

# RIGHT TO INFORMATION



European Union



# **RIGHT TO INFORMATION**

Right to Information  
Module

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# The Aims and Outcomes of this Module

## Aims of the Module:

1. Discuss RTI, its definitions, concepts, limitations and main actors
2. Conceptualize the nature in which RTI enhances citizens' meaningful participation in public events.
3. Explain the domestic and international legal framework of RTI
4. Analyze the fundamental principles of RTI
5. Discuss how to practically exercise the RTI and empowerment to exercise the right

## Learning Outcomes:

By the end of this module, you should be able to:

1. Explain the definitions and conceptual framework of FOI and RTI
2. Describe the key actors of a successful RTI regime
3. Map out the international legal obligations of RTI
4. Outline the constitutional and other legal provisions of RTI and awareness on judgements relating to RTI
5. Map out the fundamental principles of RTI and evaluate their importance to Media Citizens
6. Successfully apply the law to a given issue in exercising RTI

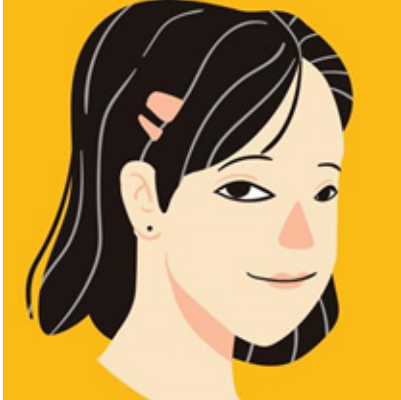
## The Number of Learning Hours Required:

	<b>Total number of hours</b>	<b>15 Hours</b>
1.	Tool box 1	3 hours
2.	Tool box 2	3 hours
3.	Tool box 3	3 hours
4.	Tool box 4	3 hours
5.	Community Impact Project	3 hours

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# Introduction

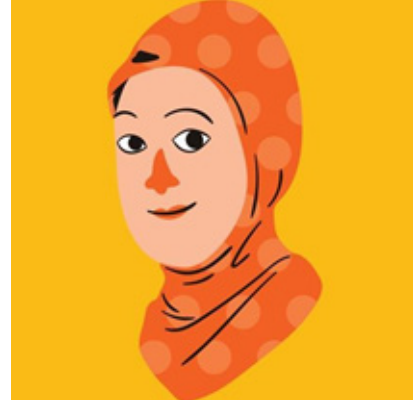


**Meet Nilma!**

Nilma belongs to the majority ethnic group in Sri Lanka, “Sinhala”. She was born and brought up in Colombo and went to a very prominent urban school.

Nilma is a social media influencer and calls herself **@islandernilma** on Instagram. She loves writing about environmental conservation and education in Sri Lanka. She is into ethical shopping and a sustainable lifestyle. She even has her own blog where she talks all about this!

She is planning to launch her podcast soon. Nilma prefers the pronouns: She/Her.



**Meet Zara!**

Zara belongs to a minority ethnic group in Sri Lanka, “Muslim” and was brought up in Mannar. She studied in a provincial school and wants to be a media professional one day. She is into making documentaries and short movies. She has her own Facebook page called **@curiouzara** where she shares small videos, she makes using her smart phone.

She loves to talk about women’s rights and education. Her ambition is to direct a short documentary on women’s rights in Sri Lanka one day. Zara prefers the pronouns: She/Her.



Both Nilma and Zara are now University students. The common feature that they shared between them was the fact that both of them were always very curious about everything!

How does this work?  
Why do they say that?  
Why do I have to do it?  
Why do people think that?

These were common questions anyone around Nilma and Zara always heard.

**“Why? Why? Why?”**

Recently, both of them were researching on Right to Information in Sri Lanka and were really fascinated. This right to access information freely was totally new to them.

“Do we really have the right to know many things?”  
they thought.

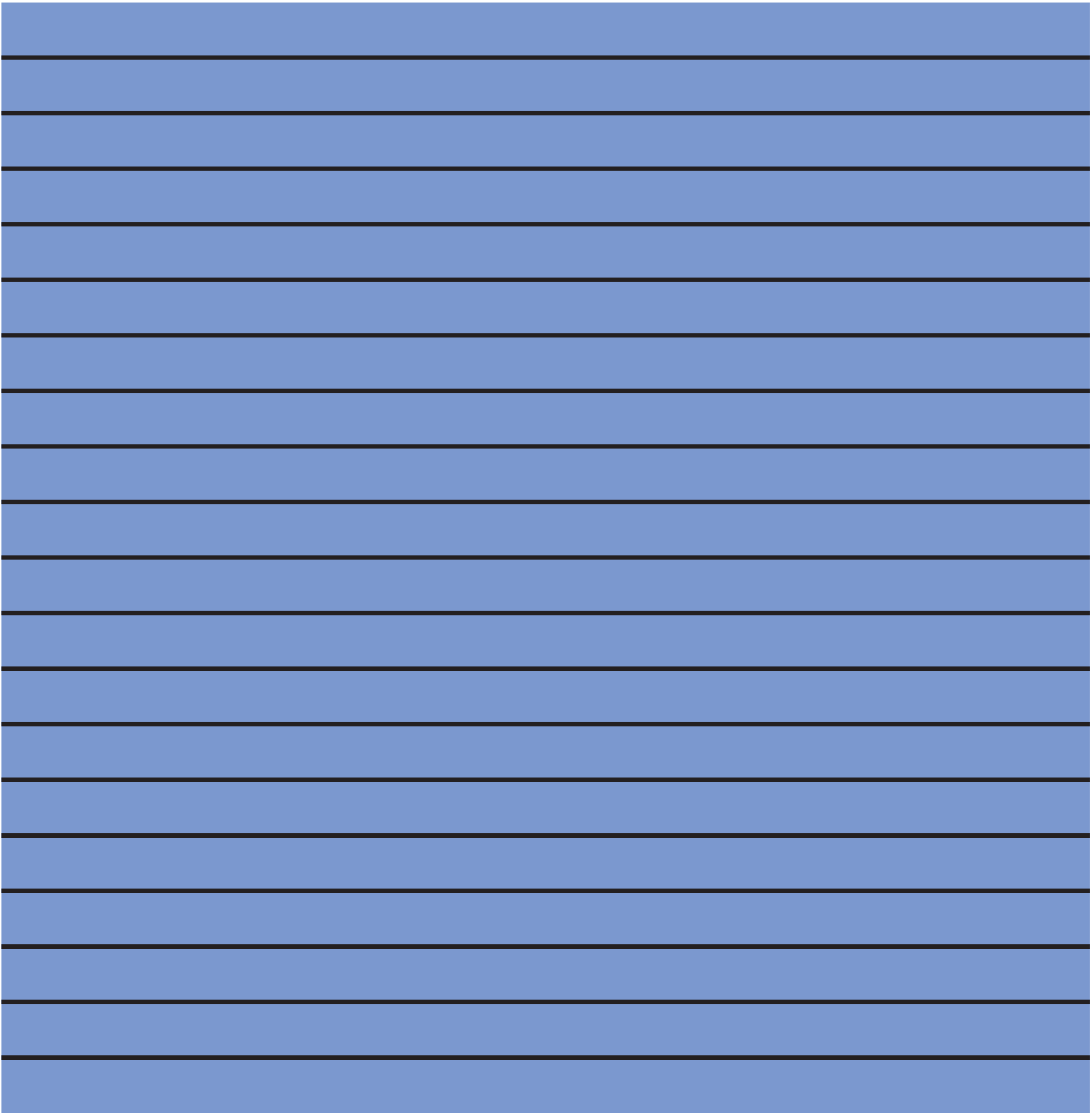
“Well, when we were young, we were always asked not to ask so many questions!  
Freedom of information as a right? WHOA!”

