

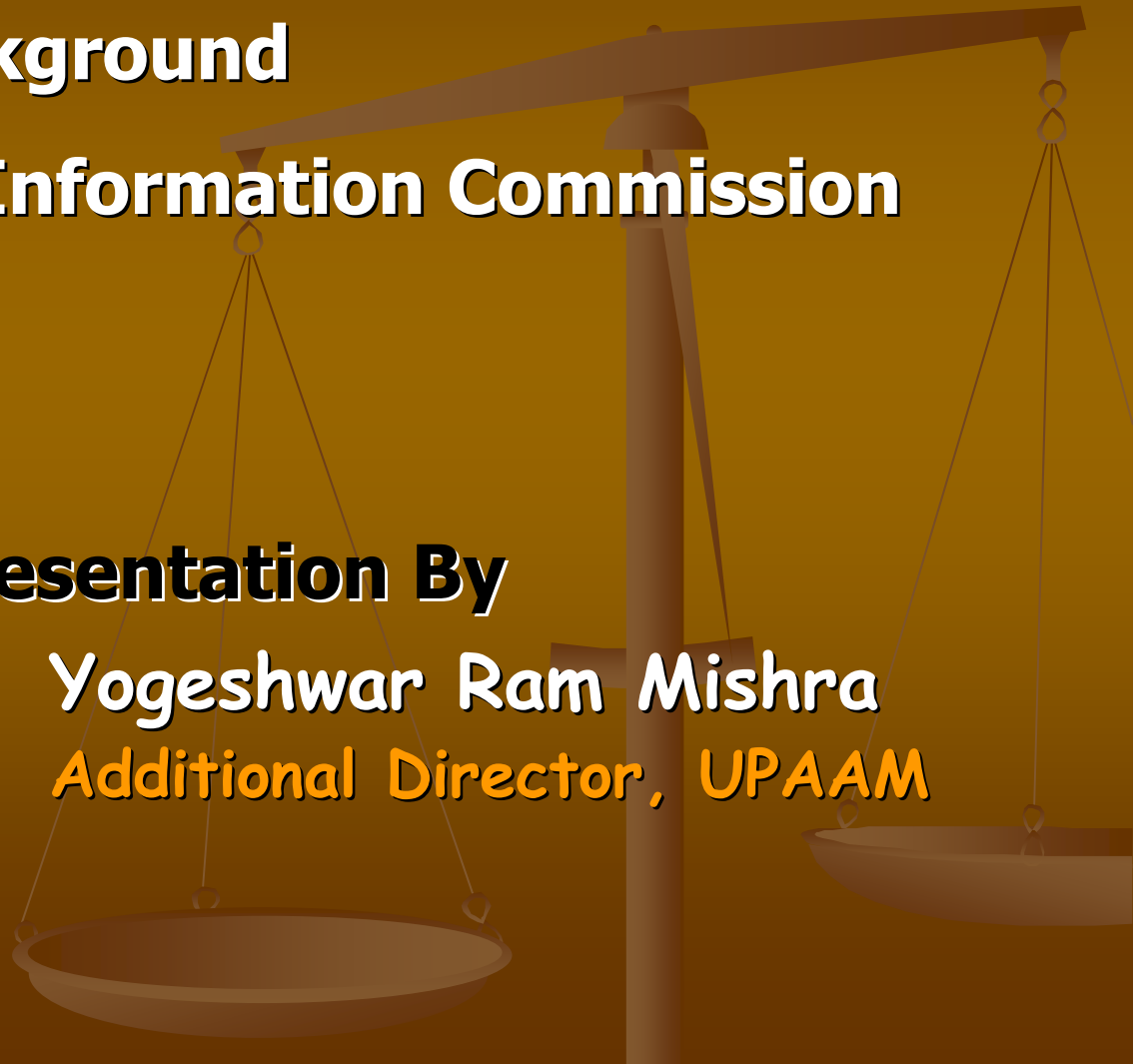
Right To Information Act, 2005:

- **A Historical Background**
- **Role of Central Information Commission**

Presentation By

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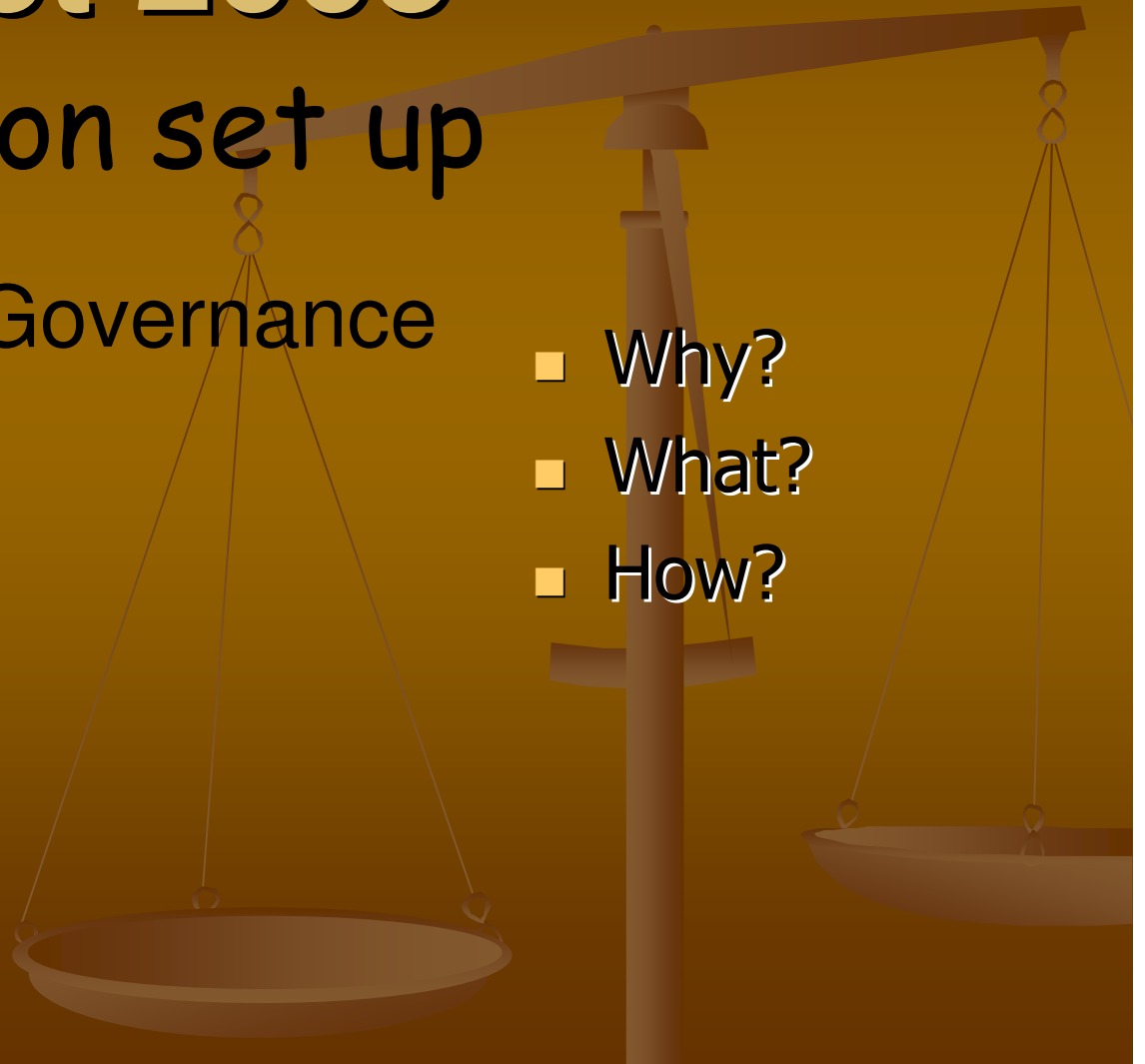
Right to Information Act 2005

