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A CASE OF OVERSIGHT OR OVERREACH?

RTI must be saved from Yet Another Onslaught!

Dear Readers,

Most of you received a feedback form with the last issue of your journal. The purpose was to verify if the journal is reaching you. Many of our members have moved houses and cities, or are no longer with us. Their copies lie unopened, which is a huge waste of time, effort and money. Please help us by returning the feedback form at your earliest convenience. You may also give your feedback online by visiting our website (commoncause.in)

For over 43 years, the journal has been coming to you for free. It runs on your goodwill and support. It covers matters of public concern to improve governance or the quality of life. Please consider a small donation if you like the coverage. It will help us serve you better in these difficult times. The bank details are given on the opposite page.

Of late, we have spruced up our online presence. The "Case Library" section of the website now has updated case briefs on all our PILs, along with the court orders and judgments. All our publications are also available online. Wikipedia now has separate pages on Common Cause India and the Status of Policing in India Reports (SPIR). These pop up in global searches with information about our work.

This issue of your journal is devoted to a new threat to India's Right to Information Act. Bizarrely, the Digital Personal Data Protection (DPDP) Act 2023 now overwrites the RTI Act to prohibit the disclosure of information deemed personal. It may be denied even in matters of corruption or illegality by government functionaries. And if an investigative journalist exposes acts of omission and commission, she may face imprisonment or ridiculous penalties running into hundreds of crores. It will have a chilling effect on anyone trying to hold the powerful to account.

The RTI Act is an important milestone in India's democratic journey. It allows citizens to check if the public servants are doing their job, and if the public money is being spent fairly. In the past, information has been routinely blocked in the name of national security or public safety. More recently, information has been denied about the revision of the electoral roll in Bihar. However, these are routine denials; the new onslaught may demolish RTI altogether.

Just as RTI, civil society has fought hard for years to make privacy a fundamental right. Both laws are vital for democracy. Common Cause journal has had separate cover stories on both issues. We believe that the clashing aspects of the two laws should be resolved in the public interest with logic and reason, and in consultation with all stakeholders. Doing nothing will certainly harm both the causes--of the individual's privacy and her freedom of information. We hope that good sense will prevail.

The articles in the following pages try to simplify the underlying issues and their consequences. We also discuss the evolution of India's RTI Act with global comparisons.

As always, your views and comments are welcome (Please write to us at contact@commoncause.in)

(Vipul Mudgal)
Editor

RIGHT TO PRIVACY VS. RIGHT TO INFORMATION

Frequently Asked Questions

Vinson Prakash*

Representational Image

The RTI Act has always faced pressure from those in positions of power and authority. But now its very existence has come under threat because of the recent amendments in the Digital Personal Data Protection (DPDP) Act. These amendments have created loopholes to allow the denial of information in the name of protecting privacy. We try to unravel the problem and its legal and operational aspects through these FAQs

Q1. What is the Right to Information (RTI)?

The spirit of the Right to Information (RTI) is that citizens MUST know their government. It is a cornerstone of democracy that grants every citizen the right to know what is happening behind the scenes—from how public money is spent to why a decision was made. It keeps our leaders and bureaucrats relatively honest, accountable, and a little less comfortable.

The Indian Constitution frames it under Article 19(1)(a) as a fundamental right to speech and expression. The Right to Information Act, 2005, gives every Indian citizen the right and a roadmap to request information from the government. Sure, there are a few exceptions, but overall, it is a powerful tool to obtain information and promotes transparency.

Q2. Why should I care about the RTI?

RTI gives ordinary citizens the power to act as watchdogs. Almost ANY information can be requested—as long as it is held by a public authority or a government-regulated body. This includes: reports, memos, contracts, records, models, documents, and anything on a computer or in the government files.