But what exactly is Freedom of information?

What does Freedom of Information mean to you? Do you feel the same way as Nilma and Zara?

**What about You?**

What does Freedom of Information mean to you?  
(Feel free to write what you think about freedom of information at this moment.  
We shall revisit this questions at the end of the Tollkit



# TOOL BOX 01

## WHAT IS FREEDOM OF INFORMATION AND RIGHT TO INFORMATION? CONCEPTUAL

**“Information is the currency of democracy”**

- Thomas Jefferson <sup>1</sup>

### **Expected Learning Outcomes:**

1. Explain the definitions and conceptual framework of Freedom of Information
2. Describe the key actors of a successful Right to Information regime

<sup>1</sup> Ralph Nader earliest recorded usage of this quotation is in a November 2, 1971, press conference announcing his “Congress Project.” His remarks were published in a number of newspapers, most notably in The New York Times on December 23, 1971 (Ralph Nader, “The Underachievements of Congress.”).

## What is Information?

Information is anything and everything that you need to understand a particular incident or phenomenon and formulate your own opinion on it. You also need information to communicate your opinion to others.



**@islandernilma:** *When I made up my mind to be more sustainable about my lifestyle choices, I researched a lot on the internet. I needed to know why I am doing it and how I can do it. Then I started sharing this information over my social media using statuses, Instagram reels and even blog articles.*

## Is Information important?

Information enables us to understand and process facts which in return empowers us to make a decision based on what we understood. Once a decision is made, information also aids us to communicate the decision to our peers. To reason our decisions or opinions, knowing the right kind of information is crucial!

Besides, information is so important in the world we live in today. This is because as every minute passes by, newer forms of information generated, almost automatically. This makes information a crucial element in our daily lifestyle diet!

**Can we really live without information anymore?**

**@curiozara:** *This also means that we have to be careful of the information we consume, just as much as our food. Because, today there is more room for misinformation to spread than real information!*



### **DID YOU KNOW?**

**September 28<sup>th</sup> is the  
International Day  
for Universal Access  
to Information**

## WAIT...SO?

Think of an important decision you took recently. This can be a personal or a career-related decision.

1. Did you need information to make this decision?

2. How important was "knowing information" to make this decision?

3. Where did you find your information from?

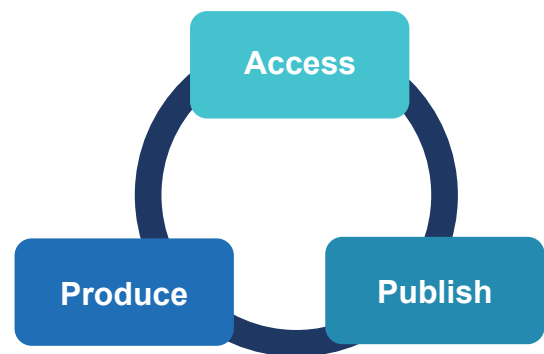
4. How easy or how hard was it to find the information you needed?

Four rectangular boxes with dotted lines for writing answers are located at the top, left, bottom-right, and bottom-left of the page.

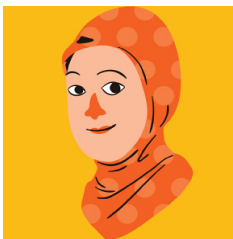
## What is freedom of information?

As a right, freedom of information includes:

1. Ability to access information
2. Obligation of public bodies to publish information
3. Obligation of public bodies to produce information<sup>2</sup>



Freedom of information deals with information that you have to access through a public authority. This could be any official information that you need to lead a happy and content life within your country.



**@curiozara:** “Think for example, of a public project to supply water to your area. Now imagine that the project is lagging and you do not know why. However, you also want to do something about it. In this case, you have the ability to exercise your freedom of information and probe into why things aren’t progressing as they should be! The public bodies with any of the required information have to share that information mandatorily!”

## Right to information

So... simply, RTI is the right that you have to access information held by any public authority. This is a human right. In Sri Lanka, the right to information is also recognized as a fundamental right. This means that the Constitution of Sri Lanka, guarantees the right to information, which can be enforced by law.

<sup>2</sup> Center for Policy Alternatives, ‘National Advocacy Campaign on Right to Information’ (Colombo, 2003)

## Why is Right to Information So Important?

We need information to live a good life. To make decisions, we all rely on information irrespective of its relative importance – crucial or ordinary. It is like being aware of whether the food we eat daily meets an adequate nutrition level. We must know whether our food is healthy or unhealthy.

