. It is important legislation that has come under scrutiny recently with certain state institutions refusing to provide information under the act and exploiting loopholes to avoid furnishing any details. Hence, the act must be analysed for its economic impact and loopholes to ensure it can serve the purpose that was envisioned. The motivation behind this paper is to thoroughly analyse the available resources, statistics, and information to understand the effect of the act and suggest changes to make it even better.

LITERATURE REVIEW

Pankaj K P Shreyaskar, *RTI Act in India: Futures and Implications* (2013) – This book shows light on the implications of RTI and the future implications of the act. It had been used to understand how the act can potentially impact the country in the future. The author also compiled the practices which can be adopted to make the RTI act more useful and efficient. These have been used as a base when providing suggestions to improve the act.

¹ *Dinesh Trivedi v Union of India* (1997) 4 SCC 306

² Sudhir Naib, *The right to information act 2005: a handbook* (OUP 2011)

³ P K P Shreyaskar, *RTI Act in India : futures and implications* (Mcgraw Hill Education (India) Private Limited 2013)

Sudhir Naib, The Right to Information Act 2005: A Handbook (2011) – This book explains the provisions of the act in detail and was useful for understanding the Act. The in-depth explanations have been used to identify the intent of the act as well as hurdles in its practical application. It has been used in the analysis of scams and incidents where RTI played a major role.

Mehmet Ugur and Nandini Dasgupta, Evidence on the Economic Growth Impacts of Corruption in Low-income Countries and Beyond (2011) – It analyses how corruption impacts the low-income countries and hinders their development. This is used as a base to understand how RTI is important. It justifies the need to promote accountability and transparency which are the keys to reducing corruption. It calls for more care and responsibility on behalf of the governments which is the need of the hour.

Raja Bhat, SC’s Refusal to Recall Its 2015 Judgment Against RBI Will Make Banks Accountable Under RTI (2021) – In this article, the author explains the 2015 judgment of the SC where it ensured that banks are held accountable under the RTI.

Aayushi Jain, Why Does PM Cares Not to Qualify as a “Public Authority” Under the RTI Act? (2021) – This article specifically argues as to why the PM Cares fund should be a public authority and come under the ambit of RTI. The reasoning is backed by legal provisions and court judgments.

Akshita Khanna, Impact of RTI on Corruption in India: A Critical Analysis (2020) – This article discusses how RTI has been able to be influential in curbing corruption in India. It lists examples where RTI has been successfully used and discusses the future challenges for the Act.

CHAPTER 1 - RTI: A RESPONSE TO PARADIGM SHIFT IN DEVELOPMENT APPROACH

The enforcement of the law on the Right to Information works well for the strengthening of the knowledge in the society as well as in enhancing the transparency of public bodies. RTI has

encouraged people to participate in the development process, resulting in a decrease in corruption. Few major forces that have allowed us to re-think the issues and the fact that had a positive impact on economic development because of RTIs filed are discussed below: -

- i. **Increasing participation by Non-Profit Organizations and activists in development activities** - Because of the ineffective execution of schemes of government, different Non-Profit Organizations and activists have called for the creation of democratic governance conditions in a variety of forums. The efforts of Non-Profit Organizations and activists in helping with the implementation of programs have been valuable in the process of development.
- ii. **Adoption of a citizen-centered growth strategy for development** - Citizen-centered growth strategy is important in a country like India where people are living in distinct socio-economic and geographical conditions. The method of fitting for all sizes has failed, especially in poverty-relief programs. RTI was introduced in response to major development challenges, namely the urgent need for democratization of information and knowledge, both of which are critical for equalizing development opportunities and increasing the involvement of people in democratic governance, as well as developing a citizen-centric growth strategy to address the needs of all members of society. The RTI Acts helps the citizen to enlighten them by accessing information needed for their involvement in the economic growth of the country.
- iii. **Sharing of information about the functioning of government** - Access to information and knowledge helps in improving the quality of life of human beings. It helps them in using their legal, economic, and political rights to build their strengths and assets. Every state tries democratization of information by making a procedure such that everyone can access it. The procedure of filing RTIs helps people access the critical information that serves as the foundation for a healthy debate on topics that impact everyone in society and allows them to participate in the development process.

According to cross-country data, corruption is consistently associated with lower growth rates, GDP per capita, economic equality, and levels of human development. Similarly, a 2011 systematic review of available evidence of the effect of corruption on economic growth confirms that corruption has a direct and negative effect on growth in low-income countries.⁴ It has been 16 years since the RTI Act came into force. In the following chapters, we will discuss and analyze the evidence that shows how the RTI Act helped in exposing corruption which impacted the economic growth of the country.

