



Right to Information and Good Governance
Dr. Sairam Bhat, Professor of Law
National Law School of India University
Chronology of State RTI Laws in India
and major Landmarks in RTI Journey


(Refer Slide Time: 00:15)



National Law School
of India University
Bengaluru

Chronology of State RTI Laws in India

- Tamil Nadu, Goa 1997
- Rajasthan, Karnataka 2000
- Delhi 2001
- Maharashtra, Assam 2002
- Madhya Pradesh 2003
- Jammu and Kashmir 2004
- 9 states including Karnataka has enacted a law before the central law was passed in 2005.



Friends, the next discussion that I have for you is to look at the chronology of state RTI laws in India. As you are aware of the fact that, interestingly, before the Central Act of 2005 could have been enacted in India, nearly eight states had a RTI Act, which brings up to this constitutional dimension of the Right to Information Act. Information is not defined anywhere in the Constitution. It is not part of any entry or list of the seventh schedule of the Constitution of India.

And hence being a subject that is residuary I think the states or the centre had the opportunity to enact a law on the Right to Information Act. And hence, when one sees the development after the Justice P B Sawant report, and after the Shourie draft, which I will talk to you a little later, and then, we had the national campaign for people's right to information bill as well.

I think in between all of these, the state governments in India, various state governments in India, were kind of convinced that RTI is the law that they should enact. And it is important to bring in transparency and accountability and hence, if there is a delay from the central government or the federal government as the case may be, the states can take the lead and enact the Right to Information law in India and hence, many states decided and went ahead and started bringing RTI law into force.

Among the states that enacted this law and the kind of year that we can chronologically list them, the first among them was Tamil Nadu and Goa. They brought a law in 1997. In fact in Goa, the story goes that the Goa government came to know what was happening at the Press Council and the Justice P B Sawant draft bill was also there. So, Goa thought that as a progressive state, it should take the lead in enacting an RTI Act and hence they called the local pressmen in Goa.

And then they asked these pressmen to draft a legislation for the state of Goa, and after which the Goa assembly decided to go ahead and pass a law on the Right to Information Act. The same news happened with Tamil Nadu as well. Two other states, Karnataka and Rajasthan followed in the year 2000. And interestingly, in Karnataka though the law was passed in 2000.

It was never enacted or brought into force in 2000. So many states decided that they would send the right message to the citizens to investors to say World Bank, Asian Development Bank who are watching India during that time, whether India would enact it and if so, when they would do so, there were a lot of foreign country delegations who were very keen and who were actually advocating for enacting the RTI Act.

I think many of the state governments wanted to convince these private companies, investors and lenders, and hence they took the cause of enacting the RTI Act. But in fact, their intention and motive was not clearly reflected on ground, because many of them failed to even implement this law, because the Act was passed, but the rules were never brought into force.

Delhi probably is the only state which brought a law in 2001. And they actually also implemented this Act. So I think Delhi was probably, according to me, the only state which showed some intent to give Delhites the Right to Information. And the 2001 law did create that kind of an infrastructure. And you will notice that prior to 2005, some of the decisions that were given in Delhi were very relevant to understand the RTI movement in this country. So, Delhi took that case of 2001.

Maharashtra and Assam did it in 2002. And hence, you will see the states that brought in RTI law include even Madhya Pradesh that brought it in 2003. Now, after all these state governments brought a legislation, so nine states, I am sorry, so, not eight, so nine states including Karnataka enacted a law before the Central Law was passed in 2005. So, the correction is on the nine states not eight. And Jammu and Kashmir also brought this legislation in 2004. Should we go forward?

(Refer Slide Time: 4:44)

Landmarks in RTI Journey

- 1975: SC: right to know
- 1986: Right of Consumers to Information
- 1996: Justice P B Sawant draft
- 1997: Shourie Draft bill [Consumer forum can decide]
- 2001: Parliament Committee on RTI gives recommendations
- 2002: Freedom of Information bill
- 2004 NCPRI sends draft bill under NAC
- June 2005: President assents to the bill
- October 2005: RTI law comes into force



Yes, I think the landmark journey in RTI, let us just list this so that you know, we can conclude our first part of the journey on this course. And the first part was to cover the background, the history to the RTI law and what went in through to get this legislation in depth. So we will just list now so that it is kind of recapitulating all those important years that went by in bringing the RTI law into effect.

