



Ayana Legal

# THE BUZZ

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Monthly Newsletter By Team Ayana Legal

## International Conventions on Right to Information

- *"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."*
- Article 19 of the Universal Declaration of Human Rights (UDHR)
- Article 19 of the International Convention on Civil and Political Rights (ICCPR) reads almost the same as the UDHR but, sub-clause (3) provides certain restrictions on the grounds of -

*"(a) For respect of the rights or reputations of others;*

*(b) For the protection of national security or of public order (ordre public), or of public health or morals."*

## RIGHT TO INFORMATION

Article 19(1)(a) of the Constitution of India guarantees individuals the fundamental right of speech and expression. In the landmark judgement of *SP Gupta v. Union of India*, the Supreme Court of India had observed "The concept of an open government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1)(a)." Resulting in the expansion of the scope of the Article bringing into its purview the right to know, the right to information. Following a series of judgements, the Right to Information Act (RTI), 2005 was promulgated to "promote transparency and accountability in the working of every public authority."

### RTI Act, 2005

Section 3 gives all citizens the right to information subject to the provisions of the Act. Section 4 casts a duty upon public authorities to maintain, publish and disseminate their records and information in the manner as provided. Section 6 deals with the procedure for making requests to obtain information. It provides that applicant making a request for information shall not be required to give any reason for requesting the information or any personal details except those that may be necessary for contacting him. Requests need to be disposed within 30 days. Further the Act provides certain exclusions, exemptions and exceptions (under sections 8, 9 and 24) in regard to disclosure of information held by public authorities.

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## International Conventions on Right to Privacy

- *“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”*
- Article 12 of the UDHR
- Article 17 of the ICCPR
- Article 8 of the European Convention on Human Rights (reads almost the same while providing more instances for exemption)

## Thank You

We at Ayana Legal thank you for your continued support and subscription to our newsletter and capsules. We look forward to being back with the next edition soon.

## Disclaimer

This newsletter is solely for the purpose of providing information and the content provided is not and should not be construed as legal advice.

## Right to Information vis-a-vis Privacy

An obvious question that comes up for consideration while discussing the right to information is the conflict with privacy. While the exemptions enumerated under the Act can be seen as an attempt to protect privacy, sub-clause 1 (j) under Section 8 specifically deals with the right to privacy of an individual and states that “information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual...” would be exempt from disclosure unless a larger public interest is requires such disclosure.

In *K.S. Puttaswamy and Another v. Union of India and others*, one of the tests laid down in determining invasion of privacy was that of proportionality, which ensures a rational nexus between the objects and the means to be adopted to achieve them. The Court held that Sections 8(1)(j) and 11 of the RTI Act meets such requirement having a legitimate aim.

The same has been upheld by the Supreme Court in *Ritesh Sinha v. State of Uttar Pradesh* stating that the right to privacy is not absolute and “must bow down to compelling public interest”. In the case of *R. Rajagopal v. State of Tamil Nadu*, the Supreme Court held that the right to privacy is a “right to be let alone” but “once a matter becomes a matter of public record, the right to privacy no longer subsists...”

In the case of *Secretary General, Supreme Court of India v. Subhash Chandra Agarwal*, the Delhi High Court has held that in the protection of privacy under the Act, “In the case of private individuals, the degree of protection afforded to be greater; in the case of public servants, the degree of protection can be lower, depending on what is at stake. This is so because a public servant is expected to act for the public good in the discharge of his duties and is accountable for them.”