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## DEMOCRATIC GOVERNANCE AND INFORMATION SOCIETY

### A BRIEF OVERVIEW

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#### **Abstract**

*Democracy as a system of governance has been the subject of intense debate and discussion for ages, and because of the neutrality and stability that it tends to bring in the society, it has become the most sought after form of government in the modern era. Despite this, there is a lack of clarity as to what does democracy actually imbibe. Broadly four features that are common to all modern democracies include principles of free and fair elections, equal rights of participation in politics, protection of human rights, and rule of law. These four principles are considered to be the very basis of a democratic setup and the absence of any of these can seriously dispute the claim of being truly democratic. However, there is one aspect that is often ignored and yet constitutes the life and blood of all these basic principles of democracy i.e. the free flow of information. No democracy can survive in the absence of a well-informed citizenry.*

*With this background, this paper makes a case for free access of citizens to the required means of communication establishing a link with the ruling elite. In the absence of feedback mechanisms and other means of effective communication which ensure a two-way flow of the information between the government and the governed, the contribution of the general public in the governance of the country remains negligible. In such a scenario, the use of prefix 'democratic' or 'participative democracy' by modern nations is unjustified as it wrongly presents unilateral and in some cases, arbitrary rule of the government as the collective rule of the society.*

#### **A. INTRODUCTION**

“A government which functions in secrecy, not only acts against democratic decency but also buries itself with its own burial”<sup>1</sup>

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-Krishna Iyer J.

‘Demos’ means people and ‘Kratos’ refers to rule. So the term ‘Democracy’ can roughly be translated into People’s rule or rule of the masses.<sup>2</sup> Democracy is not just one of the forms of government, which any country could just adopt by making a few changes in its political structure. It is a philosophy, a culture that comes from within the conscience of society. Until and unless the population reaches a certain level of maturity and common understanding, no amount of revolutionary changes in the law of the land and politico-legal structure will turn an otherwise non-democratic polity into a democracy.

The question that needs to be addressed at the beginning is- what is it about democracy that it garners so much attention worldwide? It is not that the acceptance of Democracy as a suitable form of government is based on some universal or divine truth. Democracy had to come a long way in establishing itself as the most sought after form of government in present times. There have been many well-known political thinkers who could not see the efficacy of a democratic setup. One such example is the great philosopher and esteemed political thinker, Aristotle. Aristotle was suspicious of the complexities that democratic rule brings in society. Catering to the demands and addressing the concerns of the innumerable masses and reaching a common ground will not be easy or feasible, he believed.<sup>3</sup>

### *Democracy and Principle of Self-Rule*

Democracy promotes the principle of self-rule however the concept of self-rule has been diluting over time. In the initial periods of history, self-rule in its literal sense was possible considering the limited geographical distribution and size of the population. With an ever-growing population and wide geographical reach of humans around the globe, the direct participation of each and every individual in the government was no longer possible and hence arose the need for direct or indirect representation by a minuscule group of the political elite. Soon with the rise of dynastic politics in most of the newly independent democratic countries such as India, the distinctions between representative democracies and authoritarian

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<sup>1</sup> Maneka Gandhi v. Union of India (1978) 1 S.C.C. 248 (India).

<sup>2</sup> “Democracy” Merriam-webster.com, (July 24, 2020, 09:28 AM). <https://www.merriam-webster.com/dictionary/democracy>

<sup>3</sup> Andrew Lintott, *Aristotle, and Democracy*, 42(1) The Classical Quarterly 116, 124 (1992).

polities further blurred, as both involved the centralization of political power in few hands.<sup>4</sup> Now, the only remaining criteria which could draw a line between democratic and non-democratic systems required inquiry into the essential nature of the rule and means or tools adopted to regulate the society.

### *Tests of Democracy*

There are two possible tests to determine the nature of a particular polity. The first and the most explicit way is to simply look at the organizational set up of political institutions and the rights of citizenry vis-à-vis state. With this, a clear demarcation can be made between a democratic system of governance on the one hand and dictatorships, tyrannies, and despotism on the other. However, these notional imputations and mechanical differentiations do not satisfy the needs of a true investigation. A more appropriate manner requires going beyond the web of socio-legal terminologies and see how far democratic values and principles have been ingrained into society's consciousness.<sup>5</sup> It becomes necessary because a large number of present-day nation-states, who claim to be the ardent believers of democracy, adopt policies that subvert its very basis. The only difference in other regimes that are popularly said to be autocratic and such shell democracies is that in the case of the latter, the exploitation and suppression of will is done in the name of people themselves and is represented as subserving their interests.