CHAPTER 2 - EXPOSURE OF SCAMS

RTI has forced authorities to divulge complete information about their expenditures and their functioning. The public bodies can no longer focus from an opaque perspective which has led to the RTI exposing some of the major scams in recent years. Some of them are discussed below.

Adarsh Society Scam

An RTI was filed by Simpreet Singh and Yogacharya Anandji to enquire about the building that was supposed to be constructed for the housing of the families of the soldiers and martyrs of the 1999 Kargil War. When the information was given, it was found that there were a lot of irregularities in the project. There was land misuse and a lack of proper environmental clearance from the concerned authorities. The security aspects were also not considered as the site was close to a military base. Moreover, there were several unaccounted Benami transactions, and a flat was given as a bribe to everyone who helped in getting the clearance. The RTI played a major role in exposing the “corrupt network of politicians, bureaucrats, and military officials” that was exploiting the resources for personal benefits⁵.

⁴ Mehmet Ugur and Nandini Dasgupta, *Evidence on the Economic Growth Impacts of Corruption in Low-income Countries and Beyond* (University of Greenwich 2011)

⁵ ‘Impact of RTI on Corruption in India: A Critical Analysis Latest Laws’ (*Latest Laws.com*)

<https://www.latestlaws.com/articles/impact-of-rti-on-corruption-in-india-a-critical-analysis/#_edn3>

accessed 20 May 2021

2G Scam

This was one of the biggest scams the country had ever faced. Several telecom companies were alleged to be taking advantage of their close relationship with government officials and ministers to get low prices and gain benefits. As per the CAG of India, the value of the scam was close to 1.76 lakh crore rupees. The primary reason behind the exposure of this scam was again an RTI filed by activist Subhash Chandra Agrawal in 2011. Many ministers including the telecom minister A. Raja were charged by the Court. However, in a recent development, many of the accused were given a clean chit by the special court of the CBI.

Commonwealth Games Scam

This was related to the 2010 games hosted by India in New Delhi. It was alleged that Suresh Kalmadi, the “Chairman of the organizing committee” availed the services of the companies who had quoted a higher price and disqualified the other companies who quoted a lower price for reasons that could not be comprehended. There were also allegations that the funds that were granted to pursue welfare projects for the Dalits had been used for the games. The nexus was once again exposed through an RTI filed by an NPO- Housing and Land Rights Network.

RTI Effect on Scams

It was the RTI act that had empowered activists and other organisations to enquire about projects, schemes, tender allocations, and other related activities that were undertaken by the government. This allowed the public to witness the irregularities and defects in them and made the courts take notice of such instances. It has given a body blow to such scandals and encouraged the government and its institutions to work more fairly and transparently.

CHAPTER 3 - IMPACT ON GOVERNMENTAL INSTITUTIONS

In addition to exposing drastic scams which potentially shook the economy of the country, the Act has also had a significant impact upon governmental institutions and other government schemes that affect the public.

Reserve Bank of India

The RBI is the backbone of the Indian banking system. It regulates and monitors banks throughout the country and ensures that they do not indulge in malpractices and shady acts. The Supreme Court had directed the RBI in the case of *Reserve Bank of India v. Jayantilal Mistry, 2016*⁶ to be transparent and not withhold information that might damage the image of certain individual banks. In this case, the RBI was directed to be transparent and not withhold information that might damage the image of certain individual banks. The banks in India wanted to prevent RBI from releasing their annual inspection reports and default lists in the public domain. They filed a review petition which was rejected by the Supreme Court and said that the RBI was bound to provide such information under the RTI Act

There have been several RTIs filed before the RTI to know more about the Indian banking system. In one of the RTIs, the bank revealed that there were around 23,000 cases of fraud with a value totalling nearly 1 Lakh Crore in the year 2018. Even recently, an application had been filed before the Supreme Court to take back its 2015 judgment where RBI was told to release its annual inspection reports and loan defaulters list in the public domain under the RTI Act. This was done to hide details about default lists of the bank and help maintain a positive image for them. However, this application for the review of the judgment given in the *Jayantilal Case* was rejected by the Supreme Court. In this way, the court ensured that the banking institutions must be accountable to the citizens so as not to mislead them and keep their faith in the system⁷. This way RTI has positively impacted the RBI and aided in increasing the awareness of the citizens.

