

Overview of the Right to Information

**DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD
ADVANCED DIPLOMA IN MEDIA LAWS -2023-2024
PERSONAL CONTACT PROGRAMME- (First Round)**

December 2023

Constitution of India

- Article 19(1)(a): All citizens shall have the right to freedom of speech and expression
- Is information part of speech or expression?
- Can you speak or express without knowing?
- The right to know in a democracy

Constitution of India

- Article 19(1)(a): All citizens shall have the right to freedom of speech and expression
- Freedom of press
- Can the press function without information?

What is public information?

- Private information vs. public information
- Information held by a public authority
- Who are public authorities?
- Article 12 of the Constitution: “the State includes the Government and Parliament of India and the Government and the Legislature of each of the States and all **local or other authorities** within the territory of India or under the control of the Government of India”
- Relationship of public authorities to the public

Accessing information from public authorities

- How do you access information from public authorities?
 - Proactive disclosure
 - Publication – public records
 - Public inspection
 - Parliamentary privilege

The Official Secrets Act, 1923

- Section 2(8)(c): any place belonging to or used for the purpose of Government
- which is for the time being declared by the Central Government, by notification in the Official Gazette, to be a prohibited place for the purposes of this Act
- on the ground that information with respect thereto, or damage thereto, would be useful to an enemy

The Official Secrets Act, 1923

- Section 5(1)(c): If any person having in his possession or control any ... article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, ... or which has been entrusted in confidence to him by any person holding office under Government
- retains the ... article, note or document in his possession or control when he has no right to retain it
- he shall be guilty of an offence under this section.
- Punishment: imprisonment up to 3 years with fine

The Official Secrets Act, 1923

- Section 15(1): if, in the course of proceedings before a Court against any person for an offence under this Act,
- application is made by the prosecution ... that all or any portion of the public shall be excluded during any part of the hearing,
- the Court may make an order to that effect
- but the passing of sentence shall in any case take place in public

The Official Secrets Act, 1923

This is not an
academic
discussion!

Indian government threatens to invoke Official Secrets Act against news outlets

March 11, 2019 2:29 PM EDT



The government of Narendra Modi, through Attorney General K K Venugopal, on March 6, 2019, threatened to invoke the Official Secrets Act against daily newspaper *The Hindu* and news agency Asian News International (ANI) for critical reporting on a fighter jet deal in which the government has been accused of corruption, according to [news reports](#).

Venugopal alleged in the Supreme Court on March 6 that both news outlets used documents stolen from the Defense Ministry in their reporting, and said the government would pursue criminal charges against them under the colonial-era Official Secrets Act, according to [news reports](#). Conviction under the act could result in three to 14 years in prison, according to [news reports](#); Venugopal did not specify who at the outlets would be potentially be targeted.

The [Times of India](#) and the [Editors Guild of India](#) reported on March 7, 2019, that

Position in other countries

- ECHR, Article 10: “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”
- United States: Freedom of Information Act, 1966 (FOIA)
- Australia: Freedom of Information Act, 1982
- United Kingdom: Freedom of Information Act, 2000
- South Africa: Article 32 of the Constitution of South Africa, 1994 and the Promotion of Access to Information Act, 2000

History of the right to information in India

- Beawar Satyagraha, 1996
- National Campaign for the People's Right to Information
- Freedom of Information Act, 2002
- Right to information Act, 2005



RTI Act, 2005

- Section 3:
- Subject to the provisions of this Act,
- all citizens shall have the right to information.

Pillars of the RTI Act, 2005

- From freedom to right: accountability
- Reversal of principle: anything not prohibited is permitted
- Proactive disclosure
- Public information officers
- Information Commissions

Manish
Assistant Professor
National Law School of India University, Bengaluru
manish@nls.ac.in