



**“LEGAL REGIME OF RIGHT TO INFORMATION IN INDIA: A SOCIO - LEGAL STUDY OF HIGHER EDUCATIONAL INSTITUTIONS OF KUMAUN, UTTARAKHAND”<sup>1</sup>**

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**Abstract**

*Information is an essential tool of democratic system, where people understand what is good for them and the nation knows how to govern them. India has got a position as the largest democracy of the world. But the quality of the Indian Democracy has a need to achieve the matching distinction. In India, it has been commonly experienced everywhere that the system is totally paralyzed due to corruption, unaccountability and irresponsibility. None of the law has to ensure the transparency in the system and track the carelessness or corruption. In comparison to other Rights, Right to information is an emerging Right. There is no other law or legislation which can be compared with this Right. In recent years, there has been a strong global trend towards recognition of Access to Information (ATI) by countries, intergovernmental - organizations, civil society and the people. The Right to Information has been recognized as a fundamental human right, which upholds the inherent dignity of human beings.*

**Keywords:** *-Information, Democracy, totally paralyzed, corruption, unaccountability, irresponsibility, emerging right, intergovernmental, fundamental human right, and inherent dignity.*



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**Introduction: -**

Politics, Process, People and Information are a part of democracy. Communication to the public is a heart of all social intercourse. A true democracy is one where education is universal, where people understand what is good for them and the nation knows how to govern them. Real spirit of know lies on the heart and feeling of educated people.

At the International level, ‘Right to Information’ and its aspects find place as a Human Right in most important basic human rights documents, namely the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Constitution of India

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has adopted the provisions of Universal Declaration of Human Rights as Fundamental Rights and The Directive Principal.

India has got a position as the largest democracy of the world. But the quality of the Indian Democracy has a need to achieve the matching distinction. In India, it has been commonly experienced everywhere that the system is totally paralyzed due to corruption, unaccountability and irresponsibility. None of the law has to ensure the transparency in the system and track the carelessness or corruption. The official Secret Act, 1923 has given somehow protection to the system to save themselves a protection against tracking of their wrong activities, to ensure all these not to be occurred, there is a strong act required to ensure the citizens a clear atmosphere. Without any strong and effective law the fundamental rights cannot be ensured in the Indian democracy.

To guarantee the freedom of speech and expression, the Indian Parliament had enacted the 'Freedom of Information Act, 2002' in order to promote transparency, accountability and corruptions free administration. The National Common Minimum Program of the Government envisaged that "Freedom of Information Act" will be made more progressive, participatory and meaningful, following which, decision was made to repeal the 'Freedom of Information Act, 2002' and enact a new legislation in its place. Accordingly, "Right to Information Bill, 2004" was passed by both the Houses of Parliament on May, 2005 which received the assent of the President on 15th June, 2005. 'The Right to Information Act' was notified in the Gazette of India on 21st June, 2005. The 'Right to Information Act' became fully operational from 12th October, 2005.

The right to information has been accessible in India from ancient time. Though, it is difficult to define time period of its existence. For example: in ancient time 'nagada – system' which was used to inform citizens about all types of programs of the 'state' by the employees of the kings or state.

In 'Mughal' period 'Jahangir' was a famous king. 'Jahangir' created the bell system to communicate with general public, one day bell was ringing and king came to see the matter. He saw bell was rung by an 'Ox', with its horns. The king called his 'secrete agents' (guptchar) and asked them to find out the region behind this. After enquiry it was found that the owner of the ox was overloading the ox. By knowing this Jahangir ordered to the owner not to overload the ox again in future, and told him that if he violet the order he will be

punished. It is one of the kinds of information system developed and used by medieval period of Indian history.

In modern time, the origin of Right to Information can be traced back to the year 1215 when the great barons of England who forced from the hands of the unwilling King John the glorious charter of popular liberties known as 'Magna Carta'. The 30th Chapter of this great Constitutional document contained the pledge that .No freeman shall be taken or imprisoned or dispossessed or outlawed or banished or in any way destroyed – except by the lawful judgment of his peers and by the law of the land..