So let me start with 1975. I think this is something that I am going to discuss in my next chapter, where we will be discussing the constitutional history of Right to Information in India. And the Supreme Court and the various High Courts have laid down right from 1975, that right to know is a part of fundamental right in India. It is part of Article 19(1)(a) and various decisions have continuously held that RTI is a right and it can be inferred under the Freedom of Speech and expression.

So, probably the Supreme Court was the first to start the journey. And this journey started in the year 1975. Second 1986, as I told you the right of consumers to seek information from manufacturers, service providers, I think the Consumer Protection Act of 1996, 1986 I am sorry, clearly laid down the duties of the manufacturer to disclose consumer related information. And I think that is a significant journey that we have looked into. 1996 justice P B Sawant Draft Report from the Press Council of India.

Then comes the 1997 Shourie Draft, I think Shri H D Shourie was given this task to refine, retune, Justice P B Sawant's Draft bill. And I think the Shourie Draft was interesting because, apart from what was said in Justice P B Sawant's Draft bill, the Shourie Draft said that look, if there is grievances regarding this Right to Information, we do not have to create a separate judicatory body. I think the consumer forums that have already been created under the 1986 Consumer Protection Act, can decide this matter.

Because finally, what the Shourie Draft communicated was Right to Information if it is a right of the citizen, it is a duty of the government. Information is kind of a service that the government ought to give. I think this kind of an idea clearly meant that a citizen can be a consumer while he is seeking this information and the adjudication of disputes, if there are any regarding the information to be shared from the government to the citizens can be referred to the consumer forum as well.

So that is a highlight of the Shourie Draft. However, please note, this suggestion was not accepted in the final RTI Act of 2005. 2001 - the parliamentary committee on RTI gave its recommendation. This was a significant movement, because after the people's movement, after the press movement, I think the parliamentary committee took note of what was happening of these legislative bills and the parliamentary committee decided that it had to take it seriously. And they gave the recommendations in 2001.

So, that is when you know some of these draft bills reached the parliament's door and the parliament had to sit up and take cognizance of the people's movement. 2002 was a significant year for RTI, wherein a draft bill was presented in the Houses of the Parliament by the Vajpayee government. And then the NDA government headed by Prime Minister Vajpayee decided to title this bill as a Freedom of Information bill. As I said, world over, RTI is more so, like in other countries legislatively known as the Freedom of Information law.

In some countries, it is known as the transparency law. In our country right now, as the law stands, it is the Right to Information Act. Now, you know, if you look at the 2002

Freedom of Information, and compare it to 2005 Right to Information, I think replacing the word freedom with right made more sense. You know, personally, I believe freedom is quite discretionary in nature. And it is like the state is granting you freedom. Whereas right is far more emphatic, right is like a demand it is something that is enshrined in every human being.

It is not something that is at the stake of the state, it is not something that is a privilege of the state. Freedom looks to be so, right? And if you apply the Freedom of Information law, then among, as we know, that RTI or Freedom of Information is read under Article 19(1)(a), that is where the Supreme Court draws the, you know inference. Then, if it is just called as freedom, then on this freedom, the reasonable restrictions that are there under Article 19(2) will automatically apply.

Right? So I think there was some kind of debate or discussion that took place between 2002 and 2005. And the title of this law changed from freedom to right. I think it is a very significant step because right has a definite duty, freedom looks to be discretionary and more in terms of a privilege granted by the state, rather than something of a right that the citizens can demand from the state. That is a 2002 Freedom of Information bill.

Then came 2004 I think it is an important landmark in the RTI journey. Significant landmark because by this time the government kind of changed, was about to change, because you had the UPA 1 government under Prime Minister Manmohan Singh coming into place. But by this time the people's campaign for Right to Information on what we call the National Campaign for People's Right to Information NCPRI, which had Aruna Roy, Arvind Kejriwal, Shekhar Singh and others.