Session set up

Purpose – Good Governance

- Transparency
- Accountability
- Responsiveness

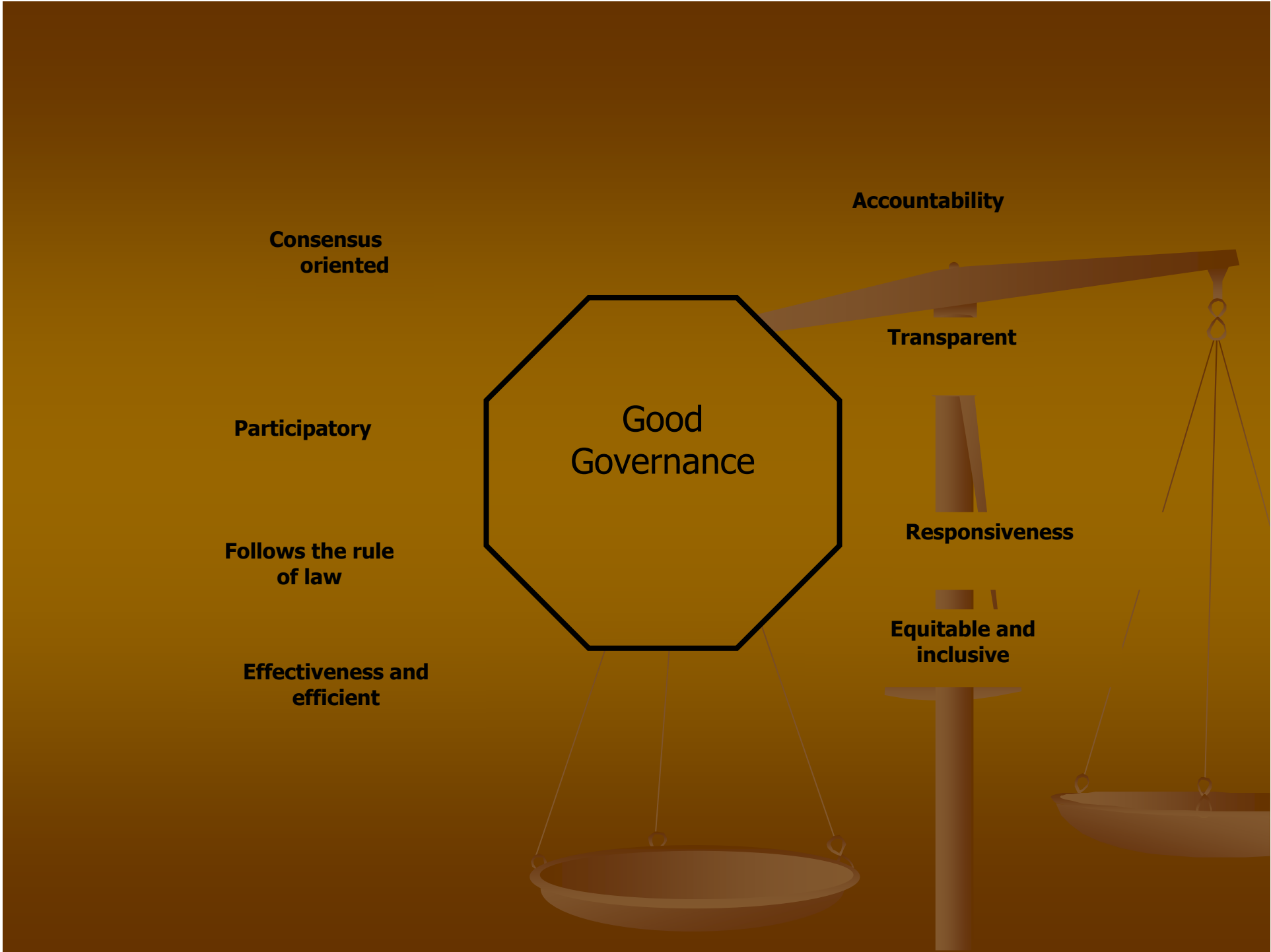
- Why?
- What?
- How?



***The real Swaraj will come not by
the acquisition of authority by a
few but by the acquisition capacity
by all to resist authority
when abused***

