

Right to Information and Human Rights Protection

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ABSTRACT - There is a dialectic relationship between right to information and human rights protection. The right to information is well established as an important component of human rights protection in the world. Information access is necessary since the freedom of information is a fundamental human right and the touchstone for all freedoms as enshrined in the Universal Declaration of Human Rights. The right to food, education, health and development can be realized on the basis of access to information which is the basis of human rights protection. The right to access information attracts the guarantee of protection by the state. Transparency in governance is a pre requisite to the protection of human rights. The great democratizing power of information has given the mankind all the chance to effect change and alleviate disempowerment and violation of human rights. The pro-active disclosure of information by the authorities tends to protect the human rights and enhance the development of the people. The right to privacy and the right to information are both essential human rights in the modern information society. Corruption and human rights violations related information cannot be denied by the government bodies. Denial of information on the developmental aspects of the people amounts to violation of human rights since it is against the safe public interest. The jurists have held that genuine effective exercise of the right to freedom of expression does not depend merely on the State's duty not to interfere, but may require positive measures of protection of human rights and public interest.

Keywords – Human Right, Right to Information.

I. PREAMBLE

The Right to information gained power when Universal Declaration of Human Rights was adopted in 1948 providing everyone the right to seek, receive, information and ideas through any media and regardless of frontiers. The right to information protects and promotes the human rights in accordance with the Article 19 of the Universal Declaration of Human Rights. The right to information is well established as an important component of human rights protection in the world. The fundamental right of freedom of expression encompasses the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers. The international tribunals have recognized access to information as a human right. The judiciary has also ruled that the right to freedom of thought and expression protects the right to access information held by the state since it enables people to effectively participate in government affairs. The right of access is so important in India that activists have marched in the streets to help protect this right. The role of right to information in human rights protection is primarily

discussed in this chapter on the basis of qualitative research methodology.

II. FUNDAMENTAL RIGHTS

Right to information is required to give the people the opportunity to develop their potential on the fullest and protect their fundamental rights. The right to get into information underpins all human rights since the people required sufficient information to guard themselves against all oppressive forces. Information access is necessary since the freedom of information is a fundamental human right and the touchstone for all freedoms as enshrined in the Universal Declaration of Human Rights.

The right to food, education, health and development can be realized on the basis of access to information which is the basis of human rights protection. The right to access information attracts the guarantee of protection by the state. The duty to enable access to information rests with government and encompasses two key aspects such as enabling citizens to access and use the information for the protection of human rights.

III. PROTECTION OF HUMAN RIGHTS

Transparency in governance is a pre requisite to the protection of human rights. A large numbers of complaints of human rights violations are received against public authorities who are supposed to be the protectors of their rights after the enactment of Right to Information Act, 2005. The citizens are free to take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. The Right to Information facilitates the participation of citizens in the social and political activities and protection of the human rights of the vulnerable sections of society.

The right to information is closely related to human rights protection on the basis of greater transparency and accountability on the part of the government officials. There remains the unanswered question about whether right to information centered greater transparency actually correlates with or causes greater public trust in the government system (Birkinshaw, 2006:02). The right to information is also subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society. The public bodies should be enabled to establish open, accessible internal systems for ensuring the public's right to receive information for their protection and development. The regime for exceptions provided for in the freedom of information law should be comprehensive and other laws should not be permitted to take the people for granted in a democracy.

IV. RTI FOR HUMAN RIGHTS PROTECTION

The importance of right to information as a fundamental right is beyond doubt. The right to information is a right incidental to the constitutionally guaranteed freedom of human rights protection. Access to information is basic to democratic way of life which emphasizes the adoption of positive public information disclosure policy of the government. The legislative embodiment of the right to information has long been recognized as underpinning all other human rights. The UN Declaration gives human rights precedence over the power of the State which is prohibited from violating them. The great democratizing power of information has given the mankind all the chance to effect change and alleviate disempowerment and violation of human rights.

Public accountability is one of the essential ingredients of transparent governance for better human rights protection. The lack of awareness of legal and fundamental rights and lack of disclosure on part of the State renders the affected persons extremely vulnerable. The right to information opens up prisons, police, legal aid authorities, human rights commissions, social justice and empowerment departments, courts, central ministries and state departments to understand its practical know-how. The pro-active

disclosure of information by the authorities tends to protect the human rights and enhance the development of the people.