In recent years, there has been a strong global trend towards recognition of Access to Information (ATI) by countries, intergovernmental - organizations, civil society and the people. The Right to Information has been recognized as a fundamental human right, which upholds the inherent dignity of human beings. The access to information forms the crucial underpinning of participator

Mostly we cansay that InformationRights have a history of only 243 years, when the world first Freedom of Information Act was issued in Stockholm on December 2, 1766 in modern era, but it is not fully true.

**Definition of Information:-**

The Act defines 'Information' in Sec. 2(f) "as any material in any form, including the records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any law for the time being in force". Sec. 2(i) defines the word 'record' "as including:-

- (a) any document, manuscript and file,
- (b) any microfilm, microfiche and facsimile copy of a document,
- (c) any reproduction of image or images embodied in such microfilm, and
- (d) any other material produced by a computer or any other device".

**Definition of Right to Information:-**

According toRight to Information Act, 2005 "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

### **Need of the Study:-**

In this topic “Legal Regime of Right to Information in India: A Socio-Legal Study of Higher Educational Institutions of Kumaun, Uttarakhand” I will study the provisions of different countries and its different mechanism.

I would like to study corresponding right to Information laws, which is primarily made by different States and compare them with that of Present Information Act. Focus of the research would be on the legal regime of Right to Information of developed and developing countries.

The need of Right to Information may be summarized in the following manner:-

1. This research work will be helpful for controlling the problems related with cooperation of government and general publics.
2. This research work will control the problems of corruption and will be helpful to find out the causes behind time taking process of development in India through Right to Information Act.
3. The proposed research work will be helpful to enact laws relating to Right to Information for other Countries.
4. The proposed research work will be helpful to understand the Right to Information Act of the India and such laws of other Countries.
5. The proposed research work will be helpful to study the Right to Information Act and will also be helpful to understand Higher Education.
6. The proposed research work will be helpful to identify the problem of the Society in reference to Information Act.
7. The proposed work will be helpful to study different decisions of Honourable Supreme Court and Honourable High Courts relating to Information Act.
8. The proposed research work will be a key work to help Advocates, Students, Jurists, Administrative Authorities, Public Information Officer and General Public.

**Utility of the Topic: -**

Both Central and State Governments failed in securing and maintaining general peoples (citizen's) necessity and rights. The balance of money and necessity of citizen's demand to government sector to change its performance and do people oriented works for maintaining citizen's living standards. It is also a demand to a public welfare state to continue its services within the ambit of public, information, and with reference to transparency.

Service is the most important part of our life. In Democratic systems, Government regularise all type of Services to maintain public order. Information is an important part of these Services in Democracy.

In this regard Service is to get sensitive and powerful position in future, our study confines the involvement of government and Higher Education sector in Information areas.

**Object of the Research Topic:-**

In comparison to other Rights it is an emerging Right. There is no other law or legislation which can be compared with this Right. However, the two enactments namely Citizen Charter Act and Right to Information Act, 2005 may be correlated with Right to Information Act.

In view of my topic there may be following objects:

1. To conceptual understanding of the Right to Information Act.
2. To suggest for making different rules and regulations for smooth moving of Information right.
3. To study how the different types of other governmental services may be included in this Act.
4. To compare different States and Countries Right to Information Laws.
5. To examine the relevance of Right to Information Act in context of Right to Service Act.
6. To study the effectiveness of this Information law in the society.
7. To study the judgment of The Honourable Supreme Court and various High Courts in reference to stability of Right to Information Act.
8. To study the jurisprudential aspect of this law to protect government and help the people too.
9. To study the Right to Information Act as a third generation human rights to protect humanity and society.

10. To help humanity for securing his future and protect himself.

**Hypothesis:-**

After a pilot survey in this field, the Hypothesis in proposed topic to be developed. However on the basis of the primary material available on the topic, the following aspects are the Hypothesis of the research:-