Today, a majority of the so-called democratic polities have more resemblance to an oligarchy in which a small group of people divided under the names of different political parties exchange de jure power between them every 4 or 5 years depending on the legally ordained term of a government while sharing absolute de facto control over the socio-economic and political life of the subjects at all times.<sup>6</sup>

### *Democracy and Religion*

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<sup>4</sup> Pritam Baruah & Nicolas M. Rouleau, *Democracy, Representation, and Self-Rule in The Indian Constitution*, 44(2) *The Law and Politics in Africa, Asia and Latin America* 177, 179-182 (2011).

<sup>5</sup> J. RONALD PENNOCK, *DEMOCRATIC POLITICAL THEORY* 7-15 (Princeton University Press 1979).

<sup>6</sup> Stephen Dougherty, *The Dangerous Rays of the Future: Democracy, Media, Science Fiction*, 40(3) *Science Fiction Studies* 510, 518 (2013).

Why democracy became so popular in ancient times and continues to be so, is the fact that it greatly undermined the role of religion in politics. A democratically elected government found its source of power in the collective will of the people, not in Gods of this or that religion.<sup>7</sup> However, the present scenario especially in countries like India, Pakistan, Bangladesh, and a few middle eastern countries tells an entirely different story. In fact, in recent years, religion has become a dominant factor in contesting and winning elections. Division of society on religious lines and tossing minorities out of any true representation is a common spectacle in this post-modern world.<sup>8</sup> Therefore, the very essence of the philosophy of democracy has been squandered away.

## B. DEMOCRACY AND THE RIGHT TO INFORMATION

Democracy as a system of governance has been the subject of intense debate and discussion for ages, and because of the neutrality and stability that it tends to bring in the society, it has become the most sought after form of government in the modern era. Despite all this, there is a lack of clarity as to what does democracy imbibe. Broadly four features that are common to all modern democracies include- principles of free and fair elections, equal rights of participation in politics, protection of human rights, and most importantly, rule of law.<sup>9</sup> All four principles are considered to be the very basis of a democratic setup and the absence of any of these seriously disputes the claim of being truly democratic.

However, there is one aspect which is often ignored and yet constitutes the life and blood of all these four essential principles of democracy i.e. the free flow of information. No democracy can survive in the absence of a well-informed citizenry.<sup>10</sup> Democracy does not place people in the position of a mere passive recipient of the unilateral policy-making of the government. People's participation not only in deciding the future policies but also in their administration and implementation in day to day life is an indispensable part of a democratic polity.

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<sup>7</sup> *Id.* at 520.

<sup>8</sup> LAUREL E. MILLER et al., DEMOCRATIZATION IN THE ARAB WORLD: PROSPECTS AND LESSONS FROM AROUND THE GLOBE 217-221 (RAND Corporation 2012).

<sup>9</sup> STEPHEN ELSTUB et al., POLITICAL CONCEPTS: A READER AND GUIDE 157-160 (Iain MacKenzie ed. Edinburg University Press 2005).

<sup>10</sup> DIPANKAR SINHA, THE INFORMATION GAME IN DEMOCRACY 1-4 (Routledge India 2018).

## *What is Information*

Before championing the cause of the free flow of information in a democratic society as being indispensable, it becomes very necessary that there is a clear understanding of the term information in the present context. Webster's Law Dictionary defines 'information' as 'knowledge obtained from investigation, study or instruction'.<sup>11</sup> The first part of the definition which defines information as knowledge obtained from 'investigation' and 'study' emphasizes facts as being the main component of information. But the last part which includes 'instruction' as a source of information depicts the limitations of the terminology itself. Instruction is generally understood as a set of directions that may or may not contain facts. So the question that needs to be posed is- Will it be right to call a population well informed if people are in complete ignorance of the essential facts? No individual in his right mind will answer in affirmative. Facts are the very essence of the information in a democracy. No amount of political preaching can transform a generally ignorant citizenry into an informed one if they do not have knowledge of the required facts. Therefore, it becomes very essential at this point to understand that when this article emphasizes the importance of information in a democracy, it is essentially referring to the accessibility of citizens to bare stand-alone meaningful facts.