The access to information is the means of protection of human rights since information sources and resources are absolutely necessary for living a minimally good life. The people have a right to access information in a democracy since it enhances their development by preventing the human rights violations. There is an intrinsic and pragmatic interest in obtaining knowledge through right to information which is practically leveraged right. The right to information extends to information related to livelihood opportunities and security related provisions in modern times. Given the pivotal role of access to information in the exercise of all other human rights, the right to information should be understood as a welfare right that places on governments (and perhaps others) the duty to provide people with information (Mathiesen, 2009:12).

The right to information is crucial for participatory democracy and protection of fundamental human rights. The national and international courts have categorically asserted that the right to information is a human right which permits every individual to obtain records and information held by the State. The right to information promotes transparency and accountable governance and encourages the full participation of citizens in the democratic process.

The importance of the right to information is an increasingly constant refrain in the mouths of development practitioners, civil society, academics, the media and governments. The right to information and human rights protection are meaningfully integrated into democracy since access to information matters most from the point of view of empowerment of people (Sadique, 2009:17). All human beings are born free and equal in dignity and rights. There also entitled to the uniform enjoyment of natural rights. The freedom of speech and expression is guaranteed to the people mainly to protect the human rights.

The right to information is the most basic of the rights of the people since it facilitates necessary corrective action and ensures development in the right and desired direction. This law has also paved way for comprehensive human rights protection more than anything else in India (Goswami, 2010:07). Information is a very essential tool that every individual can rely on to make salient and judicious decisions regarding the future course of action relating to progress. People fail to make the right decisions about governance in the absence of relevant information that will shape their opinions regarding issues affecting their welfare and progress. The public authorities have to provide timely information to the people regarding their rights, duties, responsibilities and activities in a democratic environment.

The right to privacy and the right to information are both essential human rights in the modern information society. But there is a potential conflict between these rights when there is a demand for access to personal information held by government bodies. The public's right to information is becoming widely accepted aspect of RTI laws in the globe. It is important to note that the Act specifies that intelligence and security organizations are exempted from the application of the Act (Phogat, 2010:15).

Corruption and human rights violations related information cannot be denied by the government bodies. The public authorities should deal with the applicants in a friendly manner and public interest should be the core and the disclosures should be made accordingly. The RTI is also an important tool for countering abuses, mismanagement and corruption and for enforcing essential economic, social, political and human rights.

In recent years there are great strides forward in establishing a close link between the right to information and human rights protection since greater government transparency leads to strategic partnerships among the stakeholders of development. The activities of various civil society groups have called upon the State to promote recognition of access to information as a fundamental human right.

The right to information laws have enhanced the process of public management and presented a number of perspectives on how to deal with value conflicts in different administrative settings and contexts. The right to information provides the value rational orientation on human rights protection since the moral desirability of public service motivation is to be valued as such. They also raise the issue of the fit between personal and organizational values and the possible tension between them (Wal et. al, 2011:20).

The right to freedom of expression and access to information falls within the category of human rights since it facilitates the implementation of other human rights such as the right to participation in political and public life. The obligation also requires States party to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the human rights. The citizens should receive support to ensure they are aware of their rights and that they are in a position to assert these rights and hold the government accountable. The right to information ensures access to information which facilitates the implementation of other human rights.

The Supreme Court of India in *People's Union for Civil Liberties V. Union of India* (2004) held that right to information is definitely a fundamental right. Denial of information on the developmental aspects of the people amounts to violation of human rights since it is against the safe public interest (Govindarajan, 2012:08).

The Right to Information is duly recognized in the context of international human rights law. The existence of a right of access to government information is increasingly accepted around the world, both at the domestic and international levels. The human rights enforcement bodies, both regional and global, have interpreted existing human rights treaties as protecting a right to information in a range of contexts (McDonagh, 2013:13).

