

UNIT – 1

Historical Development and Constitutional Basis

Sweden USA UK • Pre-2005 India • Democracy • Supreme Court Jurisprudence

Right to Information

Unit Overview

This unit traces the historical development of the right to information / freedom of information in Sweden, the USA and the UK, examines the position in India before the RTI Act 2005, explains the significance of RTI in a democracy, its constitutional basis, and the key Supreme Court decisions that recognised the right to information as part of the fundamental right to freedom of speech and expression.

LEARNING OBJECTIVES

What You Will Learn

01 Global History

Trace FOI development in Sweden, USA and UK

02 Pre-2005 India

Understand the legal position before the RTI Act

03 Democracy

Explain why RTI is essential in a democracy

04 Constitutional Basis

Locate RTI within Articles 19 and 21

05 Supreme Court

Analyse landmark SC judgments on RTI

06 Significance

Appreciate RTI as a tool against corruption and arbitrariness

Freedom of Information – Sweden

Sweden enacted the world's first Freedom of the Press Act in 1766, establishing the principle of public access to official documents (offentlighetsprincipen).

1766 Act	First statutory recognition of the right to access official documents
Principle	Public access is the rule; secrecy is the exception
Influence	Inspired later FOI laws across Europe and beyond
Modern	Still one of the strongest transparency regimes in the world

Freedom of Information – United States

FOIA 1966

Freedom of Information Act – statutory right to federal records

Amendments

1974, 1986, 1996 (E-FOIA), 2007 – strengthened access and electronic records

Exemptions

Nine exemptions (national security, privacy, trade secrets, etc.)

Impact

Model for many countries; extensive litigation and agency practice

UK

Freedom of Information – United Kingdom

FOIA 2000

Came into force in 2005; covers public authorities

Previous

Official Secrets Acts and limited common-law access

Features

Duty to confirm or deny, public interest test, Information Commissioner

Influence

Close parallel to the Indian RTI Act structure

Right to Information before the 2005 Act

Official Secrets Act 1923

Colonial secrecy law still in force; culture of secrecy

State Laws

Tamil Nadu, Goa, Rajasthan, Maharashtra, Karnataka, Delhi etc. enacted FOI laws in 1990s–2000s

Campaign

Mazdoor Kisan Shakti Sangathan (MKSS) and national campaign for RTI

FOI Act 2002

Weak central law; never fully operational; replaced by RTI Act 2005

Significance of RTI in Democracy

Free exchange of ideas is a basic pillar of a democratic society. Sunlight is the best disinfectant. RTI infuses transparency and accountability in governance and prevents abuse of power.

Accountability

Citizens can question the government and public authorities

Anti-Corruption

Exposes maladministration and corruption

Participation

Enables informed public participation in governance

Rule of Law

Reduces arbitrariness and strengthens constitutionalism

Constitutional Basis of RTI

Article 19(1)(a)	Freedom of speech and expression includes the right to receive information
Article 21	Right to life and personal liberty – informed living and dignity
Preamble	Democratic republic; justice, liberty, equality
Directive Principles	Articles 38, 39, 41 support transparent and accountable governance
International	UDHR Art 19, ICCPR Art 19 – freedom to seek, receive and impart information

Supreme Court on Right to Information

Bennett Coleman (1973)	Right to information is part of freedom of speech
State of UP v. Raj Narain (1975)	People's right to know; open government
S.P. Gupta (1981)	Open government is part of democracy; right to know
ADR v. Union of India (2002)	Voters' right to know about candidates
PUCL v. Union of India	Further expansion of the right to know

LANDMARK

Key Pre-RTI Judgments

Raj Narain

“In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets.”

S.P. Gupta

Open government is the new democratic culture

Association for Democratic Reforms

Right to know the antecedents of electoral candidates

Impact

Created the constitutional foundation that the RTI Act later statutoryised

Salient Features of the Historical Journey

Sweden

First statutory FOI regime (1766)

USA

Comprehensive FOIA with strong enforcement culture

UK

FOIA 2000 – modern template close to Indian law

India

From colonial secrecy to constitutional right to statutory RTI

SC Role

Judicial recognition preceded and shaped the legislation

ESSENTIALS

Core Points

Global

Sweden 1766 → USA 1966 → UK 2000

India Pre-2005

State laws + FOI Act 2002 + strong SC jurisprudence

Constitution

Arts 19(1)(a) and 21

Democracy

Transparency, accountability, participation, anti-corruption

SC Cases

Raj Narain, S.P. Gupta, ADR – foundational

From Secrecy to Transparency

Colonial administration operated on the principle of secrecy. Independent India's Constitution and the Supreme Court reversed this philosophy. The RTI Act 2005 is the legislative culmination of a long judicial and civil-society struggle for open government.

HIGHLIGHTS

Key Highlights

Sweden

World's first FOI law – 1766

USA

FOIA 1966 – influential model

UK

FOIA 2000 – close structural parallel

India

SC recognised RTI long before 2005 statute

Constitution

Art 19(1)(a) + Art 21

Significance

Sunlight as disinfectant; democratic accountability

Why History Matters

Interpretation

Historical purpose guides interpretation of exemptions

Culture

Shift from secrecy to transparency is still incomplete

Comparative

Foreign FOI experience helps in reforming Indian practice

Judiciary

SC continues to expand the right using constitutional foundations

COMPARISON

Comparative Snapshot

Sweden

Strongest culture of openness; secrecy is exception

USA

Litigation-driven; detailed exemptions

UK

Public interest test; Information Commissioner

India

Constitutional + statutory; Information Commissions; strong civil-society roots

SUMMARY POINTS

Must-Remember Points

- Freedom of information began in Sweden (1766), developed in the USA (FOIA 1966) and UK (FOIA 2000).
- In India, the Supreme Court recognised the right to information as part of Article 19(1)(a) long before the RTI Act.
- Landmark cases – Raj Narain, S.P. Gupta, ADR – laid the constitutional foundation.
- RTI is essential for democracy, accountability and the fight against corruption.
- The RTI Act 2005 statutoryised a right that already existed in constitutional jurisprudence.

Key Takeaways

1. RTI has deep historical and constitutional roots.
2. The Supreme Court played a transformative role before the statute.
3. Transparency is a democratic necessity, not a concession.
4. Comparative experience enriches interpretation of the Indian Act.
5. Understanding this background is essential for studying the RTI Act itself.

Next Unit: RTI Act – Definitions and Obligations of Public Authorities.