It is only the right to information that guarantees our ability to know something as simple as the ingredients in a packet of milk.

Interestingly, this is the same in governance. As taxpayers we have the right to know what happens to our money. How our money is spent, and on what?

We also need information to lead our lives. For example, you might need a copy of a letter given to the Commissioner of Elections by the Grama Niladhari of your area to confirm your permanent residence in the area.

The right to information allows you to access any information held by a public body, even if it is only relevant to you. This improves the accountability and transparency of the public body. In return, contributes to the improvement of accountability and transparency of the government.

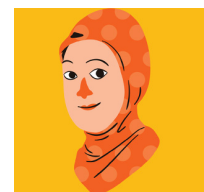


**@islandernilma:** *Oh! Can it then, expose corruption and misuse of public resources?*

Yes, it can. Freedom of information also enables research and advocacy, because now you can access, collect and communicate the information. This allows individual citizens like you and me to contribute to improving accountability and transparency of public bodies.

Ultimately, because of the increased public participation in the democratic process and decision making there is more scope to question and ensure transparency!

**@curiozara** *“Being able to access, any information just concerning myself, makes me feel powerful. It makes me feel like what I want to know matters to the rest of the world! Don’t you feel the same way?”*



## **DID YOU KNOW THAT THE GLOBAL RIGHT TO INFORMATION RATING MEASURES THE STRENGTH OF ACCESS TO INFORMATION AROUND THE WORLD?**

“This measures the strength of the legal framework for the right to access information held by public authorities (the right to information or RTI) based on 61 discrete indicators – each of which looks at a particular feature of a strong legal regime for RTI – divided into seven main categories –namely Right of Access, Scope, Requesting Procedure, Exceptions & Refusals, Appeals, Sanctions & Protections, and Promotional Measures.”

**-Center for Law and Democracy-**

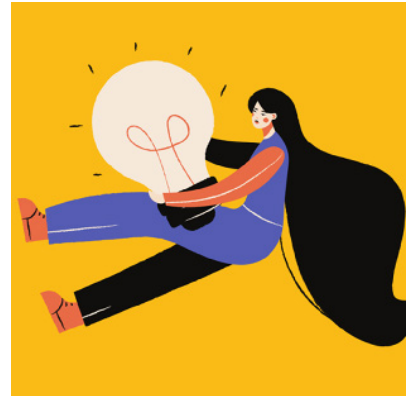
## Who is Important to a Successful RTI Regime?

**“Let the people know the facts, and the country will be safe.”**

**-Abraham Lincoln<sup>3</sup>**

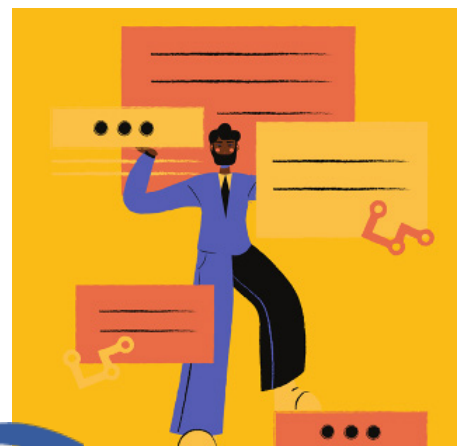
### **It starts with You!**

It all begins with the concerned citizen who wants to access information from a Public Authority!



### **Who is Public Authority?<sup>4</sup>**

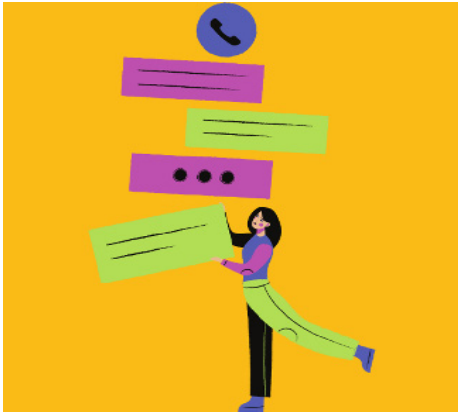
- » Any Government Ministry or Department
- » Any institution created by the Constitution or any written law
- » Public corporation
- » Local authority
- » Private entity or organisation carrying out statutory/ public work, with the Government or a local body - only to the extent of activities covered by that statutory/public work
- » Any institution created by a Provincial Council
- » Any Non-Governmental Organization substantially funded by the Sri Lankan Government, foreign Government or international organisation and only when they serve the public
- » Higher educational institutions licensed under any law or funded even partly, by the State, a public corporation or an institution created by a Provincial Council
- » Private educational institutions under any law or funded even partly, by the State, a public corporation or an institution created by a Provincial Council
- » Courts and institutions created to administer justice



<sup>3</sup> 'The Death of President Lincoln' Boston Morning Journal (Massachusetts, 17 April 1865)

<sup>4</sup> Sec. 26 of the RTI Act





## Information Officer in the House!

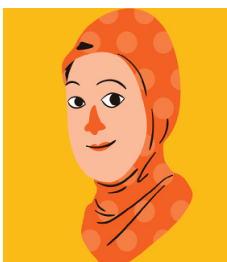
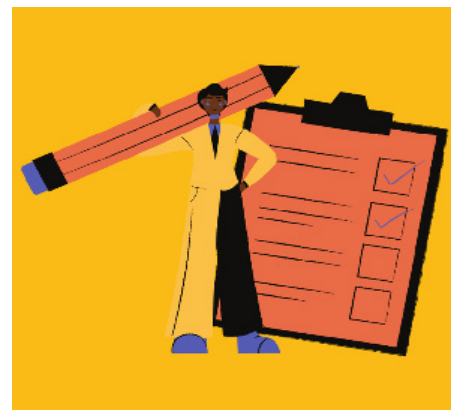
**@islandernilma:** *Did you know that every school, policy station, Government Department or any other public body has an information officer that you can approach?*

These officers are appointed by the Public authority. You have to make the request for information from the Information Officer.<sup>5</sup>



**Information officers have certain duties and responsibilities:<sup>6</sup>**

- » They should acknowledge all requests for information in writing.
- » This is where they are required to make and keep a record of the request and the reply given.
- » Then they have 14 days to make a decision as to what they want to do with the request. They should either:
  - » Provide the information requested
  - » Reject the request
- » Then they should Communicate the decision to the person who made the request.