The recognition of a right to information in international human rights law is found in the proceedings of the UN Human Rights Committee, the European Court of Human Rights, the Inter-American Court of Human Rights and the European Committee on Social Rights. They have observed that the right to life is the most fundamental right of all and it is strongly protected in international human rights treaties.

The right and access to information can be examined or tested on the touchstone of various parameters including human rights protection. The citizens are affected by the nondisclosure or withholding of the information by the Government under the categories of information such as defence matters, security and international relations. The biggest blow to meaningful access to information in India is the complete absence of a systematic and meaningful record keeping by all public bodies including the Government. A number of judicial pronouncements have clearly and significantly made the valid distinction between the need to protect the sovereignty, integrity and security of the State vis-a-vis the need to protect the ruling Government and party from public scrutiny.

The Right to Information Act was crafted with great hope in order to reflect and respond to people's aspirations of transparency and accountability in all matters including human rights protection. There is growing number of attacks on information-seekers by vested interests due to exposing the anti social activities of the vested interests in India (Nayak, 2013:14). The instances of human rights violation in the name of welfare and development projects also lead to the victimization of RTI users and activists seriously. The proactive disclosure of the records and documents in every case of attack will discourage potential masterminds from harming other RTI users in future.

The right to information is duly recognized as an important aspect of international human rights law. The scholars have recognized the contribution made by the instrumental approach to the recognition of a right to information in international human rights law. The right to information has been most commonly recognized by international human rights treaty bodies since it is related to the private life, public affairs and social and economic rights of the people.

The international human rights bodies have accepted the existence of a right to information in certain circumstances. Freedom of expression and freedom of information have

long been linked in international human rights activities and documentation. The jurists have held that genuine effective exercise of the right to freedom of expression does not depend merely on the State's duty not to interfere, but may require positive measures of protection of human rights and public interest.

The right to information act intends to protect the human rights of the people against the bureaucratic delays and discrepancies. The public authorities have an obligation of protecting the human rights by enhancing transparency via access to information. The good governance basically involves the protection of human rights and empowerment of the masses in a democratic framework. The right to information is a fundamental right, which is necessary to promote a culture of human rights protection through better decision making and implementation of various government programmes.

The right to information act has given a new encroaching area for the protection of human rights. In the area of civil liberties, the courts have built up the right to have a transparent criminal justice system free from arbitrariness. The reasonableness must be examined on the basis of the nature of the right and the evil sought to be remedied. The ratio between the harm caused to the citizen, the benefit to be confirmed on the citizen, the urgency of the evil and the necessity to rectify the same has to be taken into consideration (Ghosh, 2013:06).

There is a dialectic relationship between right to information and human rights protection. The State secrecy may breach several human rights rules, including the right of access to State-held information, the right to a fair trial, the right to an effective remedy and the right to the truth in cases concerning serious human rights violations. It requires an inherent balancing exercise between the two colliding interests' namely national security and the protection of human rights. The right to information has dealt a severe blow to the States secrecy with respect to serious human rights violations.

The right to information needs to be better understood in the case of human rights protection in Brazil which has witnessed democratic revolution. The freedom to access official information has gained importance in the context of human rights protection and human development in modern times. The citizens' access to official information enhances the transparency, accountability and responsiveness to civil society (Adorno and Cardia, 2013:01). The civil rights and human rights of the people are duly protected by the right to information laws.

Citizens' right to information finds adequate constitutional protection in South Asian countries. By widening the channels for proactive disclosure and eliciting citizen feedback on its utility, a strong case can be made for RTI legislation free of any political or ideological positioning.

The proactive disclosure depoliticizes the agenda and creates practically useful opportunities for the protection of the human rights of the people (Asia Foundation, 2014).

In the age of globalization, the cross-border investment processes can have far-reaching implications for human rights. The foreign investment has adversely affected the farmers, herders and foragers in the age of dis-investment in public sector organizations. The people have lost their fundamental human rights such as the right to property, the right to housing or the right to food. The social rights, economic rights, political rights and human rights of the people are adversely affected by the new corporate investment policy. The champions of human rights have observed that human rights are relevant throughout business activities, including investment.