## *A Constitutional Right*

Today, every nation which lays a claim of being democratic secures in some form the Right to information to its citizenry. In few countries such as United States, United Kingdom, and India, the Right to know has achieved the status of a constitutionally protected right, while in others it remains protected under specific statutes. Article 19(1)(a) of the Indian Constitution secures to all citizens, the freedom of speech and expression. To exercise this right, the most essential prerequisite is that the citizens must be able to generate views and opinions only then they will be expressing them. But in the absence of necessary means of information, what will be the basis of these views or opinions. Hence, the entire argument becomes circular. There can be no expression without information and if there is no freedom of expression, possession of information is of no use. The Supreme Court of India in *Bennet Coleman*<sup>12</sup>, SP

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<sup>11</sup> "Information" Merriam-webster.com, (July 26, 2020, 11:34 AM). <https://www.merriam-webster.com/dictionary/information>

<sup>12</sup> *Bennet Coleman & Co. & Ors. v. Union of India & Ors.*, (1972) 2 S.C.C. 788 (India).

Gupta<sup>13</sup> and Cricket Association of Bengal<sup>14</sup> among others has repeatedly held the right to information to be a well-established part of the freedom of expression. The reasoning behind these decisions was not to include the right to information as a separate right under article 19(1)(a) along with freedom of speech and expression. It was understood to be a thread going through the entire scheme of 19(1)(a) without which freedom of speech and expression would be of no consequence.

### *One-Way Flow*

A healthy democracy requires direct means of communication between the government and the governed. State-controlled radio and television broadcasts have been performing this essential function since the early twentieth century. Recently, social media handles of politicians and other public functionaries have also started contributing. However, these apparatuses considering the present state of technology can only ensure a one-way flow of information i.e. from the government to the public. Comments on Facebook posts and replies on tweets hardly garner the attention due to their huge numbers. The result is that people do not have sufficient means of raising their voice and sharing their concerns.<sup>15</sup>

*Dharnas* and strikes are not very feasible options today considering the busy schedule and difficulty in generating collective willingness, and in most cases, they are politically motivated organized under the aegis of opposition parties. People are fearful of the repressive power of the state also, which is not unjustified considering the current state of affairs world over. Moreover, the standard of digital media debates is dwindling every day and no respectful person would like to be a part of such a chaotic war of lies and slander. Therefore, the only option that remains is throwing out of the unpopular government by the election process. There are a few difficulties with this option also. Firstly, Four/five years, the constitutionally ordained tenure of office of an incumbent government, is a long period of time to wait and suffer the consequences of unpopular policies and secondly, in the absence of proper feedback the incumbent government does not get the fair chance of improving and

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<sup>13</sup> S.P. Gupta v. Union of India, (1981) Supp S.C.C. 87 (India).

<sup>14</sup> The Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal & Anr., (1995) 2 S.C.C. 161 (India).

<sup>15</sup> CHRISTIAN FUCHS et al., COMMUNICATION AND CAPITALISM: A CRITICAL THEORY 208-213 (University of Westminster Press 2020).

responding to the needs of the society. Hence, despite all the recent developments in information and communication technology, the general public remains excluded and ignored.

### *Partial or Excessive*

When information is understood in a democracy as a bundle of facts, it becomes very essential that it must be complete. Access to partial or a part of the information is no good to no information at all. Partial knowledge of facts provides leeway to people to fill in the gaps and reach their conclusions which may not be just in the true sense of the term. The experience has time and again proved that an ignorant population is any day better than a misguided one, as the former at least realize their unawareness.<sup>16</sup>

Excess of information, on the other hand, is also counter-productive. It has become a very useful tactic to frustrate the citizenry. All means of communication between the government and the population are flooded with information which in most cases is unnecessary. The result is that the relevant facts related to the essential issues of the society do not find the required attention as not all are equally trained to demarcate between the needful and political propaganda. Smooth reception by citizenry requires a balance between quantity and quality of information, where the latter is given the upper hand in cases of conflict. The term quality broadly refers to three essential attributes i.e. the information must be clear, succinct, and meaningful.<sup>17</sup>