## Aiyo! Access Denied?

**@curiozara:** *What happens if the public authority refuses to provide information?*

Citizens can appeal to the Right to Information Commission! The Commission is in charge of any appeals that are made if the public authorities do not provide information or fulfil their duties.<sup>7</sup>

<sup>5</sup> Sec. 23 of the RTI Act

<sup>6</sup> Sec. 25 of the RTI Act

<sup>7</sup> Sec. 12 of the RTI Act

## Impact Exercise

### Status Update: #HelpNushan!



**@islandernilma:** *So, Nushan is a family friend of mine and he is a teacher at a Public School in Colombo. He is a fantastic teacher and his students loved him. Because his performance record was really good last year, he was awarded the “teacher of the year” as well. He is also involved in many extracurricular activities at the school.*

About two weeks ago Nushan received a notice of termination from the school because he had expressed his gender identity as a queer male. He is now really upset and wants to find out the reasons for his sudden dismissal from work.

» **In your view, how can we obtain the information needed? How do you find exactly from whom you need the information from?**

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» **If you were Nushan, how will you use your right to information in this context?**

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# TOOL BOX 02

## ACCESS TO INFORMATION: LEGAL FRAMEWORK OF RTI

**“The overarching purpose of access to information legislation ... is to facilitate democracy. It does so in two related ways. It helps to ensure first, that citizens have the information required to participate meaningfully in the democratic process, and secondly, that politicians and bureaucrats remain accountable to the citizenry.”**

- Gerard LaForest, former Supreme Court of Canada Justice, in *Dagg vs. Canada* (1997) <sup>8</sup>

### **Expected Learning Outcomes:**

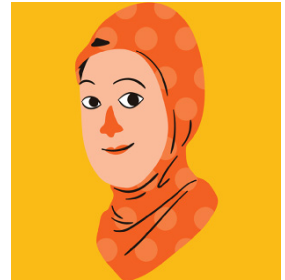
1. Outline the international legal framework of the RTI regime
2. Describe the domestic legal framework of the RTI regime

<sup>8</sup> Dagg vs. Canada [1997] 2 S.C.R. 403.



**@islandernilma:** *I think it is super important for each and every citizen to know and understand that they have the right to information guaranteed by the law of Sri Lanka!*

**@curiozara:** *“I agree. Especially young people, who have the most potential to raise their voices today more than ever. I also think they should exercise this right. Knowing is now enough. They have to DO! Don’t you think?”*



Shall we collaborate and create an Instagram Reel crash course on the evolution of the RTI regime in Sri Lanka? We can call it **#RTlin5**  
**#RTlin5: Crash Course Checklist**

<p><b>Purpose:</b>          raise awareness on the RTI law in Sri Lanka between colleagues and the general public</p>
<p><b>To Dos:</b>          Research → Note down → Repeat</p>

## Reel 1: RTI and International Standards #RTIAroundTheWorld<sup>9</sup>

**Article 19 of the Universal Declaration of Human Rights (1948):** 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 regardless of frontiers.

**Article 19 of the International Convention on Civil and Political Rights (ICCPR) (1966):** 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 regardless of frontiers.

**Article 10, European Convention on Human Rights and Fundamental Freedoms (1950):** Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

**Article 13 of The American Convention of Human Rights (1978):** Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers.

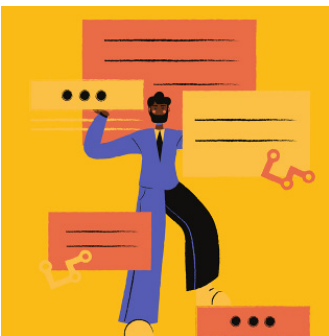
<sup>9</sup> Maeve McDonagh, 'The Right to Information in International Human Rights Law' [2013] <<https://www.corteidh.or.cr/tablas/r30698.pdf>> accessed 20 December 2020.

**Article 9 of African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (1981):** Every individual shall have the right to receive information.

**Principle 1 (b) of The Johannesburg Principles on National Security, Freedom of Expression and Access to Information (1995):** Everyone has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontier.

**Article 16(1) (b) of the Constitution of the Republic of South Africa (1996):** Everyone has the right to freedom of expression, which includes freedom to receive or impart information or ideas.

## Reel 2: The RTI story in Sri Lanka #RTIinSL<sup>10</sup>



In this reel we are inviting Mr. Sriyan Silva, an Attorney-at-Law and a RTI expert to share his expertise on the evolution of the RTI laws in Sri Lanka. He is an advocate for LGBTIQ+ rights and uses his platform to raise awareness of our right to information as citizens! Hello Mr. Sriyan, we are so excited for your session.

**@SriyanSilva:** *Hello everyone! Thank you for having me. I will try to map out the evolution of the RTI law in Sri Lanka from the very beginning to its present status. Let me know if you have questions. I would be happy to answer them!*

» In 1995, the Ministry of Mass Media appointed a committee to come up with recommendations to reform laws related to Freedom of Expression. The committee recommended, RTI as a corollary of Freedom of Expression, where the former was an essential requirement for the latter to thrive in any society.

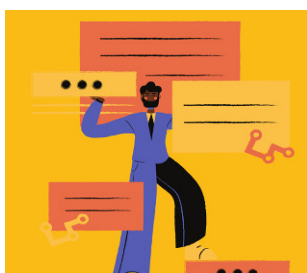
» In 1996, following the report of the aforesaid committee, the Sri Lanka Law Commission prepared the first ever draft RTI Bill.

» In 2000, RTI was featured under the fundamental rights chapter in the draft Constitution. But the whole constitutional reformation process went wrong and never saw the light of the day.

