

Day 1

Module I

Introduction to Right to Information

Chapter 1

Evolution of Freedom of Information / Right to Information: An International Perspective

Chapter Scheme

- ❑ List of Abbreviations / Acronyms.
- ❑ RTI – A Worldwide Occurrence.
- ❑ FoI / RTI in International Covenants.
- ❑ RTI and Good Governance.
- ❑ References on the Web.

List of Abbreviations / Acronyms

<i>FoI</i>	Freedom of Information	<i>UNESCO</i>	United Nations Educational Scientific and Cultural Organisation
<i>ICCPR</i>	International Covenant on Civil and Political Rights	<i>UNGA</i>	United Nations General Assembly
<i>RTI</i>	Right to Information	<i>USA</i>	United States of America
<i>UN</i>	United Nations	-	--

RTI a Worldwide Occurrence...

- ❑ Legislations granting or facilitating 'Freedom of Information' (FoI) or Right to Information (RTI) are a fairly worldwide phenomenon today.
- ❑ As on date, over 85 countries have enacted and are implementing such legislation(s) in some form or the other.
- ❑ Many countries provide constitutional guarantees for FoI / RTI. In some countries, specific legislations further enable the exercise of this right.

RTI a Worldwide Occurrence.....II

- ❑ Such laws also referred to as “open-government-laws” / “sunshine laws” ensure that prospective requesters of information have access to it in a simple, cost-effective and time-bound manner.
- ❑ Such access is provided as a matter of right. Governments are made duty-bound to facilitate it.
- ❑ Information, thus, made accessible / available to people is believed to, legitimately, be known by them to make democratic functioning meaningful.

RTI a Worldwide Occurrence.....III

- ❑ Many countries like the United States of America (USA), Canada and Australia, have laws governing access to public documents at regional (provincial) level in addition to having a law at national / federal level.
- ❑ In many countries, privacy or data protection laws are part of the FoI legislation / regime as these concepts are believed to be closely tied together.

RTI a Worldwide Occurrence.....IV

- A basic principle behind most FoI / RTI laws is that the burden of proof falls on the body to which information is asked, not the person *asking* for it.

Thus, requesters do not usually have to give an explanation for their request.

Moreover, if the information is not disclosed, a valid reason has to be given.

This is also the case under the Indian 'RTI Act, 2005'.

RTI a Worldwide Occurrence.....v

- FoI / RTI is expected to lead to an informed citizenry and transparency of information, which are vital to the functioning of a democracy.

It is also expected to contain corruption and enable holding Governments and their instrumentalities accountable to the governed.

RTI a Worldwide Occurrence.....VI

Chronology of Some National FoI Legislations in the World

☐	Sweden	1766
☐	Colombia	1888
☐	Finland	1951
☐	United States of America	1966
☐	Denmark, Norway	1970
☐	France	1978
☐	Australia, New Zealand	1982
☐	Canada	1983

FoI / RTI in International Covenants...

- The United Nations General Assembly (UNGA), in its very first session in 1946, adopted Resolution 59 (I), which states:

"Freedom of information is a fundamental human right and... the touchstone of all the freedoms to which the United Nations (UN) is consecrated".

FoI / RTI in International Covenants.....II

- Article 19 of the 'Universal Declaration of Human Rights', a UNGA Resolution 217 (III) A of 1948 recognises **Freedom of Expression (FoE) including FoI and Free Press as a *Fundamental Human Right*.**

FoE includes the right to seek, receive and impart information and right to access information held by public authorities.

FoI / RTI in International Covenants

III

- Article 19 (2) of the 'International Covenant on Civil and Political Rights' (ICCPR), a UNGA Resolution 2200A(XXI) of 1966 states:

"Everyone shall have the right to FoE; (which) shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

FoI / RTI in International Covenants

IV

- Article I of the UN Educational, Scientific and Cultural Organisation (UNESCO) Declaration on 'Fundamental Principles concerning Contribution of Mass Media to Strengthening Peace and International Understanding, to Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War' [1978] states:

"The strengthening of peace and international understanding, the promotion of human rights and the countering of racism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information."

Contd.

FoI / RTI in International CovenantsV

- Article II of the UNESCO Declaration states:

"...the exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding..."