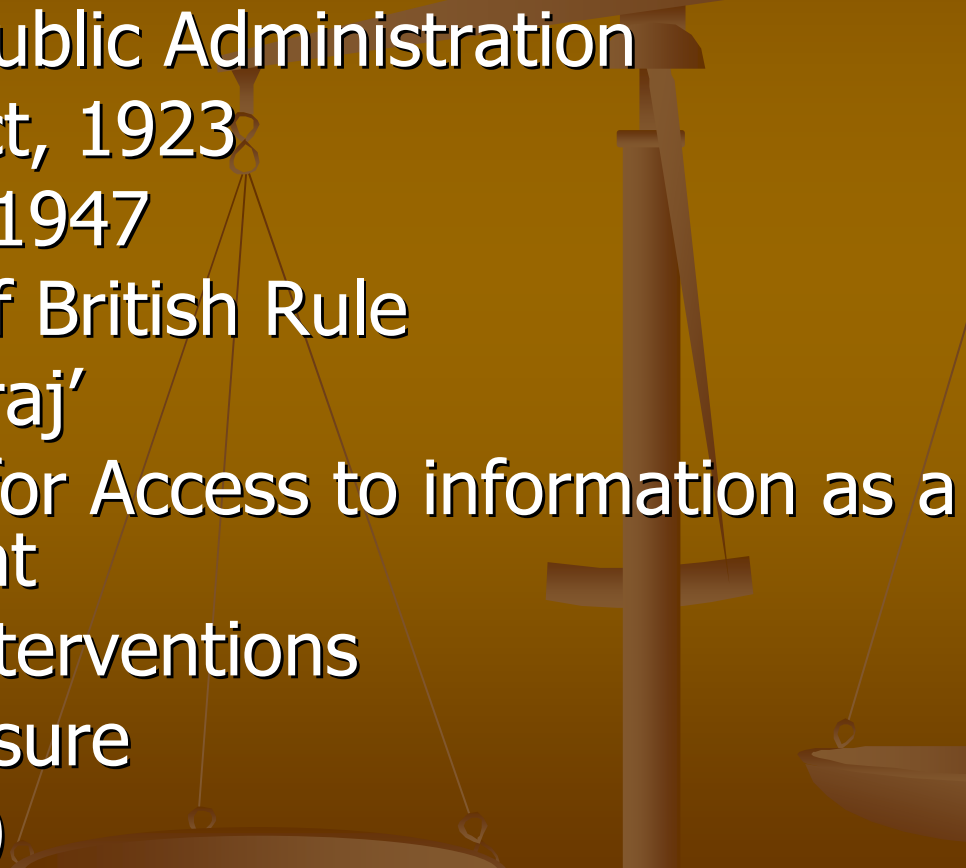
-Mahatma Gandhi





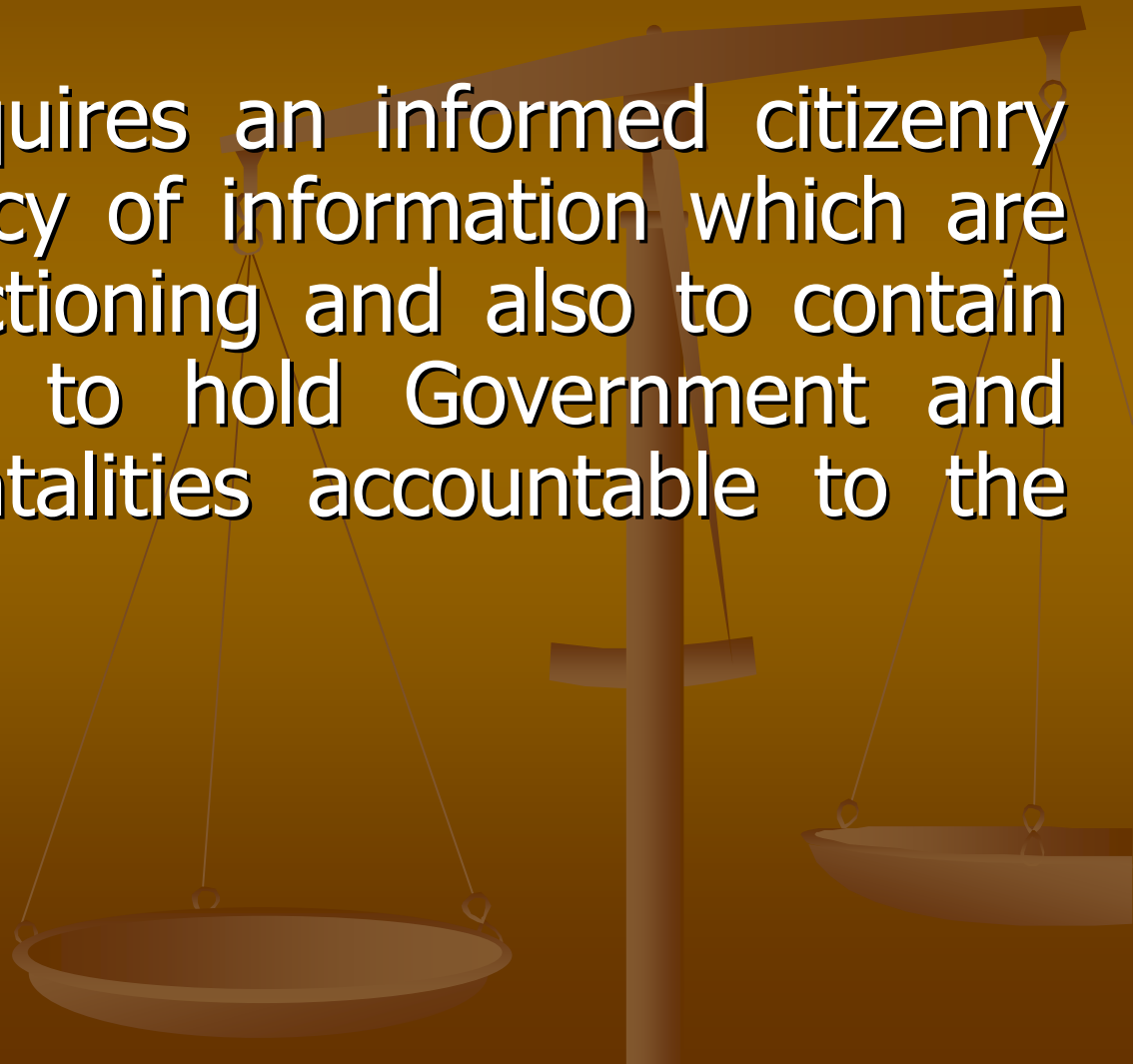
Background

Why? What? & How?

- Democracy and Public Administration
 - Official Secrets Act, 1923
 - Independence in 1947
 - Colonial Legacy of British Rule
 - Demand for 'Swaraj'
 - Civil movements for Access to information as a Fundamental Right
 - Supreme Court interventions
 - international Pressure
 - MKSS (Rajasthan)
- 

Mission & Vision

'Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Government and their instrumentalities accountable to the governed'