» In 2004, RTI appeared again in a bill which was originally introduced by the Editor's Guild, Free Media Movement and the Center for Policy Alternatives. The attempt to legislate a fresh RTI law failed due to the dissolution of the Parliament.

<sup>10</sup> Mario Gomez, 'The Right to Information and Transformative Development Outcomes' [2019] Law & Development Review, Vol.12; Issue 3

- » In 2006, Sri Lanka Legal Commission made a proposal outlining the importance of RTI to deter transnational organized crimes and the Convention against Corruption.
- » In 2010, a member of the Parliament representing the Opposition presented the draft RTI Bill (2004) as a private member's Bill into the Parliament.
- » In 2011, the LLRC Report states freedom of expression will play a pivotal role in the process of reconciliation, and recommended to widen its scope by including RTI.
- » In 2015, Mr. Maithripala Sirisena, the common presidential candidate promised to introduce RTI within his 100 days' program.
- » The RTI Act was signed by the Speaker of the Parliament on the 4th of August 2016 and was fully operationalized by February 2017.
- » After the passage of the 19th Amendment to the Constitution, RTI features on the fundamental rights chapter of the Constitution of Sri Lanka. Article 14 (1)(a) deals with RTI. This development signifies the birth of the RTI Act and the independent RTI commission.

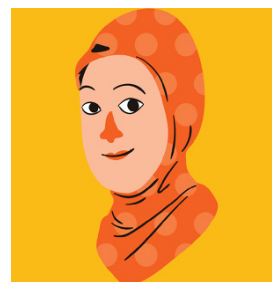


**@SriyanSilva:** *I hope you now have an idea of the evolution of the RTI regime up until the 19th Amendment to our Constitution. We must also look into the developments in the present context, especially after the enactment of the 20th Amendment to the Constitution in 2020. This is an interesting time period for the RTI regime because of the changes brought in by the 20th Amendment.*

- » On 22nd of October 2020, the Parliament passed the 20th Constitutional Amendment with a 2/3rd majority. The Amendment does not directly impact the RTI or the RTI commission. However, it has an indirect impact on the RTI regime if you look closely from a practical perspective.
- » The Constitution does not outline the procedure of appointments (largely of Commissioners) of the RTI Commission. The procedure is laid out in the RTI Act.
- » Accordingly, the President must consult the Constitutional Council (CC) when the President is making appointments. However, the CC no longer exists as a result of the 20th Amendment. It is replaced by the Parliamentary Council (PC) and the PC can only make observations in terms of appointments. These are not recommendations. The 20th Amendment is often criticized for granting more discretionary powers to the President in making appointments to the independent commissions compared to the 19th Amendment. This compromises the independence of the commission!

@curiozara:

*WHOA! Wait a minute...How would citizens of our country access the correct information before both the 19th Amendment and the RTI Act?*



@islandernilma:



*Guess what! Whilst a direct provision on RTI was not seen until 2015, it did not mean that the citizens could not exercise their RTI at all. In fact, like we saw in the evolution of the RTI law in Sri Lanka, RTI was often recognized as a corollary of Freedom of Expression. In certain case law,<sup>11</sup> Judges have held that RTI stems from the Freedom of Expression guaranteed by Article 14 of the Constitution!*

The RTI Act of 2016 made it mandatory to give information to those parties who had successfully filed an RTI to Public Authorities. It also mandates timely response to any citizen seeking information from the Public Authorities.

**#RTIin5**

### Reel 3: Restrictions to the RTI #DrawingLinesinRTI

» Not all requests for information are answered to by the Information Officer. Some information can be withheld from the public under Section 5 (1) of the RTI Act. The Information Officer can do this when it comes to:

1. Personal information;
2. Information which can harm national security;
3. Information which can harm the economy;
4. Medical records;
5. Communication between a professional and a public authority;
6. Information based on a relationship of trust;
7. Information which can lead to disrespecting court;
8. Information which takes away the privileges of Parliament/Provincial Council;
9. Information which can affect the integrity of an examination;
10. Certain cabinet memorandum before a decision is made;
11. Confidential information regarding elections.

<sup>11</sup> Visuvalingam and Others V. Liyanage and Others [1984] 2 SLR 123; Fernando v Sri Lanka Broadcasting Corporation & Others, [1996] 1 SLR 157; Environmental Foundation Ltd., v. Urban Development Authority [SCFR 47/2004]



- » If the Information Officer refuses, she or he has to give reasons as to why the request was refused!

- » According to Section 28 of the RTI Act, you can appeal within two months.

