

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.  
All rights reserved.**

## ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

## ***PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT***

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

# **THE TRANSPARENCY PARADOX: FROM “RIGHT TO KNOW” TO “RIGHT TO PRIVACY”; HOW DPDP ACT SILENCES THE CITIZEN OF INDIA**

AUTHORED BY - <sup>1</sup>VINAY YADAV\* & DR. (PROF.) PREETY JAIN\*

<sup>1</sup>Research Scholar, Department of Law, Kurukshetra University, Kurukshetra, Haryana

\*Chairperson & Dean, Department of Law, Kurukshetra University, Kurukshetra, Haryana

## **Abstract**

For a democracy to flourish, the government must ensure transparency to its citizens while safeguarding their privacy. For the past twenty years, India has maintained this fragile equilibrium, which has been disrupted with the enactment of the Digital Personal Data Protection Act, 2023.

This study analyzes the "Transparency Paradox," a phenomenon wherein legislation designed to protect individual privacy and their liberty is being used to prevent government operations from public scrutiny and thus making the system opaque. It is contended that by elimination of the "Public Interest Override" and "Parliamentary Parity" provisions, the government has substantially curtailed citizens' fundamental Right to know through legal criteria. This is not only a legal amendment but also a fundamental transformation that promotes a lack of transparency, avoids accountability, and leaves the general public uninformed.

**Keywords:** DPDP Act 2023, Fundamental Right, Democracy, Right to Know, RTI Act, 2005, Right To Privacy

## **I. Introduction**

In India, the development of the constitutional rights which are often coupled with the Right to Know and the Right to Privacy, which means the government has to balance its responsibility to be transparent towards the Right to Privacy and Freedom of its citizens. Right to Know means that the government has to be transparent as well as disclose everything to its citizens in the public interest. Right to Privacy states that every person has the right to keep their personal information private. The RTI Act of 2005

strikes this balance by making openness the norm and only allowing privacy in cases that are clearly spelled out in the law. "We used to operate under the assumption that information belongs to the public. The original RTI framework had privacy as a clear line that could coexist with openness. That balance was broken on November 14, 2025. The DPDP Rules have given the state a new legal shield that lets it ignore established rules of accountability. We used to have a system where disclosure was the norm. Now, the government can control the truth by pretending to follow the rules. By claiming to safeguard privacy, the government has effectively gained the power to silence the questions it doesn't want to answer. Section 44(3) of the new Act transforms a current balancing mechanism into an unrestricted right to refuse.

This paper studies a paradox that has emerged: in our zeal to protect data, we have alienated public officials from the citizens they serve. "The new rules have turned privacy into a weapon by making 'personal data' include almost everything about a public servant's life. When you combine this with the removal of the public interest override, the message is clear: the government is prioritizing the privacy of its officials over its accountability to the people."

## II. The Constitutional Context: Matrix of Dual Rights

To understand the magnitude of the damage, we must analyze the fundamental significance of these rights to humanity. Privacy is characterized as a protection for individuals from governmental intrusion. It was never intended to serve as a "bunker" for public officials to evade scrutiny. Legislation of Section 44(3) ceases to be transparent and accountable, as it fails to distinguish between personal freedom and public responsibility. With this legislation, the government has clearly disrupted its equilibrium to be transparent and accountable by putting the informational privacy of the government executives above the right of its citizens to know the truth.

### A. The Right to Know: The Sword

The legislation of the RTI Act is not a privilege granted by the government; it is a requirement established by the Constitution (Article 19(1)(a)). In the Raj Narain case (1975), the Supreme Court clearly stated that this nation is governed by its people, and they have the right to know every action of government representatives. Furthermore, the same view was solidified in *S.P. Gupta vs Union of India* (1981) by Justice P.N. Bhagwati's famous maxim, "*sunlight is the best disinfectant*," which was not merely poetry—it was a necessary

requirement for making power accountable and transparent.

### **B. The Right to Privacy (The Shield)**

Privacy is an equally vital part of democracy. The Puttuswamy judgment (2017) primarily recognized the privacy as a fundamental right. But the new legislation fails to recognize this crucial distinction of law. The Court has never intended that privacy to be used as a safeguarding tool where the public officials could hide corruption. The judgment holds that things should be proportional. Due to the ignorance of this nuance in DPDP Act, the current conflict emerged because this law prioritizes the privacy of a public official over the citizens' right to ascertain the truth.