Conceptual Framework

Concepts



Good Governance

Accountability

Transparency

Corruption

Informed Citizenry



Analytical Framework

**Demand Side
Stake Holders**



Common Citizenry

State Information Commission

Press - Media

Civil Society Organizations & NGO's

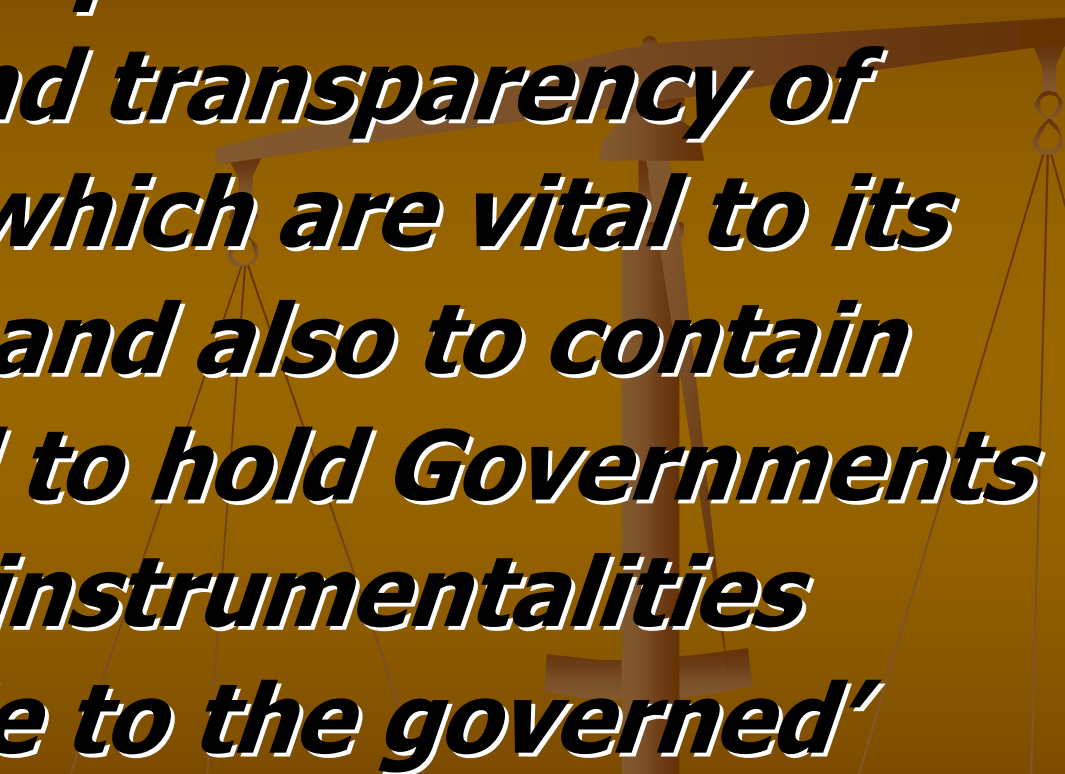
Courts

Supply Side Stake Holders



Bureaucracy





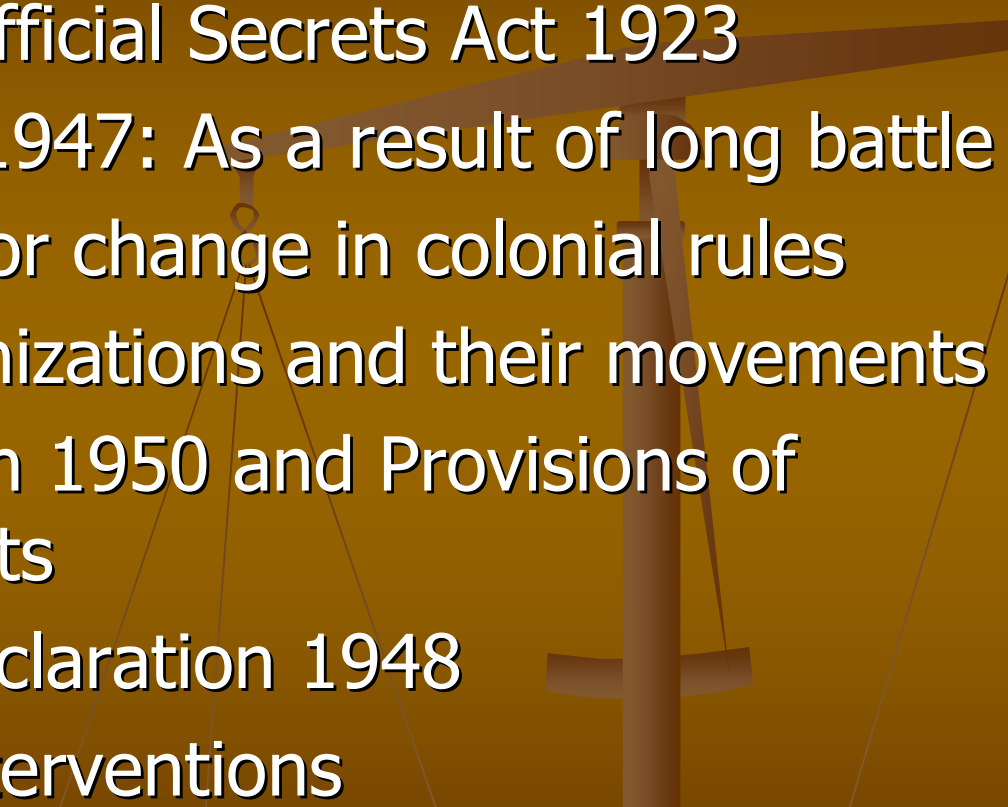
'Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed'

Right to Information Act 2005

What is Information?

- Information means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force -Section 2(f)

Historical Background

- British Rule and Official Secrets Act 1923
 - Independence in 1947: As a result of long battle
 - Popular demand for change in colonial rules
 - Civil Society Organizations and their movements
 - Indian Constitution 1950 and Provisions of Fundamental Rights
 - United Nations Declaration 1948
 - Supreme Court interventions
- 



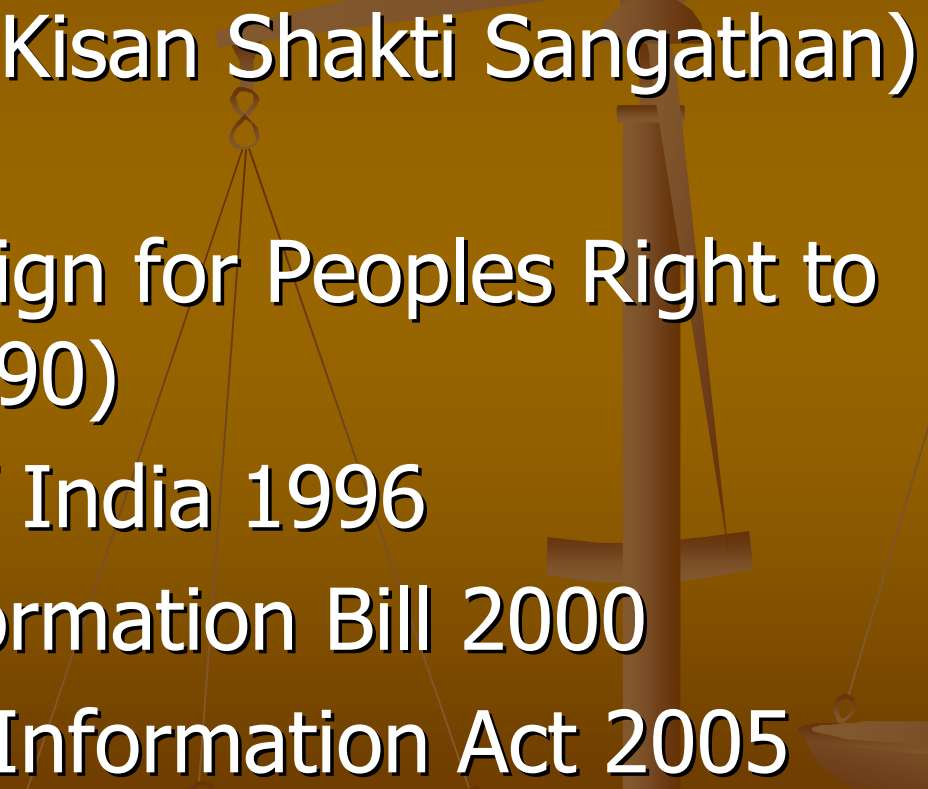
- Raj Narain vs Union of India 1975

“In a government of responsibility like ours where the agents of the public must be responsible for their conduct there can be a few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing”

- Dinesh Triverdi vs Union of India

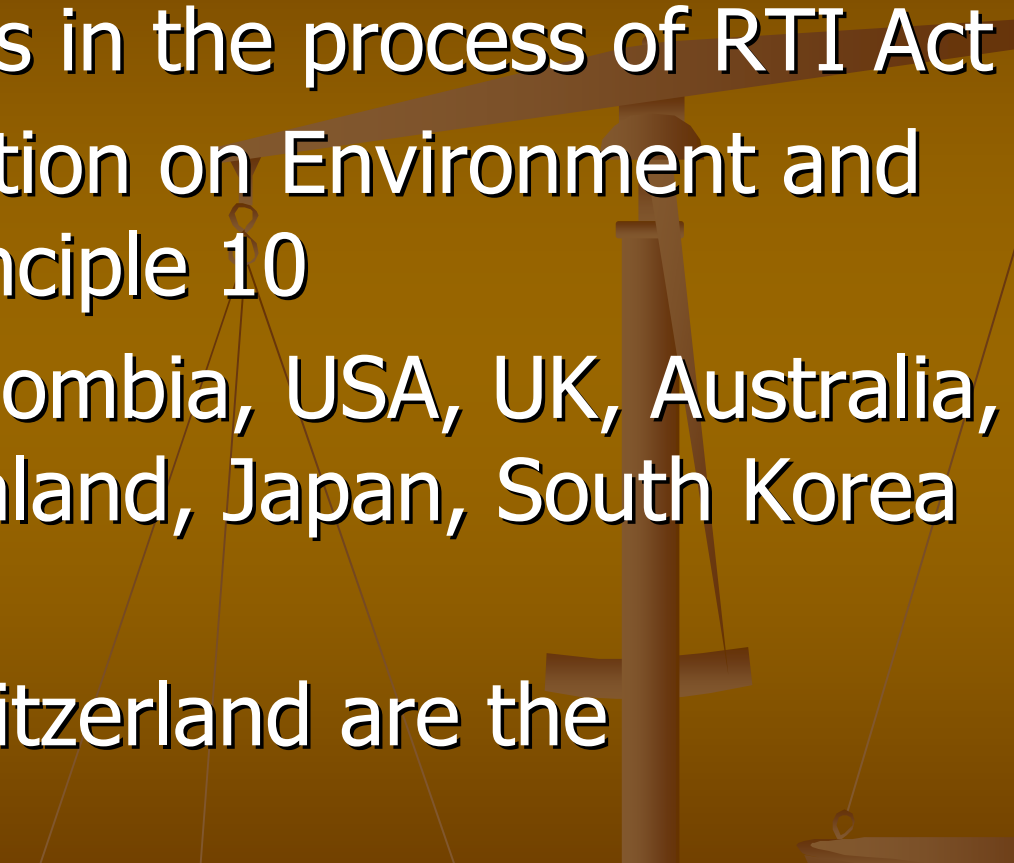
“the sprit of an open government is direct emanation from the right to know which seems implicit in the right of free speech and expression guaranteed under Article 19(1)”