## Reel 4: How to make a RTI Request? #KnowYourRTIin5

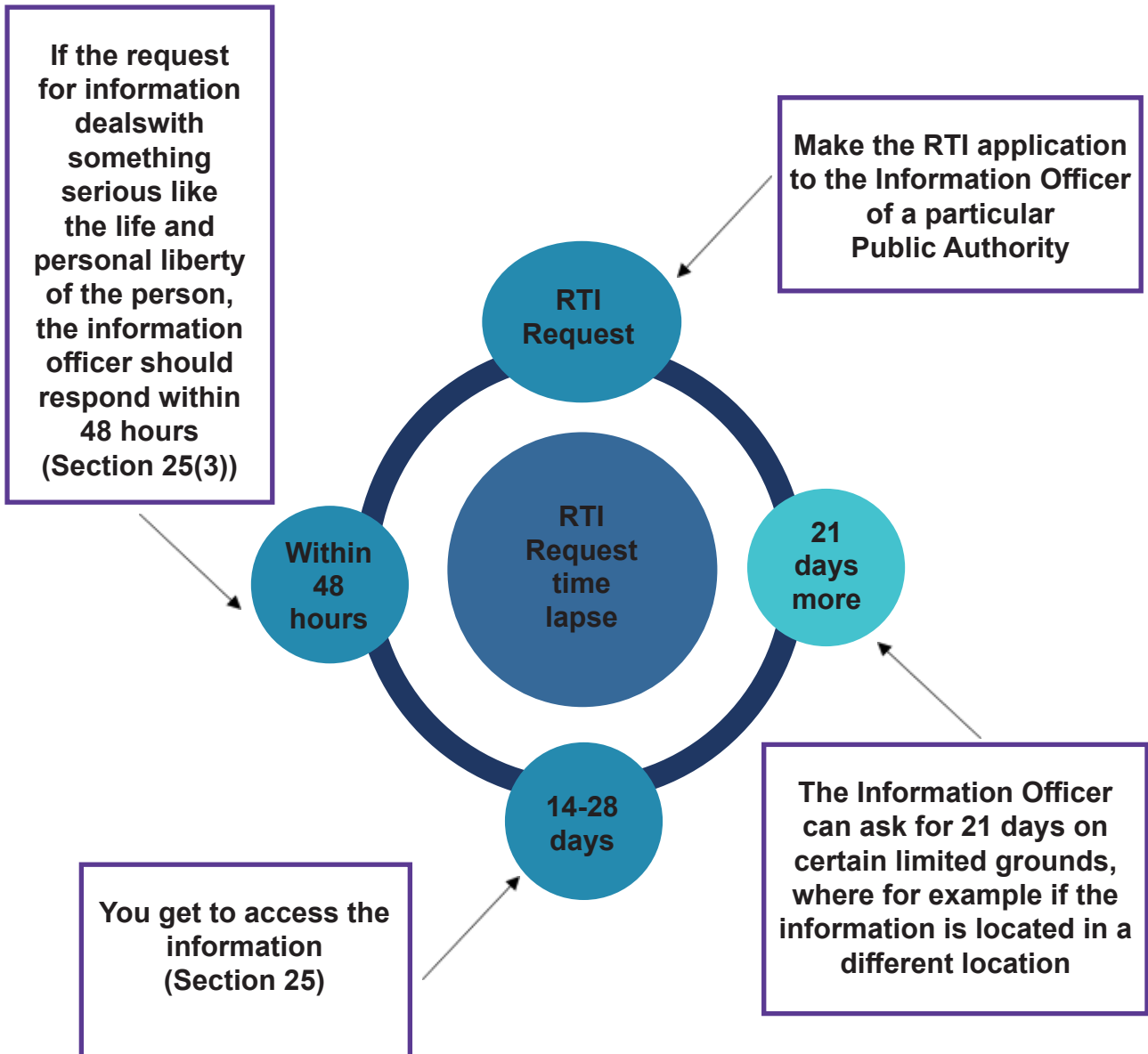
- » **If the RTI request is accepted:**

- You can inspect relevant work, documents, certified copies of documents or records, obtain information in any electronic mode or through printouts etc.<sup>12</sup>
- You have all rights to publish the information you received.<sup>13</sup>
- You can use the very information as evidence in the court case.

<sup>12</sup> Sec 27 of the RTI Act

<sup>13</sup> Sec 36 of the RTI Act

» How much time do you have?





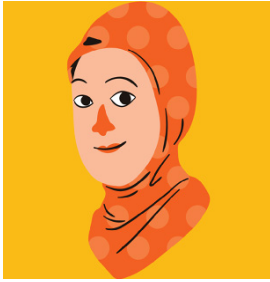


**@curiozara:** *Can you help Nazar share his story on our platform?*

Nazar is a youth activist fighting for minority rights.

He was always wondering as to how the Jaffna Airport was constructed in a significantly short time period and opened for flight services.

He remained skeptical about the actual quality of the airport.



» **Where should Nazar look for information?**

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» **Do you think he will face any barriers to accessing this information?**

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» **In your view, how important is RTI to Nazar?**

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# TOOL BOX 03

## WHAT PRINCIPLES ARE ESSENTIAL FOR RTI TO THRIVE?

**“A vibrant democracy must have the capacity to finely balance public interest of disclosure of information, with the right to privacy of the individual.”**

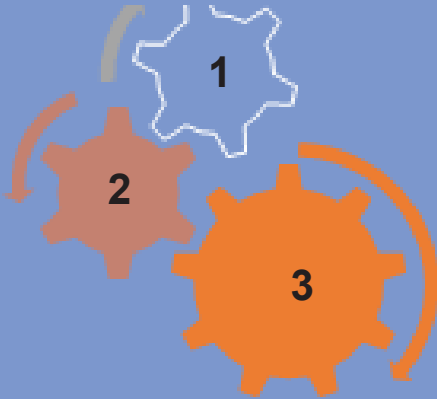
**- Prof. Deepika Udagama <sup>14</sup>**

### **Expected Learning Outcomes:**

1. List out the fundamental principles of a successful RTI regime
2. Outline the principles vital for Media Citizens

<sup>14</sup> Deepika Udagama, ‘Right to Information as a Vital Premise of the Rule of Law in Sri Lanka’ in Kishali PintoJayawardena (eds), Reflections on Sri Lanka’s RTI Act & RTI Regime (The RTI Commission of Sri Lanka, 2019)

Several key principles are considered fundamental for RTI to thrive within a country.<sup>15</sup>  
 Freedom of information is a human right!

<p style="text-align: center;"><b>Maximum Disclosure</b></p> <p>The general assumption is that public authorities should disclose all information, held by them, as much as possible in order for citizens to exercise freedom of information successfully.</p>	<p style="text-align: center;"><b>Proactive Disclosure</b></p> <p>Public authorities should be proactive in publishing and communicating key categories of information, that is significant to public interest.</p> <p>Information on key decisions, finances, complaints and procedures for the public to provide input are crucial categories of information.</p>
<p style="text-align: center;"><b>Promotion of Open Government</b></p> <p>Both the public and the government play a part in promoting an open government.</p> <p>Citizens should be aware of their right to information and the importance of it for daily life.</p> <p>The government should also promote a culture of openness. This requires constant and continuous promotion of the right to information and raising awareness on how this right can be exercised.</p> <p>This also involves the concept of “<i>open meetings</i>.” It is important to maintain the norm that all meetings of public bodies remain open to the public. Open meetings allow the public to access all information on the meeting. It also ensures that the public is aware of what the authorities are up to. This also allows room for public discussion and input. This input is very valuable in the government’s decision-making process.</p>	<p style="text-align: center;"><b>Limited Scope for Exceptions</b></p> <p>Restriction of the types and scope of information that can be accessed should be limited as much as possible.</p> <p style="text-align: center;">To this we use a three-part test!</p>  <ol style="list-style-type: none"> <li>1. Information must relate to a legitimate purpose of restriction</li> <li>2. Disclosure of information must threaten substantial harm to that purpose</li> <li>3. The harm that can be caused by disclosure must be greater than the harm of secrecy</li> </ol>

<sup>15</sup> Ibid 2

### **Facilitate Access**

Specific laws and procedures should be in place for the public to access information. These procedures should make sure that all requests for information should be processed in a timely and fair manner as well.