Public Distribution System (PDS)

This system is meant for the welfare of the poor who are given certain essential commodities at subsidized prices to help them sustain themselves. There were several instances where they had to pay a bribe to obtain the commodities, or the commodities will be sneaked out into the

⁶ *Reserve Bank of India v Jayantilal Mistry* (2016) 3 SCC 525

⁷ Raja Muzaffar Bhat, 'SC's refusal to recall its 2015 judgment against RBI will make banks accountable under RTI' (*The Leaflet*, 4 May 2021) <<https://www.theleaflet.in/scs-refusal-to-recall-its-2015-judgment-against-rbi-will-make-banks-accountable-under-rti/>> accessed 22 May 2021

open market to be sold at a higher price. This was negatively impacting the effective implementation of this scheme. To counter this, RTI applications were used as a tool. The shop owners had to explain the inconsistency in the stock of commodities and after the blame game was played, the people were able to obtain the commodities at the price they were supposed to be sold.

Education Sector And Entrance Examinations

The education sector often suffered from neglect with a lack of teachers, resources, and classrooms denying many students the opportunity to study. To deal with it, several RTIs were filed to enquire about the status of public education and government schools. This forced them to act and teach the students and undertake dialogues with officials and parents to improve the system.

Moreover, there are several times when the candidates feel that they have been treated unjustly in a competitive exam and the result has some issues. To obtain more information and get the details, they too have the option to file an RTI. This has led to the selection process being more transparent.

Pension System

The pensioners also had to suffer a lot at times as there was a delay in their pensions which made sustenance difficult for them. However, after the introduction of the RTI, they can now seek justification from the authorities which must explain the delay. This has made the authorities more accountable and made it difficult for them to delay the payments without any justification.

In 2018 a decision was taken by the Central Information Commission where it held, "The payment of pension cannot be withheld for the lack of an Aadhaar Card." It used the decision of the Supreme Court in the case of *K.S. Puttaswamy v. Union of India, 2017*⁸ to further its decision. In this case, it was held, "production of an Aadhaar card will not be the condition for

⁸ *KS Puttaswamy v Union of India* (2017) 10 SCC 1

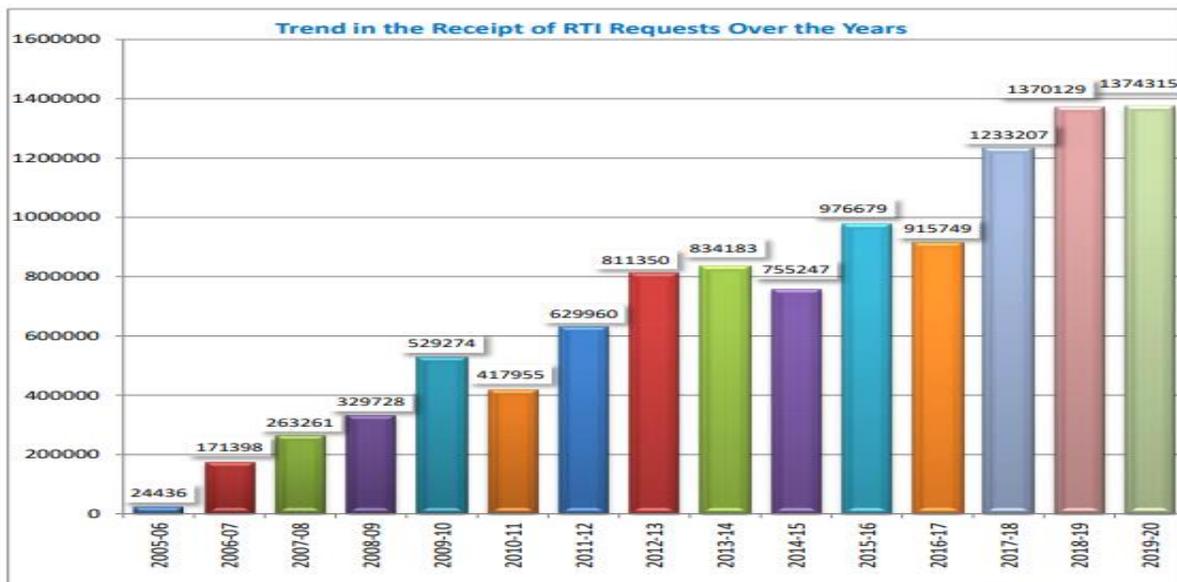
obtaining any benefits otherwise due to a citizen.” This case is important as it was used by the CIC to overturn the decision in favour of the pensioners when they filed an RTI as to why their pension was delayed.