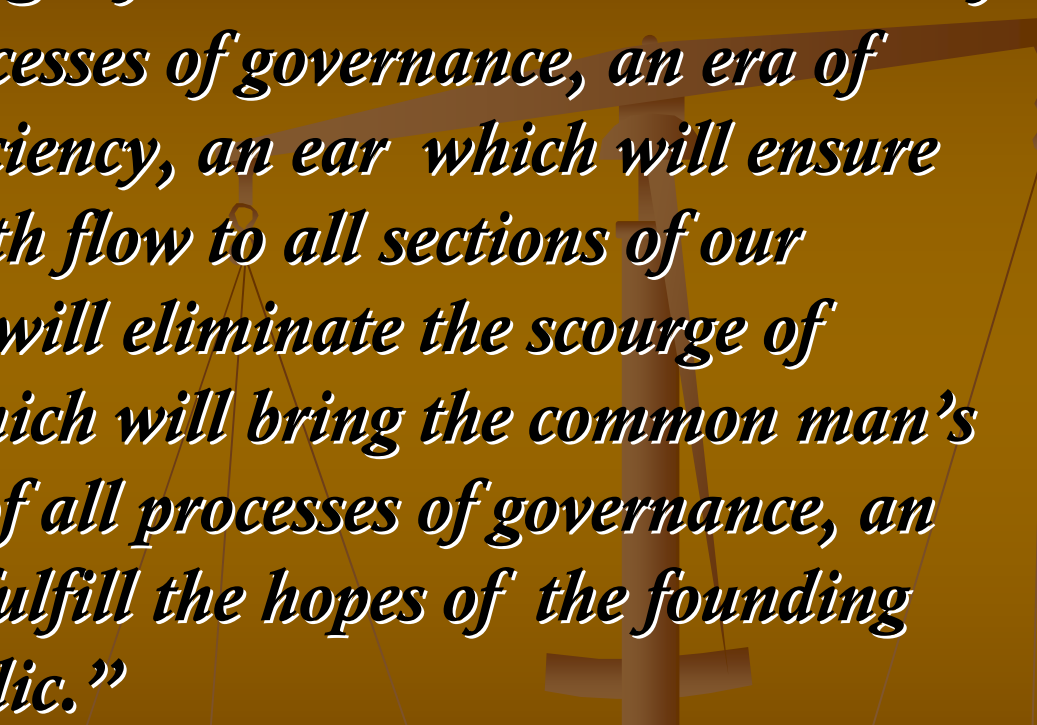
- Working Group 1977 to suggest changes in Official Secrets Act
- Working Group 1989 - some suggestions
- 1997 Chief Ministers' Conference; Central State Agreement on freedom of information
- 1997 Tamil Nadu and Goa passed their Right to Information Act
- 1997 working group headed by H.D. Shourie

- 
- MKSS (Majdoor Kisan Shakti Sangathan) 1990
 - National Campaign for Peoples Right to Information (1990)
 - Press Council of India 1996
 - Freedom of Information Bill 2000
 - Finally Right to Information Act 2005

International Convent

- 1766 Freedom of Press Act – Sweden
 - 1809 'Ombdusman' for Swedish Parliament
 - 1948 UN General Assembly adopted universal declaration of human rights
 - 1966 International Convent on Civil and Political Rights (ICCPR)
 - 1993 UN Commission of Human Rights
 - 1980 Commonwealth Law Ministers' Conference
 - Over 40 countries have RTI in some form or another
- 

- 
- 30 more countries in the process of RTI Act
 - 1992 Rio Declaration on Environment and Development Principle 10
 - Countries like Colombia, USA, UK, Australia, Canada, New Zealand, Japan, South Korea all have RTI Act
 - Germany and Switzerland are the exceptions



“I believe that the passage of this Bill will see the dawn of a new era in our processes of governance, an era of performance and efficiency, an era which will ensure that benefits of growth flow to all sections of our people, an era which will eliminate the scourge of corruption, an era which will bring the common man’s concern to the heart of all processes of governance, an era which will truly fulfill the hopes of the founding fathers of our Republic.”

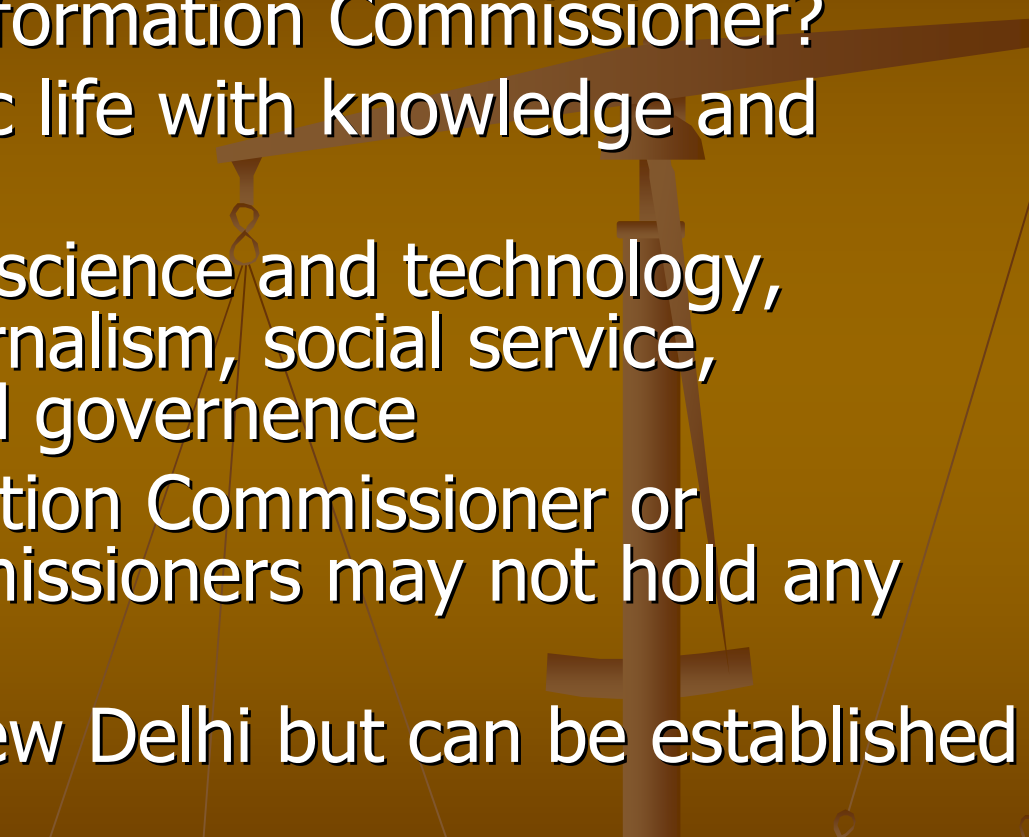
Dr. Manmohan Singh

Prime Minister of India


Speech in Parliament on May 11, 2005.

