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# **AN APPRAISAL OF ROLE OF MEDIA IN EMERGINIG AND UPHELDING RIGHT TO INFORMATION IN INDIA**

AUTHORED BY - SHUBHANGI JADHAV GAIKWAD

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## **ABSTRACT**

The Right to Information is simply known as RTI, is a fundamental right of every citizen of India to seek information from government offices, departments and ministries and all the organizations run by the Govt. of India, or any other organization substantially aided by the, Government of India or any other state Government. The renowned French philosopher Michel Foucault once opined, power is derived from knowledge and information is the basic component of knowledge. Information makes men wise and it is competent enough to cope up with the modern world. So, it the duty of each and every citizen to have knowledge of day to day happening. This paper tries to feature how media plays an important role in promoting RTI.

## **INTRODUCTION**

The Right to information Act, 2005, which became fully effective from 12th October, 2005, is one of the most noteworthy legislations enacted by the Parliament of India.

The Right to Information Act 2005 has been probably the most discussed law of the recent times and also has given much more power to the people than any other law. Its basic aim is "to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority"<sup>1</sup>

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<sup>1</sup> Right to Information Act, 2005 Bare Act

The Act enables the establishment of an unprecedented regime of right to information for the citizens of the country. It overrides the “Official Secrets Act” and similar laws/rules. It strikes at the heart of the paradigm long practiced by the Government officials and public functionaries, “confidentiality is the rule and disclosure is an exception”.<sup>2</sup> The Act seeks to establish that “transparency is the norm and secrecy is an exception” in the working of every public authority. It aims to ensure maximum openness and transparency in the machinery and functioning of the Government at all levels- Central, State and Local. The media is regarded as the fourth estate of a democracy. They have the ability to get more reliable sources of information from the government agencies and create a sense of social awareness among the people about participatory governance and development. The media are required to play a crucial role in sensitising various stakeholders of good governance about the utility and relevance of new legislation.

The Universal Declaration of Human Rights (Article 19) states, “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. The media have an essential role in the development of the Information Society and are recognised as an important contributor to freedom of expression and plurality of information”.<sup>3</sup>

In fact, mass media is the most important vehicle for information, knowledge and communication in a democratic polity. They are pervasive and play a significant role in shaping societies, and they provide the public sphere of information and debate that enables social and cultural discourse, participation and accountability.

They are the most accessible, cost-effective and widespread source of information and platform for expression. Information is power. The media can play a crucial role in building an inclusive Information Society based on knowledge power and its distribution.

The Unit aims to analyse the role and importance of media in governance through the RTI. This Unit

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<sup>2</sup> Contributed by Prof. (Dr) Preeti Misra, Head, Department. of Human Rights, School of Legal Studies, Babasaheb Bhimrao Ambedkar University, Lucknow, Uttar Pradesh.

<sup>3</sup> [https://www.un.org/en/about-us/universal-declaration-of-human-rights#:~:text=Article %2019, media% 20and% 20regardless% 20of% 20frontiers.](https://www.un.org/en/about-us/universal-declaration-of-human-rights#:~:text=Article%2019,media%20and%20regardless%20of%20frontiers.)

also recognises the contribution of media in enacting the Right to Information Act, 2005. It reflects how right to information law helps the media to uncover the “Maladies and Flaws” prevalent in various organs of the Government, and role played by media to bring sensitiveness on various issues among the masses having ramifications on their social life. It deliberates how the RTI Act helps in getting access to court proceedings and parliamentary processes and how different Government institutions can be approached for relevant information. Further, this Unit also analyses the role of media in highlighting the issues of public importance through the RTI. It brings out its constraints and challenges in accessing justice for the people. At the end, it suggests that with concrete efforts and restraint attitude media can help in bringing the RTI regime in true sense.

## **NEED OF RIGHT TO INFORMATION IN DEMOCRACY**

Let us first understand the meaning of Media and what is comprehended by freedom of media. The term media covers both, print and electronic media, including the internet. Even motion pictures are also to be included. So far as media freedom is concerned, it includes editorial freedom, freedom of circulation, the freedom to decide volume of the magazine or newspaper and freedom of means necessary for the exercise of right.

Freedom of expression has four broad social purposes to serve-

- (i) it helps an individual to attain self-fulfillment.
- (ii) it assists in the discovery of truth,
- (iii) it strengthens the capacity of an individual for participating in decision-making and
- (iv) it provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change. “All members of a civilised society should be able to form their own beliefs and communicate them freely to others. In a democracy the fundamental principle involved is the people’s right to know. Freedom of speech and expression should, therefore, receive a generous support from all those who believe in the participation of people in the administration”<sup>4</sup>

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<sup>4</sup> Indian Express Newspaper vs. Union of India & Ors. Etc. on 06<sup>th</sup> December, 1984-<https://indiankanoon.org/doc/223504/>

Right to Information is a fundamental human right, crucial to human development, and a prerequisite for the realisation of other human rights: civil and political rights such as the right to life and liberty, freedom of expression and equality before the law; and economic, social and cultural rights such as right to adequate food, right to water, right to highest attainable standard of health and right to education.