### **C. MASS MEDIA AND INFORMED DEMOCRACY**

In present times, the role of mass media is no longer limited to provide the population with necessary facts as to the day-to-day functioning of the government. It has claimed for itself the role of being the highest authority to interpret the government policies and generate a public opinion. The democratic principles of people's participation in debate and discussions on government policies have been replaced with more efficient ready-made public opinions freely sold on different news channels and newspapers. An individual can just pick and choose the one he prefers. From being the mere intermediary between the government and

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<sup>16</sup> ALAN WOLFE, DOES AMERICAN DEMOCRACY STILL WORK? 24-26 (YUP 2006).

<sup>17</sup> Peter Suedfeld, *Cognitive Managers and Their Critics*, 13(3) *Political Psychology* 435, 435-439 (1992).

people, mass media has become the main focal point which an incumbent government either needs to persuade or control. The people or the general public who were supposed to hold a central place in a democracy, are being presented nothing but political fodder and hate speech.<sup>18</sup>

Mass media, print or digital, has the essential responsibility of making the masses aware of everyday developments in socio-politic and economic spheres of public life. It can by no stretch of imagination be said to include dissemination of political propaganda of a specific political party. It must not be choosing sides in this never-ending political warfare. It is supposed to be neutral and works only as a means of carrying forward the as-it-is information to the population. The *raison d'être* of mass media is not to impose its own opinions or point of view on the public but to enable and assist the masses in reaching their conclusions and forming their own opinion based on the information they receive.<sup>19</sup> Until people sitting in air-conditioned rooms of big media houses do not realize this, no meaningful changes can be expected to put in an appearance.

#### **D. THE RISE OF INTERNET: A RAY OF HOPE**

Technological advancements especially in the field of communication can sometimes be very unsettling for a democracy. The technological shift from telegraph to telephone to world-wide-web and social media now has been swift enough to leave the society still catching up and adjusting to the new world. World-wide-web can be said to be one of the biggest technological achievements of the modern age. It made the differences of time and space inconsequential and brought the world community in close interaction. More importantly, It transformed the position of a common individual from being a passive recipient to an active generator of information.<sup>20</sup>

Today, social media has become the primary means of expressing and sharing views and opinions. Its influence on government/citizen relationships also cannot be denied. People are

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<sup>18</sup> Stefaan Walgrave & Peter Van Aeist, *The Contingency of the Mass Media's Political Agenda Setting Power: Toward a Preliminary Theory*, 56 *Journal of Communication* 88, 92-95 (2006).

<sup>19</sup> Marianne Kneuer, *E-democracy: A new challenge for measuring democracy*, 37(5) *International Political Science Review* 666, 667 (2016).

<sup>20</sup> Dougherty, *supra* note 6, at 512.



more vocal and active in responding to new government policies and actions. However, a closer look at the state of things soon takes away the sense of relief. Few challenges have sprung up with the rise of social media-

- (i) Fake News- Though social media cannot be said to be the progenitor of fake news as that credit must go to mass media, it has provided a ground for its growth and expansion. All social media websites are flooded with fake news and efforts at both the international and national levels have failed to contain it. Fake news inflicts great harm on society as it misguides the citizenry. The problem is augmented by the fact that the general public does not have the time or proper means to verify the truthfulness of what they read or see over social media. This is a very fruitful position for politically motivated elements in the society as they can easily manipulate or engineer facts and diffuse the same via social media platforms.<sup>21</sup> Moreover, Hate speech which is discussed under the following heading is nothing but a moppet of fake news.
- (ii) Hate Speech- Social media handles have become a useful means of generating and spreading hate speech in society. Social media posts, audio/video messages, and photoshopped or truncated pictures expressing prejudice against a racial or religious community are not uncommon. This is something every internet user witnesses each day. However, how each individual receives or interprets it may vary depending on the level of education and previous dispositions and associations. In countries like India where a large segment of the population is still uneducated and religious fanaticism holding good ground, it becomes an issue of national concern. A feeling of hate and despise spread like fire in a dense forest, it just needs to start somewhere. Social media has become the lighting point where the trail of hate starts before it reaches every household of the country.<sup>22</sup>

Though it cannot be denied that the general public is never the initiator or creator of such prejudicial speech, in most cases it is nothing more than a tool to spread and further propagate the same. Hate Speech has now become a well-established

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<sup>21</sup> Hunt Allcott & Matthew Gentzkow, *Social Media and Fake News in the 2016 Election*, *The Journal of Economic Perspectives*, Spring 2017, at 211, 213-219.