Central Information Commission – Section 12 to 14 of the Act

- Central Information Commission shall consist of
 - A- Chief Information Commissioner
 - B- Information Commissioners (not exceeding 10)
- Appointment by the President of India on the basis of the recommendations of a committee headed by the Prime Minister of India
- The committee consists –
 - President – Appointing Authority
 - Prime Minister
 - Leader of Opposition in Lok Sabha
 - One Union Minister nominated by Prime Minister

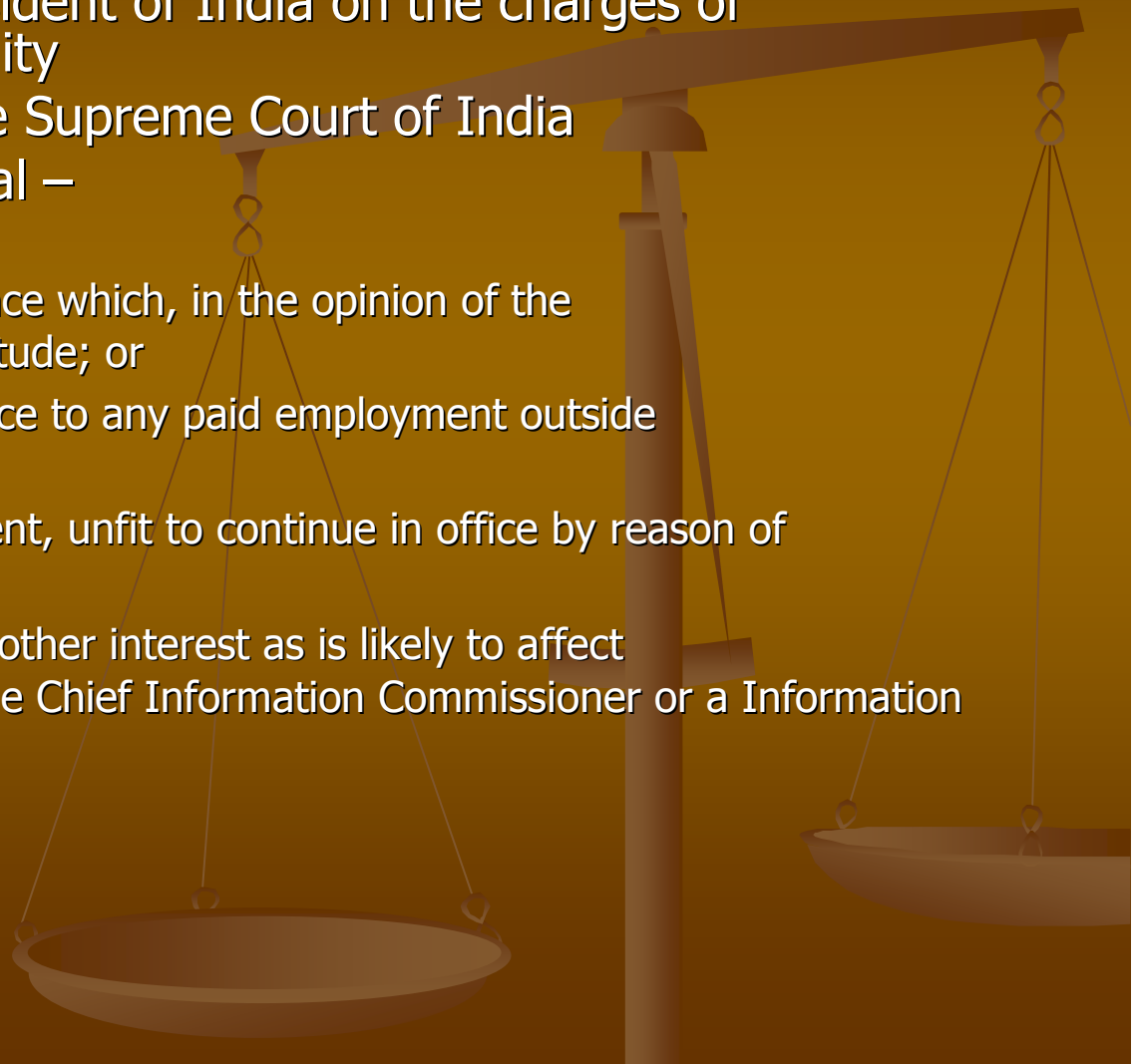
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- Who can be an Information Commissioner?
 - Eminence in public life with knowledge and expertise
 - May be from law, science and technology, management, journalism, social service, administration and governance
 - The Chief Information Commissioner or Information Commissioners may not hold any office of profit
 - Headquarter at New Delhi but can be established elsewhere too

Terms and Conditions

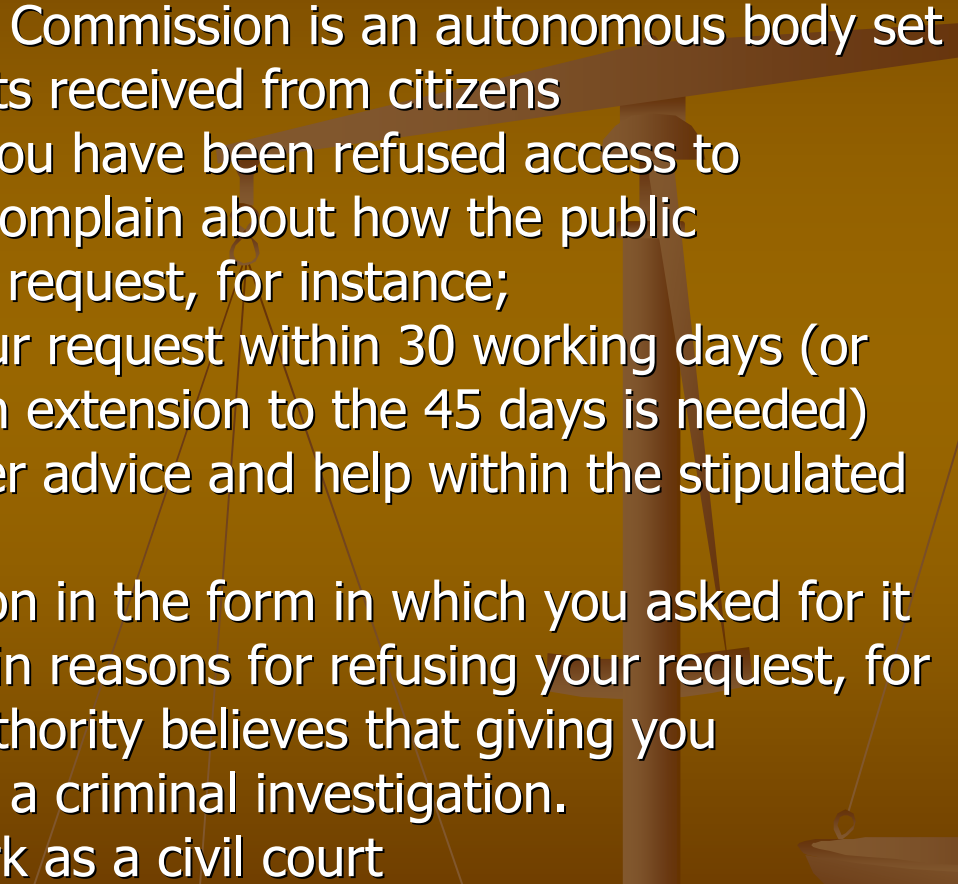
- The Chief Information Commissioner shall hold office for five years term
 - Maximum age limit – 65 years
 - Free to resign
 - Salary and allowances –
 - CIC equal to Chief Election Commissioner
 - IC equal to Election Commissioner
 - Office and staff is provided for smooth function
 - Other allowances and retirement benefits
- 