FoI / RTI in International Covenants

VI

- Article 13 of the 'UN Convention against Corruption', adopted by the UNGA on 31 October 2003 identifies:

'(i) effective access to information for public;

(ii) undertaking public information activities contributing to non-tolerance of corruption (including conducting public education programmes) and...

FoI / RTI in International Covenants

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... (iii) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption...’ as important measures to be taken by Governments for ensuring the participation of society in governance’.

FoI / RTI in International Covenants

VIII

- Article 10 of the 'UN Convention against Corruption' states:

"... to combat corruption, each (member State) shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes and take (certain) measures (for adopting procedures / regulations, simplifying administrative procedures and publishing information...)"

Contd.

FoI / RTI in International Covenants.....

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- Principle IV of the Declaration of Principles of Freedom of Expression in Africa states:

"Public bodies hold information not for themselves, but as custodians of the public good and every one has a right to access this information, subject only to clearly defined rules established by law".

FoI / RTI in International CovenantsX

- Principle III of the Recommendations on Access to Official Documents adopted by the Committee of Ministers of the Council of Europe in October 2002 provides:

"Member states should guarantee the right of everyone to have access, on request, to official documents held by public authorities. This principle should apply without discrimination on any ground, including that of national origin".

FoI / RTI in International Covenants

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- The World Conference on Human Rights, held in Vienna in 1993 had declared that the Right to Development adopted by UNGA is a universal and inalienable right and an integral part of fundamental human rights.

The declaration recognised that democracy, development and respect for human rights and fundamental freedoms are inter- dependent, and mutually reinforcing. Right to FoE is regarded as closely linked to Right to Development.

FoI / RTI in International Covenants

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It goes on to say that:

The right to seek, receive and impart information is not merely a corollary of freedom of opinion and expression; it is a right in and of itself.

As such, it is one of the rights upon which free and democratic societies depend.

It is also a right that gives meaning to the Right to Participate which has been acknowledged as fundamental to the realization of the Right to Development.

RTI & Good Governance...

- ❑ These Covenants aim at making governmental activity is transparent, fair and open
- ❑ These are based on the paradigm that except in matters concerning the sovereignty and security of a country, there is no room for secrecy in the affairs of the Government.
- ❑ Every citizen who wishes to obtain any information with respect to any other matters should be entitled to receive it.

RTI & Good Governance.....II

- ❑ Information is crucial for good governance as it reflects and captures Government activities and processes.
- ❑ It becomes the oxygen of democracy. If people don't know of the goings-on in their society, and of actions of the government, then they can't take a meaningful part in societal affairs.
- ❑ Access to information promotes openness, transparency and accountability in administration and facilitates active participation of people in the democratic governance process.

RTI & Good GovernanceIII

- Prof. *Amartya Sen* has identified five substantive freedoms as being integral to the concept of development, namely political freedom, economic facilities, social opportunities, **transparency**, and security.

"Transparency guarantees deal with the need for openness that people can expect: the freedom to deal with one another under guarantees of disclosure and lucidity. When that trust is seriously violated, the lives of many people - both direct parties and third parties - may be adversely affected by the lack of openness."

RTI & Good GovernanceIV

Transparency guarantees (including RTI) can thus be an important means to achieve freedom. These guarantees are instrumental in preventing corruption, financial irresponsibility, and underhand dealings”

Development As Freedom, Amartya Sen, 1999

References on the Web.....I

Note:

If you would be interested in perusing FoI / RTI legislations of various countries, they can be accessed on the web. Relevant links have been provided on the next slide.

However, knowing about these legislations in great detail is not important from the point of view this Course.

References on the Web.....II

[To access any of this resource, copy the link, open a new browser window and paste it. Do not close the existing window.]

- www.freedominfo.org
- <http://www.un.org/documents/ga/res/1/ares1.htm>
- <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/033/10/IMG/NR003310.pdf?OpenElement>
- <http://www.un.org/en/documents/udhr/index.shtml#a19>
- <http://www2.ohchr.org/english/law/ccpr.htm#art19>
- http://portal.unesco.org/en/ev.php-URL_ID=13176&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html
- http://untreaty.un.org/english/notpubl/corruption_e.pdf
- http://www.achpr.org/english/declarations/declaration_freedom_exp_en.html
- <https://wcd.coe.int/ViewDoc.jsp?id=1377737&Site=CM>

End of Chapter 1

You must take the Quiz for this Chapter before proceeding to the next Chapter!