<sup>22</sup> Bharat Ganesh, *THE UNGOVERNABILITY OF DIGITAL HATE CULTURE*, *Journal of International Affairs*, Spring-Summer 2018, at 30, 30-33.

part of political campaigning. This can be verified by the fact that instances of hate speech multiply enormously just before or during the elections. Until and unless baseless allegations and slander are thrown at specific sections of the community and people do not get it in the neck of each other, political campaigning is not considered effective and successful.<sup>23</sup>

- (iii) Censorship- From times in immemorial, States have been suppressing unpopular views and opinions of the public by tools of censorship. In cases of films, books, and other traditional means of expression, it was easier to control and regulate the content of information disseminated in society. The State employed strict pre-censorship and review measures to serve the purpose. However, the abstract nature of the internet with its worldwide reach presented new challenges. Control of information over the internet is a very troublesome task. It requires specialized knowledge and all necessary technical means at disposal. This realization on the part of States has forced them to take the alternative path of creating a sense of fear among internet users. This has been achieved by making suitable changes into existing penal codes and adopting strict laws prohibiting statements or other activity over the internet which may threaten the so-called 'sovereignty and integrity of the nation' or go against 'public interest'.<sup>24</sup>
- (iv) The Digital Divide- The world has not yet reached the zenith of modernity. The fruits of digitalization have not come equally to all. A large part of the world geographically as well as socially does not have access to basic infrastructure and technological know-how. Therefore, a clear digital divide can be witnessed not only among the nation-states but also within the population of a particular country. The result is that people living in metropolitan cities have attained much more relevance for the governments as this is the segment they need to take care

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<sup>23</sup> Sunil Watal et al., *Web 2.0 and Politics: The 2008 U.S. Presidential Election and an E-Politics Research Agenda*, 34(4) MIS Quarterly 669, 678-683 (2010).

<sup>24</sup> Naveen K. Mishra, *GOVERNMENTAL THREATS FOR MEDIA FREEDOM: COMPARATIVE STUDY OF ASIAN COUNTRIES*, The Indian Journal of Political Science, Jan-Mar 2008, at 149, 150-155.

of, and the population living in remote areas, in the absence of required knowledge and information are easily swayed by false promises.<sup>25</sup>

Moreover, the present-day governments make their best efforts to get rid of their responsibility of keeping the masses informed by simply providing notifications or alerts over their official websites. The question to be posed is- in a country like India or for that matter any other country in the second and third world, how many people do have the means or understanding of accessing these websites? This is nothing but another step in entrenching this divide.

However, while understanding these criticisms it must be kept in mind that no responsibility for the present scenario can be imputed to the advancements in technology. Technology is not good or bad, it is neutral. How it is utilized determines the extent of its consequences, good or bad, for the public.<sup>26</sup>

## E. PRIVACY AND RIGHT TO INFORMATION

At this point, it is appropriate to refer to a very interesting paradox concerning an individual's right to privacy and society's right to information. These two rights are generally considered to be antithetical to each other as the presence of one threatens the existence of others. In India, as we have already discussed, Article 19(1)(a) secures to all citizens individually and collectively the right to information. Moreover, the Supreme Court of India in *Puttaswamy*<sup>27</sup> recently held the right to privacy to be an essential component of the right to life protected under Article 21. Therefore, both the rights, though by means of liberal interpretation by the Supreme Court, have achieved the status of constitutionally protected rights.

In such a scenario, it becomes very essential to balance out these equally important interests of the citizens of India. One of the most efficient ways, which has been adopted by the countries where both of these rights coexist, is to categorize the information in to public and personal. As far as the question relates to information which is of public nature that means it

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<sup>25</sup> WILLIAM MAZZARELLA, *Beautiful balloon: The digital divide and the charisma of new media in India*, 37(4) *American Ethnologist* 783, 783-789 (2010).

