



FACULTY OF JURIDICAL SCIENCES

COURSE: LL.M. 1st Semester

GROUP: Constitutional Law

SUBJECT: Media Law

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Lecture-14



LECTURE 14: Right to Information

RIGHT TO INFORMATION ACT:

Noted political analyst James Michael has pointed out in his pioneering book *The Politics of Secrecy* that, "freedom of information" and "right to information" are two different concepts.

"Freedom" implies the absence of restraint, particularly of legal penalties. Thus, "freedom of information" means a citizen is free to receive and impart information without fear of punishment. However, there is no obligation on the State to provide any information to the citizen.

The right to information is indispensable for free flow of information. But there was a massive wall in the shape of the Official Secrets Act in India. The official Secrets Act was a hindrance to the flow of information. Hence, there was an urgent need to thoroughly examine the Official Secrets Act.

Through out the last two decades, the demand for the enactment of a Right to Information Act gained momentum. It was felt that right to information, as a fundamental legal right, is necessary to bring about the much-needed transparency in the system.

This sort of right was also viewed as a necessary measure to remove corruption from public and administrative life. Barrier to information is known to be the single largest factor behind corruption as it facilitates arbitrary decisions, clandestine deals, embezzlements and manipulation of all kinds. If information is made a right, people will be able to ask inconvenient questions from those whose conduct is either suspicious or not above board.

As we are ushering into the 21st century, our life styles and values are changing. Therefore, we should continue changing our approach and attitudes and shake off the old mentalities that has impediments in our evolution as a modern and democratic society.

One school of thought in the media' world strongly felt that the crusade for right to information will be the best contribution to the evolution of such a modern democratic and forward-looking society.

But there was another school of thought still feels that Official Secrets Act has its own importance from the point of view of maintaining efficiency in the Government.

The Press Commission opined that secrecy in bureaucracy, which arose out of functional necessity, as a means to achieving organizational efficiency-has become an end in itself from effective outside control.

The Commission's attempt to establish a balance between an open Government and the need of keeping secret certain affairs of State was laudable. But it had a negative attitude of showing a slavish weakness for the British model.

The Commission had noted that the question of amending Section 5 of the Official Secrets Act has been considered by various committees and commissions and the general opinion has been that, since the Act has been administered in a sensible manner, there being few prosecutions under the law, no modifications in the Act are warranted. Section 5 of the Official Secrets Act lays down:

o If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to anything in such a place or which is likely to assist, directly or indirectly, an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person

holding office under Government or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Government, or as a person who holds or has held a contract made on behalf of Government, or as a person who is or has been employed under a person who holds or has held such an office or contract.

o Willfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorized to communicate it, or a Court of Justice of a person to whom it is in the interests of the State, his duty to communicate it; or

o Uses the information in his possession for the benefit of any foreign power or any other manner prejudicial to the safety of the State; or

o Retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it or willfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or

o Fails to take reasonable care of or so conducts himself as to endanger the safety of the sketch, plan, model, article, note document, secret official code or pass word or information, he shall be guilty of an offence under this section.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.	"freedom of information" and "right to information" are two different concepts..	True	False
2.	"Freedom" implies the absence of restraint, particularly of legal penalties.	True	False
3.	"freedom of information" means a citizen is free to receive and impart information without fear of punishment.	True	False
4.	The right to information is indispensable for free flow of information	True	False
5.	The Press Commission opined that secrecy in bureaucracy, which arose out of functional necessity, as a means to achieving organizational efficiency-has become an end in itself from effective outside control.	True	False

Answers: 1-(b),2-(a), 3-(a),4-(a),5-(a)