The human rights are rarely factored into investment policymaking worldwide. Explicit consideration of human rights in national-level investment policy making remains rare, and in many contexts rights remain insecure and arrangements for meaningful community engagement fragile. The investments have undermined the human rights since they are against the norms of social equality and economic justice. The world needs to bridge the gap between human rights and investment policy by adopting the norms of right to information. It is the responsibility of the state to make suitable arrangements to ensure that investments respect human rights and promote inclusive sustainable development (Cotula, 2014:03).

The big push forward for access to information came after the fall of the Berlin wall, with a strong and coordinated civic reaction to counter the information control exercised by the authoritarian regimes behind the Iron Curtain. The demand for a right to information in Central and Eastern Europe increased due to a strong and well-organized international civil society movement. There is much work to be done by the transparency community in consolidating the phenomenal progress made during past two decades as this right has developed from one respected in a few isolated democracies to a fundamental human right with global reach (Darbishire, 2015:04).

The multinational corporations are strongly criticized for providing financial assistance to the rightwing political leaders for online advertising or organizing violent rallies which have grossly violated the human rights of the marginalized sections of society. The activists have also suggested the formation of a human rights committee in the corporate houses to monitor financial transactions with designated hate groups representing the rightist political groups. The State has the obligation to adopt measures targeted at ensuring research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against the people. The access to information is closely linked to the enjoyment

of fundamental human rights of the marginalized sections of society.

The threats to freedom of expression and access to information online can occur through a variety of legislative and practical interventions. Some of the erratic and anomalous laws and judgments, from various areas of the continent threaten human rights. The Internet has immense disruptive potential for social justice activists. There is a need for re-examination of how this regulation can be implemented in a consistent manner and in the advancement of the human rights agenda (Razzano, 2016:16). There are certain permissible restrictions on free expression and right to information in order to safeguard the security of the nation and protection of the human rights.

The State has developed certain tools for silencing media professionals and activists in the name of security and denied the right to information to the people in times of human rights violation in Africa. The State has also blocked web-based media and social media sites during waves of protests sparked by decades of repression. The government must prioritize protection of right to information, freedom of media and public interest through revision of right to information laws.

The right to live free from violence, deprivation, degradation and victimization broadly constitutes the human rights in modern times. The people have the basic right to access to information on all aspects of governance which affects their fundamental rights. The members of civil society have the right to adequate information and diverse perspectives on the human rights issues and concerns. The free and independent media and civil society should delve into investigation without fear of reprisal for straying away from state-approved angles relating to the empowerment of the people.

The right to information is examined in the context of human rights protection across the globe. In the hierarchy of individual rights, constitutionally granted rights are commonly perceived as the strongest and are most likely to be accepted as inviolable. Both effective advocacy and sound legal interpretation would ensure that right to information protects the human rights which are needed to live self-actualized (Kelmor, 2016:09). The right to information and human rights are interrelated concepts. The right to information has strengthened the human rights since disclosure of information strengthens public interest. The national security card should not be used by any individual or institution, including the Supreme Court of India to protect the human rights in the country.

The right to information is related to human rights protection in Indian society. The right of access to information held by public and private bodies is a fundamental right, indispensable to the health of a

democracy and a means of protecting social rights, economic rights, political rights and human rights. These rights are guaranteed to serve a legitimate public interest and the state parties should adopt measures and align their legal frameworks with the fundamental principles of access to information pertaining to human rights protection (Salau, 2017:18).

The right to information activists is suppressed in the name of official secrets and national security by the State even though they had fought against certain anti social activities including drug trafficking. There are certain punitive laws that criminalized activities deemed to be essential for human rights protection. The access to information creates more socially and economically inclusive societies and ensures human rights protection by facilitating the sharing of the information beneficial to each individual, community, or organization.

The new media have also benefitted the women and weaker sections to gain access to information and participate actively in the developmental activities. The right to information certainly minimizes the instances of human rights violation (Garrido and Wyber, 2017:05). In India, human rights are protected constitutionally and culturally. The liberation movement primarily aimed at the protection of human rights which are part of political freedom and right of self-determination of the people.

Special care is taken for protecting the interests of the weaker sections of the society through the policy of protective discrimination supported by the right to information. The citizens are free to move to court for getting the enforcement of the fundamental rights including the right to information. Certain mechanisms are evolved for the protection of human rights of the poor, exploited and other disadvantaged groups of people.