<sup>26</sup> Marianne, *supra* note 19, at 667.

<sup>27</sup> *K.S. Puttaswamy & Anr. v. Union of India & Ors.* (2017) 10 S.C.C. 1 (India).

has consequences for other members of the society, the right of information takes precedence of the privacy right. On the other hand, those categories of information that are essentially personal in which the society must have no concern or interest, the privacy interest of the holder prevails.<sup>28</sup>

Though moderately successful, this approach could not ward off all the issues. Cases arose where it became very hard to put particular information into either of these categories of public or personal.<sup>29</sup> This provided leeway to the governments and courts to interfere in the private sphere of citizens. Therefore, while supporting the cause of free access to information, the importance of self-restraint must clearly be understood. The right to information of the society must not become an undue burden or unnecessary trespass in the privacy of particular members or members of the same group.

## F. PUBLIC POLICY IN A DELIBERATIVE DEMOCRACY

All governments whether authoritarian or democratic are supposed to plan out their future actions. This is called the framing of policies. But the prefix public before the term policy has been widely used especially in the democratic regimes. To understand this development a few questions need to be posted here- what is the relevance of this prefix public? How do public policy and a non-public policy differ or rather can there be anything called non-public policy in a democracy? And most importantly. what is it that converts a policy into public policy or what is the essential ingredient?

The prefix public is generally used before a term to indicate either or both of two things. Firstly, it indicates that it has been created or provided for the benefit of society. Secondly, it gives the impression that members of society had a role to play in its creation and design. As far as the first meaning is concerned, there is no doubt that each government makes its best efforts to portray that the policy it is creating or following is intended for the welfare of the general public and prefix public is adopted as an instrument to serve this purpose. However, the scope for contention arises on the analyses of second meaning which requires public participation in framing policies of the government. It forces an inquiry into the questions as

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<sup>28</sup> Gautam Bhatia, *STATE SURVEILLANCE AND THE RIGHT TO PRIVACY IN INDIA: A CONSTITUTIONAL BIOGRAPHY*, 26(2) NLSI Review 127, 153-158 (2014).

<sup>29</sup> *Id.*

to- what means do the modern democracies adopt to ensure public participation? and what means do the general public has to make its contribution?<sup>30</sup>

The role of the public in a democracy is not limited to casting votes or contesting elections. People not only have the right to choose their rulers but also how they rule. The second aspect makes it necessary that all should have an equal opportunity to contribute to the day-to-day functioning of the government. This requires a continuous flow of information not only from the government to the governed but also the other way around. There are already sufficient means at the government's disposal to reach the public such as public notifications, political advertisements, mass media, and social media. How effectively they are used is a different matter. But the public as discussed earlier does not have any true means to share their concerns with the government except for public protests, *dharnas*, or hunger strikes, which are generally adopted when the damage has already occurred by the adoption of unfavorable policies. Lack of feedback mechanism and responsiveness from the government make the participation of the public a distant reality. In such a scenario, the use of the prefix public seems completely unjustified as it wrongly presents unilateral and in some cases, arbitrary decisions of the government as the collective will of the society.<sup>31</sup>

## G. POLITICAL PARTIES AND THE MISGUIDED POPULACE

Over the last century, political parties have attained a central place in the governance of countries. They rose to prominence for the reason that they provided a platform to different groups of the society for representing their distinctive and special interests, and in fact, this is the reason that most of the dominant political parties in the world's history arose out of specific social or ethnic movements. However, with time the things have changed drastically. At present, there will hardly be any political party that has a specific set of objectives/aims and a fixed support base. Diplomacy and opportunism have become the new tool of attaining and wielding political power.<sup>32</sup>

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<sup>30</sup> Amy Gutmann & Dennis Thompson, *Disagreeing about Deliberative Democracy*, 7(3) *The Good Society* 11, 11-15 (1997).

<sup>31</sup> Archon Fung, *Deliberation before the Revolution: Toward an Ethics of Deliberative Democracy in an unjust world*, 33(3) *Political Theory* 397, 414-416 (2005).

<sup>32</sup> Brigitte Geissel et al., *Measuring the quality of democracy: Introduction*, 37(5) *International Political Science Review* 571, 573 (2016).