They prepared a draft bill, which was an improvement of the 2002 Freedom of Information bill. Unfortunately, the Vajpayee government did not show enough intent to get this law into effect. They passed in both the houses but did not give it a presidential assent. So the Freedom of Information bill never saw the light of the day. It was never implemented. It was never enforced and it expired unfortunately.

And hence in 2004, the NCPRI again, you know, added to the bill, they redrafted the bill, and this was discussed in the National Advisory Council headed by Mrs. Sonia Gandhi. NAC as we are all aware of during UPA 1 and UPA 2 played the think tank role to the government, and it was like a body that would advise the government about what to do or not to do. So NCPRI discuss this draft bill at the National Advisory Council meeting chaired by Mrs. Sonia Gandhi and that is where the bill got its final shape.

And then it was presented in the parliament. And in 2005, you would notice that the bill got the assent of the President of India after it was passed by the Lok Sabha and the Rajya Sabha. So June 2005, the bill came into being enacted. However, please note, the law was only brought into force in October 2005. So I would say there were a couple of months for the government to get itself prepared for the law to come into force, from the time it was given a presidential assent to the time it would come into force.

So October 2005 happens to be a significant year and month for us to see when the RTI law actually came into force and that is October 2005. So these are probably the landmark journeys that we can record in the RTI movement. I think they give you a significant kind of a background of the struggle, of the history, of the genesis of the RTI movement in this country. I think this should be kind of a very important conclusion of the chapter one discussion. It has been a long chapter discussion, but I have laid down the foundation in trying to understand how RTI is important, what is its significance, what role does it play, what was the people's movement in RTI, what was the media's movement in RTI, what were the draft bills that were submitted before the final Act was enacted, what were the international developments when did India... So I think, you know, we have kind of looked into the RTI journey quite significantly, and it has been a complete detailed discussion and the presentation on the same. I hope you have enjoyed this journey with me in trying to understand the first part as I would want to call it in understanding the RTI law.

(Refer Slide Time: 13:38)

RTI: Background and History: Quiz



- 1. RTI Act 2005 was enacted to override State RTI legislations
True/false

- 2. One of the objectives of RTI Act is to contain corruption
True/false

- 3. National Campaign for People's RTI was instrumental in bringing RTI Act 2005
True/False

- 4. Freedom of Information law was passed in India in 2002
True/false

- 5. Aruna Roy received the [Ramon Magsaysay Award for Community Leadership](#) and her role in the RTI movement through MKSS
True/false

Quiz: contd

- 6. India was the 10th country to bring an RTI Act
True/false



- 7. When was the first draft bill prepared for the RTI:- 1995/1996/1998/1999

- 8. Sweden was not the first country to have a transparency law.
True/false

- 9. H D Shourie Draft on RTI was prepared in 1997 in which refusal to give information was suggested to be adjudicated in Consumer Courts
True/false

- 10. Which of the following States had RTI Act before the central Act of 2005
a. Goa b. Tamil Nadu c. Delhi D. Karnataka
e. Maharashtra f. Rajasthan g. None of the above h. All the above

- 11. The second Administrative Reforms Commission headed by Veerappa Moily submitted a report 'Master Key to Good Governance'- was related to RTI.
True/false

Before I conclude the first part, I would place certain quiz before you or certain questions before you so that you can self-evaluate the learning on this part or on this module. Okay. I have few questions for you, and I would want you to quickly answer them. This is like a self-learning question. If you answer it, I think you would have probably cleared this chapter.

The first question that I have before you is, RTI Act 2005 was enacted to override state RTI legislations. Is it true or false? Okay, if you have answered that, I think you should

know what this question entitles you to do. You would notice that as I told you, nine states had enacted a state RTI legislation before the central government decided to bring an RTI Act in 2005. So what happened to those nine state legislations after the central government enacted the RTI Act 2005?

So, were all the state legislations overridden, or do some of the state legislations continue to operate? I think it is an important question for us to understand. So when state and central law operate in the same domain and the state laws were enacted before the central law was enacted, which will prevail, right? So, I think the answer to question number one is true, right?