1. The Higher Education of Uttarakhand following properly, ground of the Right to Information Act.
2. The Right to Information Law is available only on Governmental Departments or it can be extended in future to private institutions.
3. Higher Educational Institutions are in sufficient number in Uttarakhand and provide quality education or it is mark - sheet oriented system.
4. Could Kumaun region be made as an Education Hub in India or provide systematic, regular and environment oriented or reliable education.
5. It is believed that officers have a good experience to provide the information under the Right to Information Act.
6. It is believed that citizens have a good knowledge of getting the information under the Right to Information Act.
7. The views of the both respondents (male and female) are differ in agreeing that Right to Information Act is a major instrument which will bring about a social change and transparency in the administrative system.
8. It is believed that an officer, who belongs to administrative department have good experience to provide the information and have good experience to deny the information, because they know the criticalities of information and it's process also, under the Right to Information Act.
9. It is believed that Right to Information Act gives right to question and access government acts and decisions.
10. The views of post graduate and graduate students differ on whether Right to Information Act has improved the quality of governance through public awareness.
11. The maximum Extent does the Access to Information Act of India comply with the internationally agreed standards.
12. Its effective implementation can prove it an effective tool in the good governance of the country,

13. Some problems or weaknesses are there in the Act which are essentially removable;  
and
14. The people are satisfied with this Act or not.

### **Methodology:-**

The proposed study will be based on Empirical and Doctrinal both and will be Descriptive and Analytical also. Besides, these methods some other methods will also be adopted according to the need of the study.

Keeping in view the nature of the problem, the study method would be applied Doctrinal and Empirical.

Study in the sense of Organization, Government, Humanities and other things in regarding challenges, the method to be applied would be Doctrinal, Case study and Critical.

The research methodology will be based on both primary as well as secondary sources. The primary source of research methodology are based on Act or legislation (statutes, statutory instruments, and so on), and leading case decisions (the precedents, decided by Honourable Supreme Court of India and various High Courts). The secondary source of research methodology are reference books, various articles published in law journals, newspapers, Reports of various Committee and Commissions and Internet also.

However in analysing controversial issues, which often arise, Conceptual methodology will be adopted, which is generally used to develop new norms or re-interpretate existing ones. The Doctrinal and Analytical method would be adapted to the study of the relation between the development of Right to Information Act and its Jurisprudential-aspects and analyse the real position.

### **Tools:-**

Tools are an important part of any research topic. It is impossible to work on any research topic without tools. My work will be based upon empirical and doctrinal methodology therefore, following tools will be used in the proposed research:-

1. Internet
2. Act or Legislation
3. Reference books
4. Case Laws
5. Journal
6. Library

7. Survey
8. Reports
9. Questionnaire
10. Observation

**Preliminary work done on the Topic:-**

No work done in this area in Kumaun University. The law relating to Right to Information in respect to educational and higher educational institution has been came out when central government passed Right to Information Act. It will be not only useful topic but new and remunerative research topic of Kumaun University.

**Broad Outlines:-**

The broad outline of the work is in the form of Chapterisation. Thus, proposed outline of the work can be categorized in the following entity:-

**CHAPTER I: Introduction**

- 1.01 Introduction
- 1.02 Historical Background
- 1.03 Concept of Right to Information
- 1.04 Definition of Right to Information
- 1.05 Salient Features of Right to Information
- 1.06 Importance of Right to Information
- 1.07 Object and Purpose of the Study
- 1.08 Right to Information and Concept of Democracy
- 1.09 Legal Research Methodology of Thesis**
- 1.10 Hypothesis of Research
- 1.11 Design of Research
- 1.12 Tools Adopted in Research
- 1.13 Doctrinal
- 1.14 Empirical
- 1.15 Interview
- 1.16 Observation
- 1.17 Hypothesis
- 1.18 Delineation of Thesis
- 1.19 Summation



**CHAPTER II: Jurisprudential Aspect of Information Law**

- 2.00 Welfare Concept and Transparency in Public Domain
- 2.01 Sovereignty of People and Responsibilities of Government
- 2.02 Sociological School of Jurisprudence and Right to Information
- 2.03 Rights and Duties Concepts in Special Reference of Information law
- 2.04 Information Law as a Justice of poor's
- 2.05 Summation