It said, “It is a matter of life and living of 55 pensioners who were dependent upon the paltry amount of pension. Though it is a small amount even a day's delay in payment might disturb the routine life of all or some of them. That is why the information relating to payment pension to retired persons should be considered and categorized as the information concerning the life and should have been responded to within 48 hours.” Such decisions rekindle the faith of distressed citizens in the system and provide them with the rights that they deserve.

Thus, there is a magnanimous impact of the RTI on governmental institutions. It has helped to remove the inconsistencies in their functioning and put more power in the hands of the people to question them and enforce their rights.

CHAPTER 4 - STATISTICS

Applications Received



Source: CIC Annual Report 2019-20.

According to CIC Annual Report 2019-20, there has been an increase in the number of RTI applications filed each year which shows that more and more citizens are jumping in on the RTI bandwagon and seek to exercise the power given to them to seek information under the act.

Corruption Perception Index

RTI was launched to counter corruption and increase accountability. The corruption Perception Index is one of the indicators used by the World Bank to measure the degree of corruption in a country. A higher rank of the list indicates low levels of corruption. The below table shows the rank of India on the index in the last few years.

INDIA IN LAST 5 YEARS			
Index Year	Rank	Score	Countries Surveyed
2012	94	36	174
2013	94	36	175
2014	85	38	174
2015	76	38	167
2016	79	40	176
2017	81	40	180
2018	78	41	180
2019	80	41	180

INDIA'S NEIGHBOURHOOD		
COUNTRY	RANK	SCORE
India	80	41
China	80	41
Pakistan	120	32
Bangladesh	146	26
Sri Lanka	93	38
Nepal	113	34
Myanmar	130	29

Source: Transparency International "Corruption Perception

Index", compiled by: "The Indian Express"

There is an overall improvement in India's rank over the years. However, there is still a long way to go before India can claim to be significantly free of corruption. Moreover, in the year 2020, India slipped to the 86th Rank in the index which represents a step back for the nation. This shows that despite the success of RTI there are still several issues that plague the act and need to be rectified to ensure that the act serves its desired purpose.

CHAPTER 5 - PM CARES AND RTI

During the ongoing pandemic of Covid-19, the Prime Minister of India set up the PM Cares fund to finance the efforts for covid relief and provide equipment to tackle the pandemic. A lot of questions were raised about the utilization of the fund since it took donations from the salaries of government employees and the common people. Corporations, celebrities, and other notable figures also contributed significant amounts to the fund. However, when an RTI application was filed the government refused to file any information by stating that the fund was not a “public authority” and does not come “under the ambit of the RTI Act.” This was shocking as the fund had all the requirements that are needed to be a “public authority” under the act and is under government control. The conditions that were laid down by the Delhi high court in the case of National Stock Exchange of India Limited v. Central Information Commission and Ors, 2007⁹ for an authority to be classified as a public authority were, “ownership, control, and substantial finance”¹⁰.

In a reply filed by the government, it stated that “PM Cares Fund is a body owned by, controlled by and established by the government of India”. It also said, “not at all financed by the appropriate government and administered by private individuals as trustees” This is against the decision of the Delhi HC and the PM Cares Fund must be brought under the RTI. The case is still pending before the Delhi HC.

CONCLUSION

The act has been revolutionary in providing the citizens access to information that was earlier kept from them. Moreover, with e-application, the process has become easier which has contributed to an increase in applications. The act has helped provide social justice to innumerable people while also positively impacting the economy by exposing scams and other economic malpractices that were followed in governmental institutions. It has also made the banking sector more accountable which is good for the economic health of the nation.

⁹ *National Stock Exchange of India Limited v Central Information Commission and Ors* WP (Civil) No 4748 of 2007

¹⁰ Aayushi Jain, ‘Why Does PM CARES Not Qualify as a “Public Authority” Under the RTI Act?’ (*The Wire*, 25 February 2021) <<https://thewire.in/law/pm-cares-fund-trust-deed-supreme-court>> accessed 24 May 2021

However, despite all its merits, there are still some shortcomings in the act. The case of the PM Cares Fund is a clear indication of how even a “public authority” is evading scrutiny under RTI. The courts have been delaying the decision which infringes the right of the people to know how the public money is being utilised.

Hence, there is a need for reform under the RTI. The courts should ensure that "public authorities" that attempt to evade the act are severely penalized for their actions. Moreover, the act should be interpreted liberally, and more institutions should be included under its ambit. This is crucial as the privatization drive of the government can result in many public institutions being privatized which will negatively impact the functioning of the RTI Act. Hence, there is a strict need for change and a liberal approach towards the implementation of the act for it to keep being effective.