



Mains Practice Question

Q. There is a view that the Official Secrets Act is an obstacle to the implementation of the Right to Information Act. Do you agree with this view? Discuss. (150 words)

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Approach

- Start your answer with a brief introduction to the Official Secrets Act, 1923 and Right to Information Act, 2005.
- Compare and Contrast between OSA and RTI Act and provide supporting arguments like recommendations of some committees or Supreme Court's observations.
- Conclude with summarizing the key points and with a balanced approach.

Introduction

The Official Secrets Act (OSA) of 1923 is a law that aims to protect the secrecy and confidentiality of government information, especially in matters of national security, defence, and foreign affairs. The RTI Act of 2005 is a law that empowers the citizens to seek and obtain information from public authorities, in order to promote transparency and accountability in governance, and to curb corruption and maladministration.

Body

There is a view that the OSA is an obstacle to the implementation of the RTI, as it creates a conflict between the right to information and the duty to maintain secrecy.

OSA	RTI
<ul style="list-style-type: none">▪ The OSA does not define what constitutes an official secret, and gives wide discretion to the government to classify any information as such.▪ The OSA also overrides any other law that requires disclosure of information, and imposes harsh penalties for unauthorized communication or possession of official secrets.▪ The OSA does not provide any mechanism for appeal or review of the decisions made under it, and does not recognize any public interest defence for whistleblowers or journalists who expose wrongdoing or corruption in the government.	<ul style="list-style-type: none">▪ The RTI, on the other hand, is based on the principle that all information held by public authorities is public property, and that the citizens have a right to access it, subject to certain exemptions and restrictions.▪ The RTI provides a clear and simple procedure for making and disposing of requests for information, and establishes independent information commissions to adjudicate appeals and complaints.▪ The RTI recognizes the public interest in disclosing information that may outweigh the harm to the protected interests, and provides for a balancing test to determine the same.

The view that the OSA is an obstacle to the RTI is supported by the recommendations of various

committees and experts. For example:

- In 1971, the Law Commission recommended that all the legislation pertaining to the security of the nation should be merged in one act and pass the “National Security Bill”.
- In 2006, the 2nd ARC, recommended that the OSA should be repealed, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets.
- In 2018, the Supreme Court ruled that the OSA cannot be used to suppress legitimate criticism of the government. The Court also held that the RTI Act is the primary law governing access to information, and that the OSA can only be used to restrict access to information that is genuinely sensitive.

Conclusion

Therefore, it can be concluded that the OSA is sometimes an obstacle to the implementation of the RTI, as it creates a culture of secrecy and distrust in the government, and undermines the rights of the citizens. The OSA needs to be reformed, in order to make it compatible with the RTI.

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