In such a state of affairs, political parties find great utility in mass media for creating a false sense of association towards a specific set of populations either on religious or socio-economic lines. The parties who had never shown any concern towards a particular group or public in general, or in many cases were the dominant cause of their suppression, are represented as their messiah. The result is that politics of ideology and principles has lost its relevance and the party or parties who are successful in creating a favorable environment with the help of sensational and biased reporting, and falsified stories sweep the polls. Therefore, the election process, the only true remedy in the hands of the public to get rid of an oppressing government, is also influenced and manipulated. Far from getting informed or educated, the general public is being misguided intentionally and in a planned manner by the media channels for political and other pecuniary gains.<sup>33</sup>

## H. THE GLOBAL DEMOCRACY

New challenges for already struggling modern democracies have arisen in the form of overarching globalization and internationalization. In present times, the role of democratic governments is no longer limited to regulating and managing the affairs of their citizenry within their territorial boundaries. Nation-states of the twenty-first century do not signify isolated groups of people dispersed in different geographical locations around the globe. The world has become much more proximate and connected with far-reaching consequences, good or bad.

The one area where these developments can easily be witnessed is the economic sector. The control over finances which has always been the dominion of the ruling elite has slipped out to the hands of multi-national global players. The result is that even the most well-intentioned governments fail to satisfy the yearnings and needs of their citizenry. Moreover, this new globalized world has set a stage for world politics and diplomacy having influence not only on the relations among sovereign states but also on the internal administration of a particular country.<sup>34</sup>

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<sup>33</sup> Benjamin I. Page, *The Mass Media as Political Actors*, 29(1) PS: Political Science and Politics 20, 20-24 (1996).

<sup>34</sup> Jan Aart Scholte, *Civil Society and Democracy in Global Governance*, Global Governance, Jul-Sep 2002, at 281, 285-287.

In the wake of this new global game which has its own rules and regulations which are far away from principles of equity and justice, and economic domination and forceful regression are the principle attributes, access to free and reliable information becomes all the more necessary.<sup>35</sup> People around the globe must be able to reach and understand the root cause of their repression because until they do so, they will continue to change their respective governments mindlessly without achieving any significant change in their position.

## I. THE NEED FOR STATUTORY RECOGNITION

By the second half of the twentieth century, there was a growing realization on the part of the international community that the general protection granted to freedom of information by constitutional provisions either explicitly or implicitly, will no longer be sufficient. The need was to create separate statutory provisions delineating the extent of the right of the general public to seek information from the government or semi-government authorities and also designing procedural safeguards for its effective exercise.<sup>36</sup> The United States adopted the Freedom of Information Act in 1967<sup>37</sup>, Canada in 1983<sup>38</sup>, Japan in 2001<sup>39</sup> so on and so forth.

India adopted its Right to Information (RTI) Act<sup>40</sup> in 2005 which came into force on 12<sup>th</sup> October of the same year. It was considered to be a big leap of Indian democracy towards transparency and accountability as it did away with the Official Secrets Act of 1923. However, the RTI Act could not withstand the test of time and soon its weaknesses came to fore. Some of the major setbacks of the Act are as follows-

- (i) A broad exemption from disclosure of the information is provided in the name of 'Information of strategic concern'. Information will be said to be a piece of information falling within this exemption if it has the potential to prejudicially affect the sovereignty and integrity of India, relations with foreign states, etc. Though the utility of such an exemption cannot be denied especially to protect information having far-reaching consequences for the country, the ground on

<sup>35</sup> Brigitte, *supra* note 32, at 572.

<sup>36</sup> Nancy Roberts, *A Great and Revolutionary Law? The First Four Years of India's Right to Information Act*, Public Administration Review, Nov-Dec 2010, at 925, 928.

<sup>37</sup> The Freedom of Information Act, 5 U.S.C. § 552 (1967) (US).

<sup>38</sup> Access to Information Act (R.S., 1985, c A-1) (Canada).

<sup>39</sup> Law Concerning Access to Information Held by Administrative Organs, 2001 (Japan).