Removal

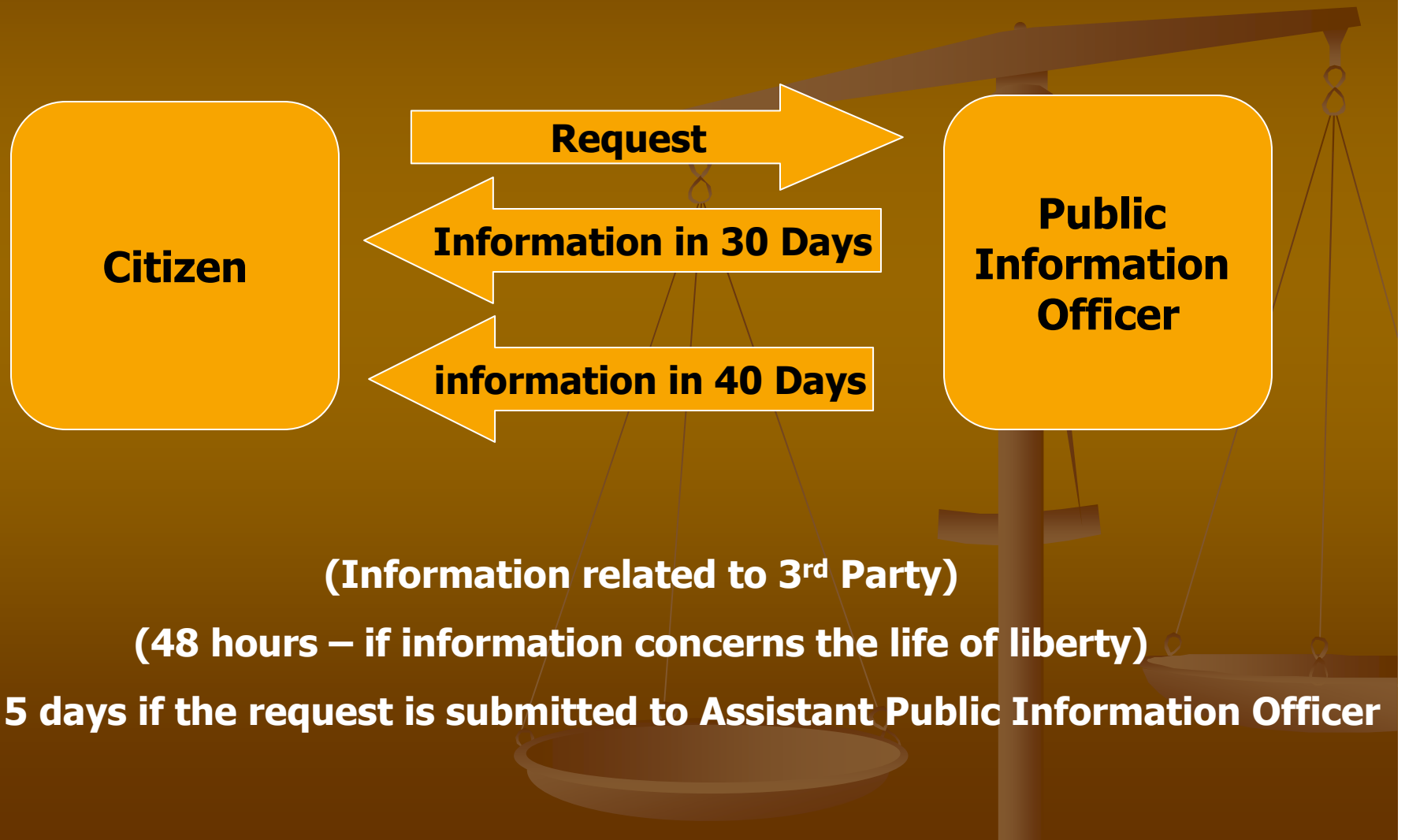
- Removal only by the President of India on the charges of misbehaviour or incapability
- By an inquiry done by the Supreme Court of India
- Other grounds for removal –
 - A. is adjudged an insolvent; or
 - B. has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
 - C. engages during his term of office to any paid employment outside the duties of his office; or
 - D. is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
 - E. has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner



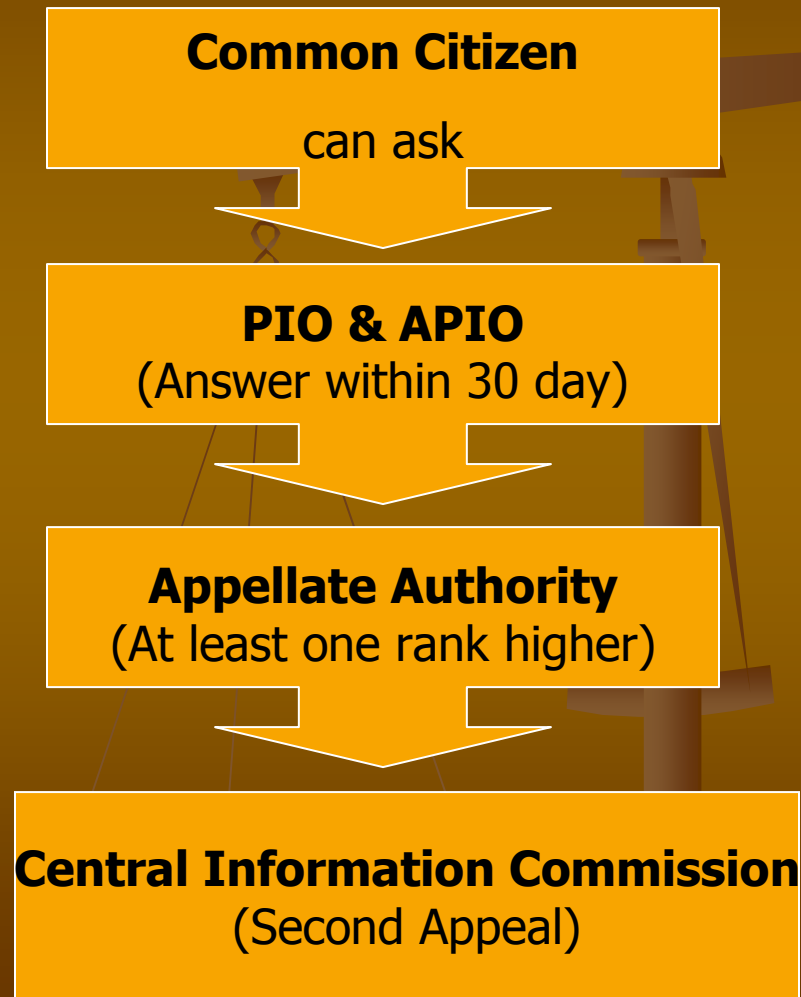
Central Information Commission:

- The Central Information Commission is an autonomous body set up to inquire into complaints received from citizens
 - You can complain that you have been refused access to information. You can also complain about how the public authority has handled your request, for instance;
 - failure to respond to your request within 30 working days (or
 - failure to explain why an extension to the 45 days is needed)
 - failure to give you proper advice and help within the stipulated
 - time
 - failure to give information in the form in which you asked for it
 - failure to properly explain reasons for refusing your request, for
 - instance if the public authority believes that giving you
 - information would harm a criminal investigation.
 - powers to summon, work as a civil court
- 

How RTI is Implemented ?



How RTI is Implemented?