The human rights are those rights which are essential for the survival of humans and their life. The right to information is an effective instrument of human rights protection in modern society. The human rights include the right to express, right to vote, right to education in respect of sex, caste or creed, right to information and right to development in a democratic set up (Madan, 2017:10). The right to know about the service related details of public servants and information related to corruption and human rights violation are not exempted from disclosure even in cases of intelligence and security organizations like CBI according to the judicial proceedings.

The service matter disputes cannot be termed as violation of human rights since the matter does not fall under the ambit of human rights violations. The court held that no violation of human rights is involved in service matters, such as promotion, disciplinary actions, pay increments, retirement benefits, pension, gratuity, etc (Mandhani, 2018:11).

Right to Information denotes the right to request and obtain information of public and individual importance held in public agencies. The right to information is a fundamental right which enables the citizens to demand and receive information on any matter of public importance. The Amnesty International has advocated the need for better human rights record on the basis of freedom of speech and right to information initiatives. The organization has also prevailed upon the national governments to amend the right to information laws for preventing non-disclosure of information relating to the lives of the people.

The recent provisions also ensure the right to information on individual interests relating to human rights and human development. They also provide every citizen right to information and access to the information held in the public agencies for the enjoyment of all recognized rights and to claim other rights. The right to information is an important instrument for sustainable development, poverty reduction and empowerment of individuals.

The right to information is related to the realization of social, economic and cultural rights which are the foundations of human rights protection. The dissemination of information about government activities should be as transparent as possible and available to all sections of society. The imposition of positive obligations upon States implies the adoption by governments of programmes to address human rights policy questions in a democracy.

Right to information provides a helpful framework for human rights protection. Everyone has the right to the protection of the law against certain interferences or attacks on the people. The storing and sharing of personal information is a process worthy of serious consideration. The rights held by people offline must also be protected online according to the UN resolution which called upon the national governments to be transparent and proactive in protecting the human rights of the people (Sloan, 2018:19).

Access to information plays an essential role in the social and political processes of modern society. The right to information is enshrined in the laws concerning the fundamental rights and human rights across the globe. Strong political will is required to ensure free access to information on all matters concerning the human rights protection and sustainable development in modern times.

The human rights apply equally online and offline. The Internet users are also guaranteed the right to information since it encourages governments, public institutions, and corporations to assume responsibility to appropriately protect human rights online. The European Convention on Human Rights has called upon the government and private organizations to act responsibly and protect the human rights of individuals in the new information environment.

The State has an obligation to guarantee the right to information which concerns the environmental and human

rights spheres. In human rights terms, fundamentally, all information in possession of State authority belongs to people who are the masters in a democracy. The International Covenant on Civil and Political Rights had emphasized that all information held by public bodies should be guided by the principle of maximum disclosure in order to protect the human rights and facilitate the development of the people. The states should amend or repeal laws that are inconsistent with this principle. New technologies are used to facilitate the mass surveillance system in advanced countries. The surveillance measures in modern times are necessary to prevent terrorism and other anti-national activities.

The international legal instruments have emphasized the need for protection of human rights which is the responsibility of national governments. The governments must put in place good policies, laws, and enforcement measures to prevent companies from violating rights that companies must refrain from negatively impacting rights and those victims of corporate abuses must have access to effective remedy. The corporate houses have a social responsibility of managing the human rights oriented delivery of goods and services. The human rights organizations have also addressed the challenges in new ways. The service providers are required to ensure data security and privacy in the new environment.

V. CONCLUSION

The information and communication technologies play an increasing role in the protection of all human rights in the new age of right to information. Many human rights violations are committed across the globe mainly because of lack of information and inability of the aggrieved persons to justify themselves. This can place a premium on fact-finding and evidence. The new technological devices including the mobile phone with video camera have increased the potential for documentation of a human rights violation by civilian witnesses. There is enormous potential to promote pluralism and accountability in human rights context. This has far-reaching implications for the established power relations in human rights work. In the digital age, the new devices facilitate greater connectivity of an individual defender with his or her local and international network for better human rights protection.

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