### **Costs of access should not be a barrier to access**

The costs of accessing information should always be reasonable and not act as a barrier to access information. If the costs of access are higher, it will deter anyone who wants to exercise their right to information.

### **Disclosure takes Precedence!**

Disclosure of information should be the norm, when any law is interpreted. This is because freedom of information is a fundamental right. If there ever is a conflict between secrecy and disclosure, freedom of information should prevail.

### **Protection of those who Release Information**

It is equally important to provide protection for individuals from legal, administrative as well as employment sanctions just because they released information about corruption or malfunction. Section 30 of RTI Act states that officers of public authorities cannot be held liable for criminal matters or civil matters until the officer performs and exercise the duties and powers in good faith.

### **Independent Commissions and Independent Judiciary**

Right to Information appeals require the constant support of the Right to Information Commission. It is essential to ensure that the Commission is independent from any political pressure. If there is undue influence or pressure on the commission, it is likely that the appeals will not be heard fairly!

Equally, judicial independence is also crucial. The ultimate protector of a person's right to information is the judiciary or the courts. If independence is compromised, freedom of information cannot thrive as a human right.







# TOOL BOX 04

## HOW CAN YOU USE RTI?

“The Right to Know is Right to Live”

- Aruna Roy <sup>16</sup>

**Expected Learning Outcomes:**

1. Point out and explain the process of exercising RTI as Media Citizens
2. Describe the practical steps of exercising RTI

<sup>16</sup> Aruna Roy, The RTI Story: Power to the People (Roli Books, 2018)

## Filing an Application: Using Form 1 of the RTI Act

### Step 1

Before anything else, you have to make a request in writing or orally to the Information Officer.<sup>17</sup>

### Step 2

When the request is made, make sure to specify the exact details of the information you need. No one likes to be confused!

Since you can also request the information orally, the information officer is obliged to write it down.

### Step 3

#### Make sure to mention:

- » You are requesting information under Section 3 of the RTI Act
- » Confirm that you are a Citizen of Sri Lanka
- » Preferred language to receive the response
- » Your contact information

### Step 4

Keep a copy of your request. This will be evidence that you filed a request in the first place.

### Step 5

#### Make sure to mention:

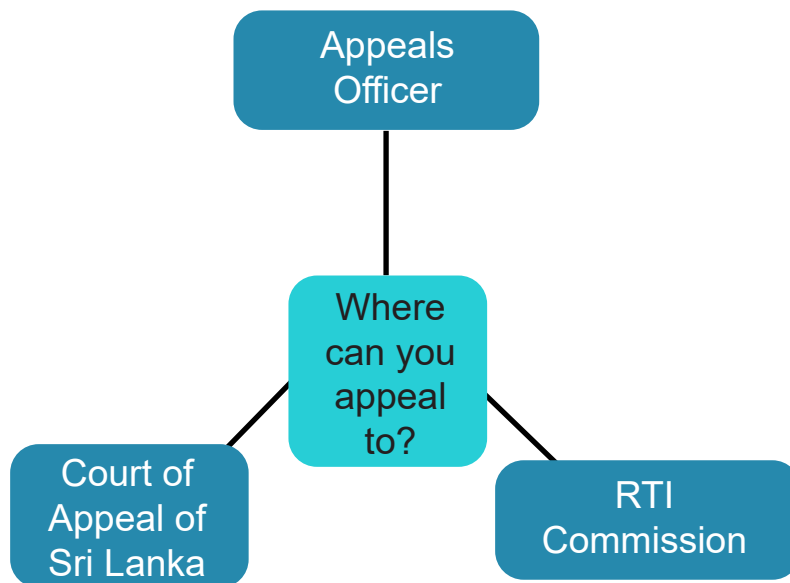
If you are sending your request over snail mail, do not forget to register-post the letter. You should also keep the registered post receipt with you.

### Step 6

Keep your eye open for the written acknowledgement of your request.

<sup>17</sup> Refer to Form 1 of the RTI Act

## Appeal Process if Information is Denied



### Appealing to the Appeals Officer

1. If the information officer:
  - a. refuses a request to access information;
  - b. does not comply with the given time period;
  - c. gives you incomplete, misleading or even false news;
  - d. charges an excessive fee that what is set out;
  - e. does not provide the information in the manner it was requested;
  - f. if the information is deformed, destroyed or misplaced intentionally then you can appeal to the Appeals Officer within 14 days.
2. Once the Appeals officer receives the appeal, she or he should issue a receipt on the acceptance of the appeal
3. A decision on the appeal should be made within three weeks
4. The decision should give reasons

### What about the RTI Commission?

1. You can appeal to the RTI Commission if you are not satisfied with the decision made by the Appeals Officer.
2. Make sure to do this within 2 months of the decision.
3. The RTI Commission has 30 days to review your appeal and give a decision.
4. The decision made by the RTI Commission should be given in writing to the person who requested the information, the information officer and the public authority concerned.

## Don't worry if you cannot show up!

If by any chance you are unable to appeal to the Appeals Officer of the RTI Commission, you can authorize your representative to appeal on your behalf. However, this authorization should be done in writing.

## Court of Appeal

You can file an action in the Court of Appeal if you are not satisfied even with the decision given by the Court of Appeal.