<sup>40</sup> The Right to Information Act, 2005, No. 22, Acts of Parliament, 2005 (India).

which it can be claimed allows it to be a tool in the hands of the government officials to ward off bona fide information seekers and hence, violating their constitutionally protected rights. There is no guidance as to what should be the nature of the information considered to be against sovereignty and integrity of the country or prejudicial to good relations with foreign states. Both of the grounds along with others provided in the act largely depends on the sensitivity of the government in power towards dissent.<sup>41</sup>

- (ii) The second schedule contains a long list of authorities which are explicitly excluded from the purview of RTI under Section 24 of the Act. The list includes authorities such as the Intelligence Bureau, Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, etc. These authorities exercise functions that have a direct influence on the life of the citizenry and all the information that these authorities produce or deal with is not strategic. In such a scenario granting blanket protection was not warranted.<sup>42</sup> The Act could have provided for the categorization of information within the control of such authorities into accessible and non-accessible groups and only that information which has strategic relevance as determined by an independent committee must have been protected.

This is not an exhaustive list of issues or weaknesses of the Act, however, the points discussed are of prime relevance which requires immediate consideration of the Government.

## J. CONCLUDING REMARKS AND SUGGESTIONS

The ruling elite makes its best efforts to control and censor information. Demands for better access to information and participation in decision making are met by a usual argument that some crucial areas such as foreign policy and defense strategy require expertise and deep understanding which the general public lacks and it works as a quick justification for behind

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<sup>41</sup> Anshu Jain, *GOOD GOVERNANCE AND RIGHT TO INFORMATION: A PERSPECTIVE*, JILI, Oct-Dec 2012, at 505, 513.

<sup>42</sup> Varsha Khanwalker, *THE RIGHT TO INFORMATION IN INDIA: ITS CONNOTATIONS AND IMPLEMENTATION*, The Indian Journal of Political Science, Apr-Jun 2011, at 387, 389.



the curtain bargains.<sup>43</sup> Lack of information on the part of citizens serves two crucial interests of the ruling elites. Firstly, an unaware population poses no threat to their hegemony over political power and secondly, they can easily manipulate and misguide the citizenry as to the truthfulness of certain facts and ensure their blind support for their exploitative rule. The result is that people in complete ignorance, adjust their opinion and demands following government policies to remain within the lines of the law, not the other way around.

If by God's grace, there is a realization of political exclusion in the society and demands for better participation in the governance of the country starts to mount up, the political elites take recourse to divisive politics. To maintain the status quo and evade any serious challenge to the hegemony over political power, some voices and interests are provided preference over the others. People or groups are selected after consideration of their social and sentimental value in society. This is done to create an impression in the society that the government cares about its citizenry. However, in this entire process what is generally ignored is the collective conscience of the society.

In this entire game, the spread of misinformation through mass media and social media plays a big part. Raising questions against such steps or opposition to such tactics of the government is represented as objections against the benefited individuals and groups, giving birth to a sense of hatred among the members of the society. The result is that the government suddenly becomes a messiah and champion of interests of the chosen few, who are in reality nothing but a scapegoat for it.

### *Suggestions for Future Action*

There are three broad areas where every polity who proudly claims to be truly democratic, need to improve-

- (i) Development of communication capabilities- This will be the easiest of all three steps as it can be achieved by simply investing in communication apparatuses. However, the government needs to take care that there is an equally effective two-way flow of information between its functionaries and the public, and the reach of these new means of communication is not limited to a few developed areas of the

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<sup>43</sup> Marianne, *supra* note 19, at 669.

country. Every government must ensure that a citizen sitting at the last corner of the country must have an equal opportunity of communicating his/her views and concerns.

- (ii) Ensuring Responsiveness- Mere listening to the grievances and other suggestions of the public are not sufficient for an effective democracy. Redressal of concerns is an important factor. This will not be easy for countries with a huge population such as India. An elaborate strategy needs to be devised and proper structure needs to be created to compartmentalize the flow of information from the public in a few broad categories and present the same to policymakers briefly and succinctly.
- (iii) Promoting Accountability- Accountability is something that cannot be imposed by artificial means such as strict rules or regulations, and all efforts in this direction without ensuring proper environment are bound to go in vain. It must come from within. The people's representatives and other public functionaries must take it as their primary duty to show accountability not only towards their support base or vote bank but towards the society at large. It must be established as a part of the culture.