## **III. The Statutory Rupture: Redaction of Section 8(1)(j)**

This equilibrium has been disrupted majorly by the specific amendment to Section 8(1)(j) of the RTI Act, 2005 via Section 44(3) of the DPDP Act, 2023

### **A. From "Is it Justified?" to "Is it Personal?"**

The criteria that required a Public Information Officer (PIO) to ask a critical question before denying information: Does the larger public interest justify disclosing this private info? Has been deleted. The current amendment leaves the only question to be "Does this information relate to a person?" The new definition of personal data expressly stated that any data that can identify an individual has created an absurd reality. The technicality of the new rules has made a public official's attendance record, their asset declaration, or a file noting they signed as personal data, which is being exempted from its disclosure in public under the amended law. This prevents the citizens from questioning public personnel's actions during the discharge of their public duty for scrutiny, which might make them unaccountable and ignorant.

### **B. The Betrayal of "Parliamentary Parity"**

The elimination of the proviso that expressly stated, "Information which cannot be denied to the Parliament shall not be denied to any person," is very detrimental. This legislation provides the equal importance to the citizens as important as the members of the Parliament. But the removal of this provision suggested hierarchy where the executive is answerable to the legislature by not the Hetal public, for they are appointed and are serving.

#### IV. The Chilling Effect: The Human Factor in Administration

Although these laws are written on paper with utmost care, keeping in view multiple viewpoints, since these are executed by humans, their ability to make inferences and personal position of the officer in charge of disseminating the information might differ, and it is influenced by various factors such as experience, leadership qualities, decision-making ability, family condition, etc. In cases where the RTI Act and DPDP are to be implied simultaneously, it creates a nightmare scenario for the government officer (PIO).

##### Consider the principles of survival for a PIO:

- a) **If they deny information wrongly (RTI Act):** They face a maximum fine of ₹25,000.
- b) **If they disclose information wrongly (DPDP Act):** They risk a data breach penalty that can soar up to ₹250 crore.

This fear of financial loss, damage to their image in society due to penalties, and the impact on their family pushes them to deny the request each and every time to avoid any conflicts. The chilling effect of the massive penalties freezes the flow of information, and thus, even the information that was supposed to be made public is denied access.

#### V. Judicial Conflict: Public Duty vs. Private Life

The distinction between a Public servant's official and private life has long been a subject of judicial discourse and complicating the separation of the two domains.

The ruling in *In Girish Deshpande* (2013) that service records were “personal” shows the **restrictive view**, whereas the **progressive view** of the courts is clearly visible in *Subhash Chandra Agarwal* (2019) where the Constitution Bench maintains that there should be a fair balance between transparency and privacy.

The DPDP Act effectively ignores the progressive view and legislates the restrictive one. The legislation removes the PIO's ability to consider "public interest," thereby ensuring that the official's privacy is prioritized above all else.

#### VI. Comparative Jurisprudence: The European Divergence

India's stand on various aspects of privacy shows stark differences from global standards, especially the European Union's GDPR, which is taken as a golden standard

for privacy and Data management. The European approach prioritizes the general public good and satisfaction over personal privacy, as it is visible from *Article 86 of the GDPR*, which explicitly states that public authorities can disclose personal data if it serves the public interest.

The European Court in *the ClientEarth case*, the privacy of experts was overridden in the public interest by the European Court, which influenced food safety laws.

The Indian DPDP has placed one above the other instead of reconciling one philosophy with the other to encourage a participatory, responsive and a copy table governance. Our legislation have led to a system that is less democratic in practice but stricter on paper.

## VII. Conclusion: Fixing the Paradox

Transparency Paradox represents a contrived crisis, as we have established a systematic framework in which the Right to Privacy of those who are in power jeopardizes the Right to Information of the sovereign citizen.

### The Path Forward:

- 1. Legislative Restoration:** The reintroduction of "Public Interest Override" within Section (8)(1)(J) of RTI Act is a must. Empowering a PIO to make decisions on whether the declaration of private information in the public domain is necessary or not will enhance effectiveness, transparency, and build citizens' trust and upholding the transparency against being indemnified by the DPDP Act, 2023.
- 2. Remove ambiguity and clearly define "Public Actions":** explicitly stating that actions taken under official capacity, such as attendance, salary, and file notations, that come under public data, will make the system accountable.
- 3. Grant Protection to the Journalist:** The law needs to exempt the investigative reporting agents such as the journalists as done in GDPR so that a responsible system is established through questioning and continuous scrutiny. Also this will make the officials feel accountable for the actions they take.