APPEAL



- To officer senior in rank to PIO
- To be preferred in 30 days from expiry of period date of decision
- Grounds

Decision not received in time
Aggrieved by decision

POWER OF IC



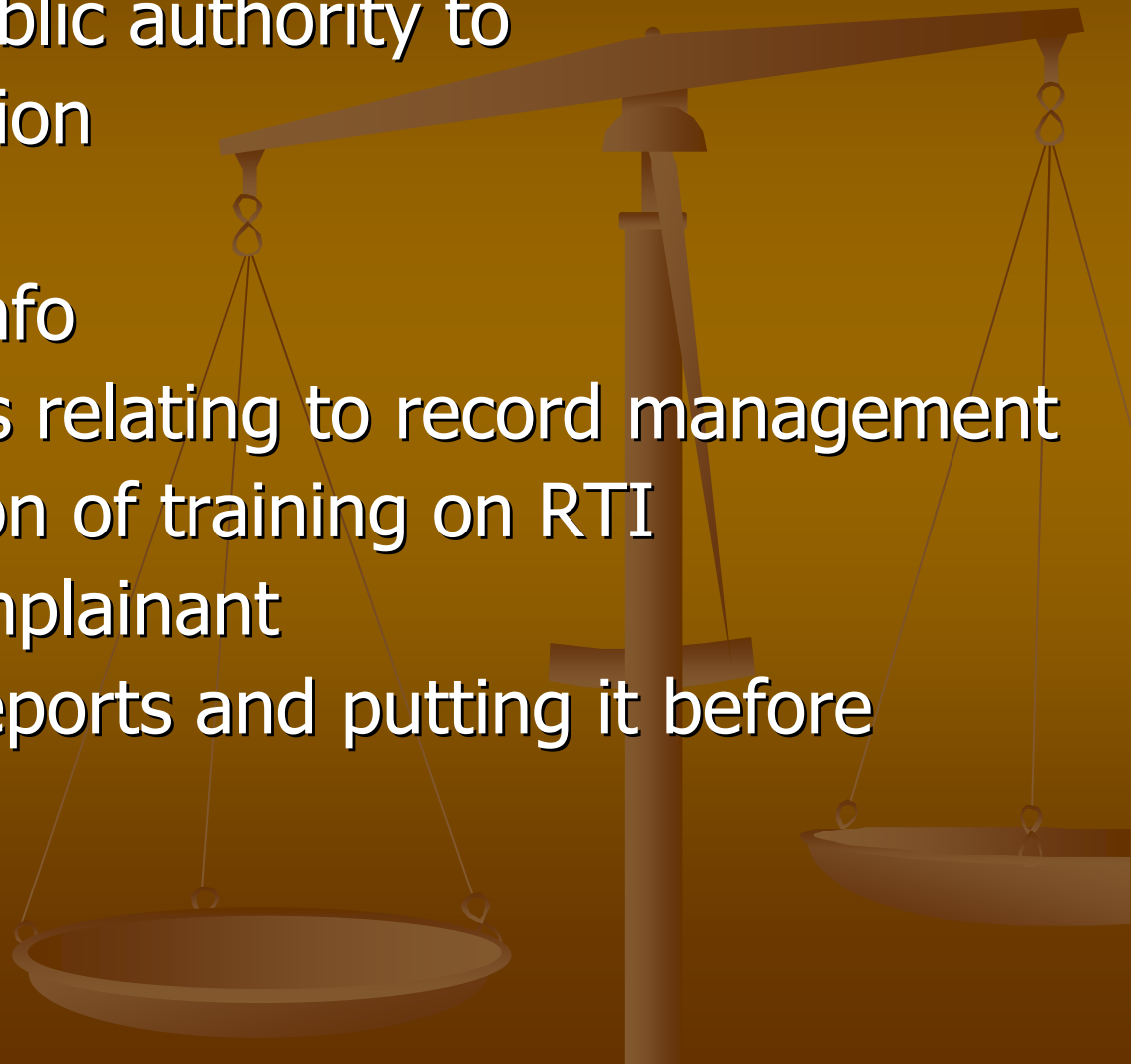
- Receive complaints regarding
 1. No PIO appointed
 2. PIO refused to accept application
 3. Refused access
 4. Time limit expired
 5. Info incomplete or false
 6. Any other matter of RTI
- Can initiate inquiry
- Has power like civil court
- Appeal to IC is 2nd appeal, in 90 days
- Onus on PIO to prove refusal was justified

(contd.)

POWER OF IC

Can require the public authority to

- Provide information
- Appoint PIO
- Publish certain info
- Change practices relating to record management
- Enhance provision of training on RTI
- Compensate complainant
- Preparation of reports and putting it before Parliament



PENALTIES



IF PIO WITHOUT REASONABLE CAUSE

- Refused to receive application
- Did not furnish info in time
- With malafide intention denied request
- Knowingly gave incorrect info or destroyed subject info
- Obstructed furnishing of info

Then

RTI Act 2005 - Penalties

Penalties

imposable by Information Commission on PIO or officer asked to assist PIO

For unreasonable delay – Rs 250 per day up to Rs 25,000

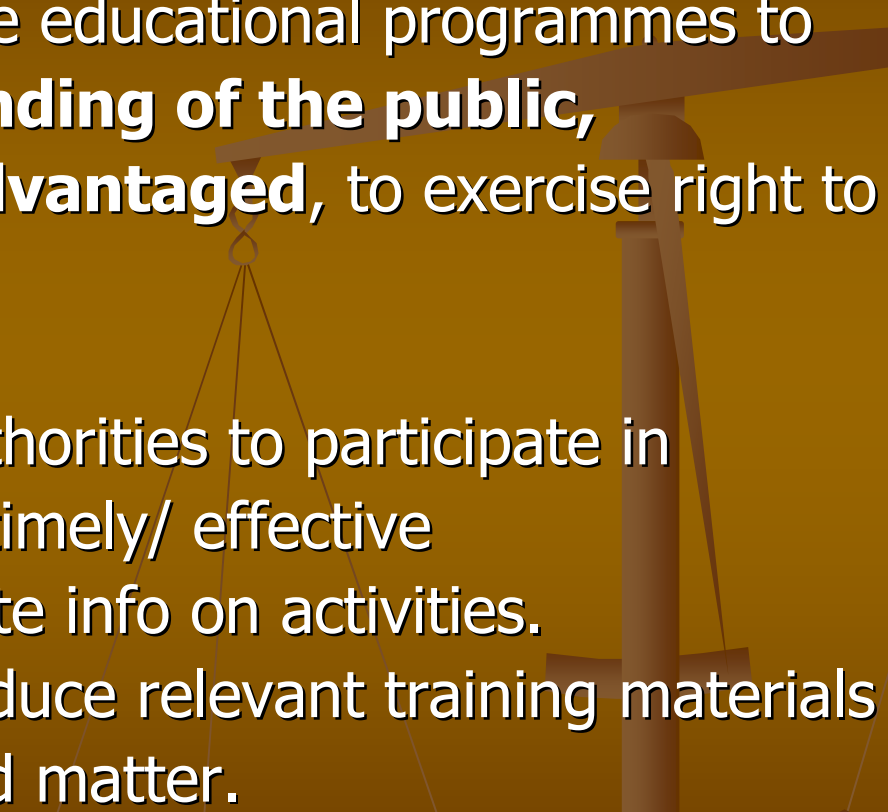
For illegitimate refusal to accept application, malafide denial, knowingly providing false information, destruction of information, etc. – up to Rs. 25,000 fine

Recommendation for departmental action for persistent or serious violations

However, no criminal liability

Immunity for actions done in good faith (S. 21).

Public Awareness and Educational Programmes Sec 26

- Develop and organize educational programmes to advance the **understanding of the public, particularly the disadvantaged**, to exercise right to information.
 - Government to:
 - Encourage public authorities to participate in programmes; promote timely/ effective dissemination of accurate info on activities.
 - Train CPIOs and produce relevant training materials – user guide and related matter.
- 



**The more we are observed,
Better we perform.**

-Bentham

"आ नो भद्रा कृतवो यन्तु विष्वतः"

– ऋग्वेद

Let noble thoughts come to us
From all directions

- Rig-Veda