Justice Sawant, speaking in a workshop, remarked, “The Right to Information should not be seen as an additional subject, but as a means of availing fundamental rights. Fundamental rights like Article 19(freedom of speech and expression) are declaratory in nature and do not provide any means for their enforcement or implementation. Those who have the means have availed of these rights so far, in the absence of enabling laws”<sup>5</sup>

We all are very much aware of the importance of institutions in social life of any nation. These institutions help people to come together and work for the common goal and common good. The two most vital organs of any institution are transparency and accountability. The Right to Information Act, 2005 mandates establishment of the Central and State Information Commissions both at Central and State Government level respectively. These are formal institutions, which ensure transparency and accountability of the government officials; and people can exercise their right to information through these institutions. On the other hand, Media - the fourth pillar of democracy is an informal institution, which plays the role of a “monitor” amongst different organs of the state and society. Evaluation of the public authorities and governance is impossible without factual, current/updated and primary information. The public authorities always guard each information, with the weapon of Official Secrets Act and with constraints given in the Constitution. Therefore, the rights of the citizens remain confined. Similarly, the judiciary has the Contempt of Court provisions and the legislature have the parliamentary privileges.

The major characteristics of good governance are- participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness, efficiency, accountability, strategic vision and consensus-orientation. In order to ensure transparency in the system, government resolutions

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<sup>5</sup> CHRI & YASHADA. (2005). Report of the Workshop on the Right to Information and the Media Past Experiences and Future Possibilities. Retrieved from [http://www.humanrightsinitiative.org/old/programs/ai/rti/india/workshops/wk\\_sp\\_rep\\_on\\_rtia05\\_pune.pdf](http://www.humanrightsinitiative.org/old/programs/ai/rti/india/workshops/wk_sp_rep_on_rtia05_pune.pdf)

must be arrived at openly in accordance with rules and regulations. The Government must also ensure that all information should be made available to people as per section 4(1) of the Right to Information Act, 2005. Besides, it is the responsibility of “the appropriate Government to compile, in its official language, a guide containing information, in easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified under the Act (Section 26(2))”. This guide should also be made available to all the stakeholders and the media. It is pertinent to point out that transparency ensures accountability by the public institutions and its functionaries.

There is a direct relationship between right to information, media and good governance. With the help of right to information, media can expose corruption, unfair and restricted trade practices, embezzlement, organised crime, deplorable conditions of inmates of prisons, shelter homes, mental asylums, cases of custodial violence, infringement of legal rights of vulnerable sections of society, etc. With investigative journalism, media can assure good governance by putting an end to corrupt government practices and establishing a responsive State. The essentials of good governance - maintenance of rule of law, freedom of expression, forming association, people’s participation in administration can be realised if the right to information is implemented in the right spirit.

The system of Government is very opaque. It is impossible for the journalists to go into the depth of any matter properly under the possession of Government and its instrumentalities. But now, with the enactment of Right to Information, it has become a tremendous weapon for the common people and the media as well. In order to ensure transparency, a balance has been struck between the needs of the administration and rights of the media by allowing them access to court proceedings, live telecast of Parliamentary proceedings, visits to prison inmates, orphanages, mental asylums and shelter homes for women destitute. Normally, “these institutions cannot be visited in the same manner and with same ease as one may visit an open exhibition”<sup>6</sup>. But, media can enter these institutions and report the findings to the public at large.

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<sup>6</sup> Rai, U.R.(2011). Fundamental Rights and their Enforcement . New Delhi, India : PHI Learning Private Ltd.

# **STRUGGLE FOR RIGHT TO INFORMATION IN INDIA**

## **AND ROLE OF MEDIA AND JUDICIARY**

Media is defined as the fourth estate and it makes any idea or plan global by its propagandafeature. When an individual or NGO seeks any information and gets it, it is confined onlyto the seeker of information. But if media gets any information through the RTI or makes any disclosure, it plays a vital role by spreading awareness about that information or event. It is the media which popularises and tells us everything happing across the country or in the world. Democratic participation presupposes enough knowledge of the facts relating to the working of government and its instrumentalities.