**CHAPTER III: International Legal Instrument Pertaining to Right to Information Law**

- 3.00 International Perspective of Information Law
- 3.01 International Perspective in International Organization
- 3.02 The United Nations and the Right to Information
- 3.03 The African Union and Right to Information
- 3.04 The Council of Europe and the European Union
- 3.05 The Commonwealth and the Right to Information
- 3.06 The UNDP and Right to Information
- 3.07 The Rio Declaration on Environment and Development
- 3.08 **Regional Perspective in Different Continents**
- 3.09 **African Countries**
- 3.10 Nigeria
- 3.11 South Africa
- 3.12 **American Countries**
- 3.13 United State of America
- 3.14 Canada
- 3.15 Colombia
- 3.16 Maxico
- 3.17 Belize
- 3.18 **Asian Countries**
- 3.19 Philippines
- 3.20 Malaysia
- 3.21 Georgia
- 3.22 Israel
- 3.23 Japan

**3.24 Australian Countries**

3.25 Australia

3.26 New Zealand

**3.27 European Countries**

3.28 Albania

3.29 Austria

3.30 Russia

3.31 United Kingdom

3.32 France

3.33 Sweden

3.34 Ireland

3.35 Belgium

3.36 Spain

3.37 Portugal

**3.38 Other Countries Legislature Instrument**

3.39 Summation

**CHAPTER IV: Statutory Provisions Relating to Information Law in India**

4.00 The Freedom of Information Act

4.01 The Right to Information Act

4.02 The Official Secrets Act

4.03 Public Representative Act

4.04 The Right to Information (Regulation of Fee and Cost) Rules

4.05 Central Information Commission (Appeal Procedure) Rules

4.06 Right to Information Rules

4.07 The Public Records Act

4.08 The Public Records Rules

4.09 The Indian Evidence Act

4.10 Relevant Provisions in Other Laws

4.11 Summation

**CHAPTER V: Right to Information and Its Interpretation**

- 5.00 Judicial Interpretation
- 5.01 Interpretation by Honourable Supreme Court
- 5.02 Interpretation by Different High Courts
- 5.03 Quasi-Judicial Interpretation
- 5.04 Interpretation by Central Information Commission
- 5.05 Interpretation by Different States Information Commission
- 5.06 Summation

**CHAPTER VI: Implementation of Right to Information Law**

- 6.00 Implementation of Right to Information Law
- 6.01 Analysis of Right to Information law
- 6.02 Functions of Judicial – Bodies
- 6.03 Judiciary and Right to Information
- 6.04 Function of Quasi – Judicial Bodies
- 6.05 Functions of Public Information Officers
- 6.06 Jurisdiction to Receive Complaints
- 6.07 Jurisdiction to Conduct Inquiry
- 6.08 Functions of Appellate Information Authorities
- 6.09 Jurisdiction to Receive Appeals
- 6.10 Functions of State Information Commissions
- 6.11 Jurisdiction to Receive Complaints
- 6.12 Jurisdiction to Conduct Inquiry
- 6.13 Jurisdiction to Receive Appeals
- 6.14 Power and Functions of the Information Commission
- 6.15 Jurisdiction to Receive Complaints
- 6.16 Jurisdiction to Conduct Inquiry
- 6.17 Jurisdiction to Receive Appeals
- 6.18 Imposing Penalties
- 6.19 Compensation for Loss or Detriment Suffered
- 6.20 Preponderant Power of Information Commission to Examine Any Record under the Control of Public Information Officers
- 6.21 Summation

## **CHAPTER VII: Empirical Study of Right to Information for its Implementation in Higher Educational Institutions of Kumaun**

### **7.00 Background and Categories of Higher Educational Institutes**

- 7.01 Governmental Institutes
- 7.02 Semi Governmental Institutes
- 7.03 Private Institutes
- 7.04 Public Authorities Disputes of Higher Education
- 7.05 Attitude of Public Information Officer about Right to Information
- 7.06 Problem of Public Information Officer
- 7.07 Response of Public about the Awareness
- 7.08 Function and Response of public Authorities
- 7.09 Examination Matters**
- 7.10 Active Role of Judiciary
- 7.11 Issues of Fee, Cost and Actual Expenses in Imparting Answer Scripts
- 7.12 Timing Constraint Issue Imparting Answer Scripts Case Study
- 7.13 Case Study Other than Answer Scripts
- 7.14 Exception of Right to Information
- 7.15 Summation

## **CHAPTER VIII: Conclusion, Findings, and Suggestion**

- 8.00 Conclusion
- 8.01 Findings
- 8.02 Suggestion

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