## What worked so far?

Here are some important cases from the time period before RTI was directly recognized as a legally enforceable right.

**Point to consider:** Look at how courts interpreted Freedom of Expression. Is there a link to Right to Information?

### **Visuvalingam and Others V. Liyanage and Others (1984)<sup>18</sup>**

The Emergency Regulations banned a publication. This constituted an infringement of freedom of expression because it restricted the right to know. This case widened the substantive scope of the FR jurisdiction including the right to information and right of listeners and readers of media.

Here are some important cases after RTI was directly recognized as a legally enforceable right.

**Point to consider:** What would have happened if RTI was not recognized as a legally enforceable right?

### **Airline Pilots Guild of Sri Lanka v. Sri Lankan Airlines Ltd (2017)<sup>19</sup>**

Airline Pilots Guild of Sri Lanka requested certain information from Sri Lankan Airlines Ltd. however, the IO responded to the request refusing the information citing exemptions under Section 5 (1) of the RTI Act. The RTI Commission held that Sri Lankan Airlines comes within the ambit of Section 43 of the Right to Information Act, which defines a public authority.

<sup>18</sup> Ibid; 11

<sup>19</sup> Selected Orders of the Right to Information Commission of Sri Lanka (2017- 2018) With Extraction of Keywords and Index of Orders (RTI Commission, 2019) 1

### **Environmental Foundation Ltd., v. Urban Development Authority of Sri Lanka (2005)<sup>20</sup>**

The Urban Development Agency (UDA), entered into a lease agreement with E.A.P Networks (EAPN). The EAPN took over management and control of Galle Face Green. The petitioner, Environmental Foundation Ltd. requested information with regard to said agreement. However, the respondent refused to produce relevant information and the petitioner argued that the respondent's inaction will constitute a violation of freedom of expression under article 14 (1) (a) of the Constitution. The Supreme Court accepted the petitioner's argument and upheld that even if there is no direct constitutional guarantee in terms of right to information, freedom of expression involves the right of citizens to receive information which is of public interest.

### **Transparency International Sri Lanka v. Presidential Secretariat (2018)<sup>21</sup>**

The petitioner made a request to the Presidential Secretariat to disclose documents of assets of the then President and Prime Minister for the years 2015 and 2016. The Secretariat rejected the request citing many reasons. The Right to Information Commission held that the authorities had a legal duty to disclose financial information of the country's Prime Minister.

<sup>20</sup> Ibid; 11

<sup>21</sup> Ibid; 19

## Impact Exercise

### Your time has come!

Fill in the Form 1 of the RTI Act (below) for the following scenarios:

#### 1. Scenario 1

An External Degree Student of the University of Peradeniya wants to file an RTI application requesting information about the completion of the Degree Program, which was being delayed due to the postponement of the examinations.

#### 2. Scenario 2

Fathima, an individual from the Polonnaruwa District, belongs to the Madirigiriya Divisional Secretariat. She attempted to obtain information regarding the ownership of the land, where her house is located, several times. However, despite many attempts, she did not receive a clear response from the respective authority.

#### 3. Scenario 3

A new building that was built to serve as the Negombo bus stand was found not in use even after the construction was fully completed. The building is now being used for certain illicit activities and due to the lack of maintenance, garbage was piling up in the premises.



**RTI 01**

Note that completion of this Form is not a compulsory requirement to make a request for information and that any written letter, e-mail or a verbal request with the essential information to identify the requested information is sufficient.

**Application to receive Information**

Information Officer,

- 1. Name of Requestor - .....
- 2. Address – .....
- 3. Contact No. (if any) -.....
- 4. Email Address (if any) - .....
- 5. Details about Information requested
  - I. Specific Public Authority .....
  - II. Information requested .....
- 6. ....
- 7. ....
- 8. ....
- 9. ....
- 10. ....
- 11. ....

III. Specific period information is requested (if applicable).....

- 6. Manner in which information is requested–
  - i. inspect relevant work, documents, records
  - ii. Take notes, extracts or certified copies of documents or records
  - iii. Take certified samples of material
  - iv. Obtain information in the form of CD/DVD/storage media/tapes/ video cassettes/ any other electronic mode/ printouts where such information is stored in a computer or in any other device.
- 7. Language in which requestor prefers access -.....
- 8. Does the information request concern the life and personal liberty of a citizen? (Yes/No)

If Yes, give reason for belief -

.....

.....

9. Any other details- .....

10. Relevant documents attached (If any)

I. .... II. .... III. ....

11. Is the requestor a citizen of Sri Lanka? (Yes/No)

Date: -

Signature:-

## Community Impact Project

To complete this module, you are required to take on a community impact project. In this project you are required to come up with a media product aimed at raising awareness on RTI. Don't worry. There are only five simple rules in implementing this project! Here they are:

- » You will be grouped in order to carry out this project;
- » You are required to design and implement this project;
- » Your project should raise awareness on the right to information;
- » Impact a community of minimum 200 people.
- » You should spend a minimum of 3 hours in implementing this project.

## References

### Constitution

The Constitution of the Democratic Socialist Republic of Sri Lanka (1978)

### Cases

Dagg v. Canada [1997] 2 S.C.R. 403

Environmental Foundation Ltd. v. Urban Development Authority [SCFR 47/2004]

Fernando v. Sri Lanka Broadcasting Corporation & Others [1996] 1 SLR 157

Visuvalingam and Others v. Liyanage and Others [1984] 2 SLR 123

### Statutory Instruments

Right to Information Act 2016, No. 12

### Books

Aruna Roy, *The RTI Story: Power to the People* (Roli Books, 2018)

Center for Policy Alternatives, *National Advocacy Campaign on Right to Information* (Colombo, 2003)

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### Journal Articles

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Maeve McDonagh, 'The Right to Information in International Human Rights Law' [2013] <<https://www.corteidh.or.cr/tablas/r30698.pdf>> (accessed 20 December 2020)

The Death of President Lincoln' *Boston Morning Journal* (Massachusetts, 17 April 1865) Ralph Nader, 'The Underachievements of Congress' *The New York Times* (23 December 1971)