In the leading case of SP Gupta v. Union of India (AIR 1982 SC 149), Justice P.N.Bhagwati stated, “the citizens’ right to know the true facts about the administration of the country is one of the pillars of democracy. The right to information has been recognised by the Supreme Court as fundamental right implicit in Art. 19(1) of the Indian Constitution which includes freedom of press also. He further remarked that where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizensought to know what their government is doing”

The “role of media is very significant in achieving the free, fair and real democracy as it puts an additional check on the three official branches – the executive, the legislature and the judiciary”<sup>7</sup> (New York Times Co. v. United States).Media provides a forum for free political discussions for the proper functioning of the processes of a popular government and helps in building a strong viable society. Media also influences public opinion and strengthens principles of democracy. The media has now assumed the role of publiceducator making formal and non-formal education possible in a large scale particularly in adeveloping country like India.

In Hamdard Dawakhana v. Union of India<sup>8</sup>, the Supreme Court maintained that the freedom of speech involves the right to impart and acquire information. In Sakal News Papers<sup>9</sup>, the Supreme Court admitted that restriction on circulation of newspapers amounts to denial of right to information.

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<sup>7</sup> New York Times Co. v. United States, 403 Us 713 (1971)known as Pentagon Paper Case;New York Times Co. v. Sullivan, 376 US 255 (1964). Retrived fro <https://supreme.justia.com/cases/federal/us/403/713>

<sup>8</sup> AIR 1960 SC 554. Retrieved from <https://indiankanoon.org/doc/591481/>

<sup>9</sup> AIR 1962 SC 305. Retrieved from <https://indiankanoon.org/doc/243002>

It was held, “the right to impart and receive information from the electronic media is a part to right to freedom of speech and expression.”

In the case of State of UP v. Raj Narain<sup>10</sup>, the Supreme Court stated, “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 bearings”.

Media was always aware about the right to information, as in Bennet Coleman & Co Vs Union of India<sup>11</sup>, a leading newspapers publisher challenged the Government’s policy of restricting the availability of news prints. In its decision favouring the petitioner, the Supreme Court declared, “freedom of speech includes within its compass the right of all citizens to read and be informed and also held that the right to information is included within the right to freedom and speech of expression guaranteed by Article 19(1) (a) of the Constitution”. A dissenting opinion in the same case noted, “the fundamental principal involved here is the people's right to know”.

In Printers (Mysore) Ltd. v. Assistant CTO ((1994) 2 SCC 434), the Supreme Court held, “...the freedom of press has always been a cherished right in all democratic countries”. The Court further observed, “freedom of the press is not so much for the benefit of the press as for the benefit of the general community because the community has a right to be supplied with information”.

In another landmark case of Secretary, Ministry of I & B, Government of India v. Cricket Association of Bengal (1995) the Supreme Court held, “The freedom of speech and expression includes right to acquire information and disseminate it. Freedom of speech and expression is important for self-expression and it enables people to contribute to debates on social and moral issues. It is the only vehicle of political discourse so essential to democracy. The right to communicate, therefore, includes the right to communicate through any media that is available whether print or electronic or audiovisual such as advertisement, article, speech, etc. This is why freedom of speech and expression also includes freedom of press. The freedom of press includes right to circulate and also to determine the volume of such circulation. It also includes the freedom to communicate or circulate one’s opinion without interference to as large a population in country as well as abroad, as possible to reach”.

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<sup>10</sup> AIR 1975 SC 865. Retrieved from <https://indiankanoon.org/doc/438670/>

<sup>11</sup> (1972) 2 scc 788, Retrieved from <https://indiankanoon.org/doc/125596>

In the case of Election Commission of India v MR Vijaya Bhaskar (LL 2021 SC 244)<sup>12</sup> the Supreme Court held, “the media coverage of court hearings was part of freedom of press, had a bearing on citizens' right to information and also on the accountability of the judiciary”. The Court emphasised, “Freedom of speech and expression extends to reporting proceedings in judicial institutions as well”.

## **ROLE OF PRESS COUNCIL OF INDIA IN FRAMING**

### **THE RTI LAW**

The media also realised the significance of right to information from the point of view of good governance and judicious development in India. Eminent journalists namely, Nikhil Chakravarthy, Kuldeep Nayar, Ajit Bhattacharjee and Prabhash Joshi visited Beawar to join the RTI campaign of Mazdoor Kisan Shakti Sangathan (MKSS). They also facilitated national coverage and enabled the activists of right to information movement to place the demand in a wider perspective. As a part of its mandate to create awareness about media related issues, the Press Council of India (PCI) has been organising seminars and workshops in different parts of the country. Special reference can be made to the seminars on “Press as a leader of the Society”, held on March 23-24, 1996, workshop on “Right to Information” on August 10-11, 1996. The Council celebrated “National Press Day” to commemorate 30th anniversary of the Press Council by organising two-day seminar on November 16-17, 1997 in New Delhi on “50 Years of Press in India” and “Right to Information”.