Strong democracy, transparency, and accountability are the core pillars for the good governance. Transparency and clarity in action do not imply leaving the citizens bare and defenseless. The government must protect its citizens from all forms of dangers, of which digital data theft is one such danger looming ahead. The DPDP

Act in its present form misinterprets this by safeguarding the state's information wherein citizens' data is laid wide open at risk of exploitation. These dangers of the 21<sup>st</sup> century need such a solution, which protects nations' autonomy, trade and business, and citizens' rights all at once without hindering each other. Right to privacy, which shield individuals from the state, and the right to information, which safeguards citizens against state must reach at a coherence to provide information to citizens and shield some information of state in such a manner which can help in building India a Samridh state respecting dignity of individuals as desired.

### VIII. References

1. *State of Uttar Pradesh v. Raj Narain*, (1975) 4 SCC 428.
2. *S.P. Gupta v. Union of India*, AIR 1982 SC 149.
3. *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.
4. *Girish Ramchandra Deshpande v. Central Information Commission*, (2013) 1 SCC 212.
5. *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal*, (2020) 5 SCC 481.
6. *ClientEarth and PAN Europe v. European Food Safety Authority*, Case C-615/13 P, CJEU.
7. Digital Personal Data Protection Act, 2023, No. 22 of 2023, Acts of Parliament (India).
8. Digital Personal Data Protection Rules, 2025, G.S.R. (E), Ministry of Electronics and Information Technology (Nov 14, 2025).
9. Rakhra, L. (2024). "The Transparency–Privacy Paradox in India," *International Journal of Law and Legal Jurisprudence Studies*, Vol. V, Issue V.
10. Editors Guild of India. (2023). "Statement on the Impact of DPDP Act on Press Freedom."

### Works cited

- i. Implications of the Digital Personal Data Protection Act, 2023 on press freedom and right to information - IFEX, ., <https://ifex.org/implications-of-the-digital-personal-data-protection-act-2023-on-press-freedom-and-right-to-information/>
- ii. DPDP Rules, 2025 Notified, ., [https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/nov/doc\\_20251117695301.pdf](https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/nov/doc_20251117695301.pdf)

- iii. The Amendment To Section 8(1)(J): Shifting From 'Public Interest' To 'Total Prohibition' - amlegals.com, ., <https://amlegals.com/the-amendment-to-section-81j-shifting-from-public-interest-to-total-prohibition/>
- iv. [Analysis] Reconciling DPDP Act and RTI Act – Privacy vs Transparency in India - Taxmann, <https://www.taxmann.com/post/blog/analysis-reconciling-dpdp-act-and-rti-act>
- v. THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023 (NO. 22 OF 2023) An Act to provide for the processing of digital personal data in., <https://www.meity.gov.in/static/uploads/2024/06/2bf1f0e9f04e6fb4f8fef35e82c42aa5.pdf>
- vi. RTI Act 2005: Transparency, Key Cases & Amendments - Prime Legal Blogs, <https://blog.primelegal.in/the-right-to-information-act-2005-impact-on-transparency/>
- vii. The Great Tug of War: Transparency vs Privacy - Record Of Law, <https://recordoflaw.in/the-great-tug-of-war-transparency-vs-privacy/>
- viii. JUSTICE K.S. PUTTASWAMY VS. UNION OF INDIA - South Asian Translaw Database, ., <https://translaw.clpr.org.in/case-law/justice-k-s-puttaswamy-anr-vs-union-of-india-ors-privacy/>
- ix. An Analysis of Puttaswamy: The Supreme Court's Privacy Verdict, ., [https://www.ssoar.info/ssoar/bitstream/handle/document/54766/ssoar-indrastraglobal-2017-11-bhandari\\_et\\_al-An\\_Analysis\\_of\\_Puttaswamy\\_The.pdf?sequence=1](https://www.ssoar.info/ssoar/bitstream/handle/document/54766/ssoar-indrastraglobal-2017-11-bhandari_et_al-An_Analysis_of_Puttaswamy_The.pdf?sequence=1)
- x. Digital Personal Data Protection Act, 2023 DPDPA SECTION 44 WITH INTERPRETATION, ., <https://www.dpdpa.com/dpdpa2023/chapter-9/section44.html>
- xi. Section 44(3) of the Digital Personal Data Protection (DPDP) Act - INSIGHTS IAS, ., <https://www.insightsonindia.com/2025/03/29/section-443-of-the-digital-personal-data-protection-dpdp-act/>
- xii. Revisiting Right to Information in India: Is the DPDP Act ..., ., <https://ohrh.law.ox.ac.uk/revisiting-right-to-information-in-india-is-the-dpdp-act-counterproductive-to-rti-act/>
- xiii. Repeal recent amendments to the RTI Act, 2005: Justice A.P. Shah in an Open Letter, <https://sabrangindia.in/repeal-recent-amendments-to-the-rti-act-2005-justice-a-p-shah-in-an-open-letter/>