Whenever there is a central law on any subject that is in the concurrent list or in the residuary subject list, then the central law will override state legislations. So, all the nine state legislations have now been overridden, and it is only one law that operates in the whole of the country except Jammu and Kashmir, and that is a RTI Act of 2005. That is answer to question number one.

Question number two is one of the objectives of RTI is to contain corruption. Is it true or false? Right. Now if you answer this as well, the answer is true. It is not the sole objective to contain corruption. RTI is only one of the tools to contain corruption. But one of the objectives of RTI is to prevent corruption. And I think what does information do? Information gives an open government, a government that is free to interact, exchange and debate.

An open government means there is less amount of secrecy. If there is less secrecy, there would be less corruption. And the answer to question number two is true. Objectives of the RTI Act contain corruption. So that is one of the objectives that are there in the law. Fine, let us go to question number three. The National Campaign for people's right to information was instrumental in bringing the RTI Act 2005, true or false? The answer is true.

I think the NCPRI played a very, very significant role and probably a very pivotal role in bringing the RTI act into force in 2005. What if it was not for the National Campaign for People's Right to Information? I do not think the RTI Act would have been enacted in 2005. Because the Freedom of Information bill of 2002 was never brought into force, the government was very reluctant. The government knew that the RTI would be a game changer.

The government knew that the RTI will change the way the government was actually functioning. The attitude of the government would have to change significantly from being inward to being outward, and hence the government and its officers were very reluctant. This was something that they resisted, they were not prepared for the change. But the NCPRI actually brought about that change, and they should get credit for bringing the RTI Act of 2005. So answer to question number three is also true.

Question number four, Freedom of Information law was passed in India in 2002, true or false? Right. Now if you answer this question I think the answer lies in the fact that if you go to just the previous line, you will notice that before the RTI Act was passed by the centre, the same central government but under a different party in 2002, which was headed by then Prime Minister Mr. Vajpayee, it was called the NDA government, which was a coalition government headed by the Bharatiya Janata party, they did enact this, but they did not bring into force at all.

So it was like a half job done. And they did not show the intent or the motive. Probably at that point of time, the bureaucracy and the legislators showed resistance, and hence, we lost a significant time in getting a transparency law in India. And that was nearly three years from 2002 to 2005. But nevertheless, I think, later on, we saw the light at the end of the tunnel in 2005. So to answer question number four, I think it is true, Freedom of Information was passed in the year 2002.

Then we have question number five, Aruna Roy received the Magsaysay Award for community leadership and for her role in the RTI movement through the Majdoor Kisaan

Shakti Sangathan, true or false. The answer to this question is absolutely true. Aruna Roy seems to have championed the cause of RTI. She was involved in the MKSS movement. She won the Magsaysay Award for that kind of leadership, for that kind of contribution.

I think she led from the front in drafting this legislation in Mussoorie. She led from the front in the National Campaign for People's Right to Information Act and hence her role is very, very significant in getting the RTI Act into place. So the answer to question number five is true. Couple of more questions that you can think about answering is, India was the tenth country to bring an RTI Act? Go ahead and answer this question.

I think you will go and notice all these things. Okay, so I am not going to answer this point, you will have to answer it on your own. When was the first draft bill prepared for the RTI, 1995, 96, 98, 99? Question number eight, Sweden was not the first country to have a transparency law, true or false? Question number nine, H D Shourie draft on RTI was prepared in 1997, in which refusal to give information was suggested to be adjudicated in the consumer forums or the consumer courts, true or false?

Question number ten, which of the following states had an RTI Act before the central law of 2005? Did Goa have it, Tamil Nadu, Delhi, Karnataka, Maharashtra, Rajasthan? Your options are still none of the above and finally all the above. Final, the second Administrative Reforms Commission headed by Veerappa Moily submitted a report 'Master Key to Good Governance', was it related to RTI? If yes, it is true, if not, it is false. Right.

With this I think we will end the first part of our discussion. And we will move to our second part of the discussion in trying to understand the role of the judiciary in the Right to Information movement and trying to look at the constitutional genesis for the Right to Information Act. That will be the second part of our discussion as we go in this course.