The first major draft legislation on RTI was circulated by the Press Council of India in 1996. This bill was ardently endorsed by the RTI activists and other participants from political parties. The preamble to this draft acknowledged the fact that the right to information is already ensured under the Constitution of India as part of the fundamental right to free speech and expression. Besides, several Supreme Court judgments also support this. The draft Bill provided for the right of every citizen to information from any public authority. Significantly, the term “public authority” included not only the state, as defined in Article 12 of the Constitution, but also all privately owned undertakings, non-statutory authorities, companies and other non-state bodies whose activities affect the public interest. Thus, both the commercial sector and non-governmental organisations were

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<sup>12</sup> LL 2021 SC 244. Retrieved from [https://www.livelaw.in/pdf\\_upload/eci-vmr-Vijayabhaskar-media-gag-madras-hc-oral-remarks-392978.pdf](https://www.livelaw.in/pdf_upload/eci-vmr-Vijayabhaskar-media-gag-madras-hc-oral-remarks-392978.pdf)

included in the ambit of this RTI draft. Certain restrictions were also meant to be imposed on the right to information, as on fundamental rights in the Constitution. An important insertion was, “information which cannot be denied to Parliament or the State Legislature shall not be denied to a citizen”. In the draft, provisions were also included for imposing personal fines on the public officials for failure to supply information. Appeal could also be filed in the civil court against failure or refusal to give requisite information.<sup>13</sup>

The Press Council of India along with other three collaborators viz., Press Role Of Media Institute of India, The National Campaign of Peoples Right to Information and Forum for Right to Information organised a seminar on the “Right to Information” on 20th February 2000 to press the Government to ensure that the Bill on the said subject be introduced soon without any loopholes in the same. In this regard, a resolution containing proposed amendments to the Bill on the said subject was sent to the Central Government for consideration<sup>14</sup>

In its advisory role, the Council’s opinion has been regularly sought by various instrumentalities of the State on legislative measures either in force or proposed to be introduced. Comments were also sent to the Ministry of Information and Broadcasting on Constitution Review Consultative Committee for insertion of Freedom of Press and Freedom of Information as express Rights in Chapter III of the Constitution.

The Press Council on March 2001, had stated that the Right to Information legislation is very vital for the media. It stated, “At present, one of the stumbling blocks in the path of investigative, analytical and popular journalism is the difficulty in getting access to the official information. The bureaucracy, the police, the army, judiciary and even the legislature guard information regarding even the most mundane subjects with astonishing zeal. Few journalists are able to break this iron curtain of the official noncooperation. The right to Information will encourage journalists and society at large to make more questioning about the state of affairs and will be a powerful tool to check the unmitigated goings-on in the public realm and will also promote accountability. No longer will scribes have to

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<sup>13</sup> Sudhir, N.(2013). The Right to Information in India. New Delhi, India :Oxford Press

<sup>14</sup> Press Council of India.(2009). RESUME’ - Press Council of India. Retrieved from [https://presscouncil.nic.in/OldWebsite/NEW%20RESUME\\_11\\_12\\_09.htm](https://presscouncil.nic.in/OldWebsite/NEW%20RESUME_11_12_09.htm)

depend on conjecture, rumour, leaks and sources other than knowledgeable sources. The legislation, when enacted, will pose an antidote to the vested interest which try to conceal or misinterpret information or which try to manipulate media directly or indirectly to plant misinformation. Through this legislation, transparency in public, professional, social and personal sphere can be achieved”<sup>15</sup>

## **CONCLUSION**

The above discussion on the role of media both in accessing information and helping in the delivery of information for fulfilling the social needs, reiterates the fact that , whether print, electronic or mass media, is the most significant means of information in a populist government. The Media has universal approach and important role in establishing an accountable and responsive government and equitable society. Sincere execution of development projects, environment protection and safeguarding of interests of deprived sections of society is possible only with the availability of information. The social dimension of right to information has been perceived by the judiciary by recognizing that freedom of press is at the core of social and political discourse and a key role player in the process of social transformation. In present times, media being “the accessible, cost-effective and widespread source of information and platform for expression ”can perform a vital role in building an informed society. But the fact is that media has not utilised much the Right to Information Act for eliciting information from the public authorities. It can play a productive role in the governance by utilising the core provisions of the Act. The media is an important link between the citizens and government. Freedom of media is a facet of the people’s right to information. It empowers the citizens by articulating the needs and aspirations of the people. As a community watchdog, the media should perform its role in furtherance of public interest.

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<sup>15</sup> Press Council of India.(2009). RESUME’ - Press Council of India. Retrieved from [https://presscouncil.nic.in/OldWebsite/NEW%20RESUME\\_11\\_12\\_09.htm](https://presscouncil.nic.in/OldWebsite/NEW%20RESUME_11_12_09.htm)