- xiv.** Justice A.P. Shah's Open Letter Seeking Repeal of Recent Amendments to RTI Act, ., <https://janataweekly.org/justice-a-p-shahs-open-letter-seeking-repeal-of-recent-amendments-to-rti-act/>
- xv.** GIRISH: AN IRON WALL BETWEEN RTI AND PUBLIC INFORMATION Madabhushi Sridhar Acharyulu\* ABSTRACT\*\* There is one order of the Supreme, <https://www.nujs.edu/wp-content/uploads/2022/11/File-42.pdf>
- xvi.** The Transparency-Privacy–privacy paradox in India: a critical examination of ..., ., <https://ijirl.com/wp-content/uploads/2025/10/THE-TRANSPARENCY%E2%80%93PRIVACY-PARADOX-IN-INDIA-A-CRITICAL-EXAMINATION-OF-THE-DIGITAL-PERSONAL-DATA-PROTECTION-ACT-2023-AND-ITS-IMPACT-ON-THE-RIGHT-TO-INFORMATION-ACT-2005.pdf>
- xvii.** Judgment in Plain English - Supreme Court Observer, <https://www.scobserver.in/reports/central-public-information-officer-supreme-court-subash-chandra-agarwal-judgment-in-plain-english/>
- xviii.** STANDING COMMITTEE ON COMMUNICATIONS AND INFORMATION TECHNOLOGY (2023-24) SEVENTEENTH LOK SABHA MINISTRY OF ELECTRONICS AND INFO - Digital Sansad, ., [https://sansad.in/getFile/lssccommittee/Communications%20and%20Information%20Technology/17\\_Communications\\_and\\_Information\\_Technology\\_55.pdf?source=loksabhadocs](https://sansad.in/getFile/lssccommittee/Communications%20and%20Information%20Technology/17_Communications_and_Information_Technology_55.pdf?source=loksabhadocs)
- xix.** Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal (2019) - Drishti Judiciary, ., <https://www.drishtijudiciary.com/landmark-judgement/constitution-of-india/central-public-information-officer-supreme-court-of-india-v-subhash-chandra-agarwal-2019>
- xx.** Central Public Information Officer, Supreme Court of India vs. Subhash Chandra Agarwal, ., <https://privacylibrary.ccgnlud.org/case/central-public-information-officer-supreme-court-of-india-vs-subhash-chandra-agarwal>
- xxi.** Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal (Civil Appeal No. 10045 of 2010 & Civil - Chhattisgarh State Judicial Academy, ., [https://csja.gov.in/images/p1195/s\\_1\\_constitution\\_vision\\_of\\_Justice/case\\_law.pdf](https://csja.gov.in/images/p1195/s_1_constitution_vision_of_Justice/case_law.pdf)

- xxii.** DPDP Act Balances Privacy & RTI - S.S. Rana & Co., ., <https://ssrana.in/articles/dpdp-act-upholds-privacy-while-preserving-transparency-under-right-to-information-act/>
- xxiii.** DPDP Act, 2023, Upholds Privacy While Preserving Transparency Under RTI, ., <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2158506>
- xxiv.** ClientEarth v. European Food Safety Authority - Environmental Law Alliance Worldwide, ., <https://elaw.org/resource/clientearth-v-european-food-safety-authority-1>
- xxv.** ClientEarth sounds alarm as Commission stands by controversial transparency rule change, ., <https://www.clientearth.org/latest/press-office/press-releases/clientearth-sounds-alarm-as-commission-stands-by-controversial-transparency-rule-change/>
- xxvi.** A Comparative Study on GDPR and DPDP, Act - ijrpr, ., <https://ijrpr.com/uploads/V6ISSUE10/IJRPR54121.pdf>
- xxvii.** RTI vs DPDP Act: Threats to Transparency and Accountability in India - Ensure IAS, ., <https://www.ensureias.com/blog/current-affairs/rti-vs-dpdp-act-threats-to-transparency-and-accountability-in-india>
- xxviii.** Personal information v. Public interest: Section 8(1)(j) of RTI - SCGB Solutions, <https://scgbsolutions.com/personal-information-v-public-interest-section-81j-of-rti/>
- xxix.** FOI Notes: Canada, UK, India, Russia, Mexico, Transparency Research, Open Data, US, <http://www.freedominfo.org/2016/01/foi-notes-canada-uk-india-russia-mexico-transparency-research-open-data-us/>