Think of it this way: we, the people, have a social contract with the government—we follow the laws, pay our taxes, and contribute to society. In return, we expect freedom, equality, safety, a modicum of social security, and a healthy society. RTI lets us check whether that contract is being honoured—whether public money is being spent wisely, citizens are getting their entitlements, decisions are being made fairly, and officials are doing their jobs.

Q3. What is the Digital Personal Data Protection Act, 2023?

The Digital Personal Data Protection Act, 2023 is India's landmark law on digital data privacy. It tries to strike a balance between an individual's right to privacy and the need for companies or the government to use that individual's personal data for legitimate reasons. It establishes a framework to ensure that the personal data is protected and processed lawfully.

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Q4. How is RTI under threat?

In 2023, the DPDP Act was the Trojan horse used by the Centre to demolish one of the RTI Act's main pillars: disclosure of some personal information in wider public interest. Section 44(3) of DPDPA amended Section 8(1)(j) of the RTI Act to prohibit the disclosure of any personal information.

Previously, the RTI Act allowed public authorities to disclose personal information if it served a larger public interest or did not result in an unwarranted invasion of privacy. The amendment introduced through the DPDP Act has stripped Section 8(1)(j) of both these safeguards. It removes the public interest exception and the unwarranted invasion of privacy test, effectively barring the disclosure of any personal information, regardless of its saliency to public interest or democratic oversight.

Q5. What is the main problem?

The DPDPA wants to protect a citizen's personal data from misuse. The RTI Act stands in its way by allowing any Indian citizen to seek the personal information of any person, held in any form, by a public authority. In privacy's eyes, if the individual whose data is being sought did not consent to its disclosure, the disclosure could subject the individual to surveillance, may reveal information the individual considers private, and could cause the individual physical, financial, or mental harm. The Supreme Court in *K.S. Puttasamy v. The Union of India* (2018) highlights that "knowledge about a person gives a power over that person"[1]. These are the some of the considerations that the DPDPA takes into account to outlaw the disclosure of any personal information.

Q6. How does the DPDP Act affect journalism and public interest disclosures?

The DPDP Act threatens severe sanctions against individuals, journalists and the press who are engaged in investigative journalism or are seeking/sharing personal information in public interest. A journalist or a citizen seeking to expose a corrupt government official or contractor must now obtain permission from the very individual implicated in the malfeasance before sharing the exposé. Even if information on miscreants within the government is obtained through any source - such as emails, informers, anonymous tips and so on - that information is obsolete as it cannot be shared with the public. If one does expose malfeasance by disseminating personal information, they can be hit with a fine ranging from Rs. 50-250 crores under the DPDP Act.

Journalistic activity is exempted from data protection laws in many countries; however, no such exemption exists in the DPDP Act despite its 2019 draft, named the 'Personal Data Protection Bill', exempting journalistic activity from almost all of its provisions.

Q7. Doesn't everyone deserve privacy—even public servants?

Certainly! Privacy is a right. But, when you are in a position of public trust, or a government authority, and make decisions that affect the lives and liberties of others—you become accountable to the people of the country. Besides, RTI is not asking about your private life, it is asking how you were appointed, how you discharged your duties, how you spent public money, and how you made decisions on others' behalf—all matters of public concern.

Q8. Should we do away with the data protection law?

Of course not. A strong data protection law is absolutely essential. In today's digital world, where our digital doubles are being created and our personal information is constantly being tracked, traded, and sometimes exploited by both tech giants and the government, privacy needs to be a legal guarantee.

The DPDPA gives real teeth to the fundamental right to privacy. Modelled after the European

General Data Protection Regulation and other Western data protection laws, it lays down a comprehensive framework to protect your data. But while protecting privacy, the DPDPA also takes a bite out of the RTI. The amendment it makes to the RTI Act blocks access to all personal information—even when there's a clear public interest. That's not balance. That's overcorrection.

So yes, we do need a robust data protection law—but not one that protects your bank details while shielding corrupt officials from scrutiny. The Right to Privacy and the Right to Information can–and must–coexist. When they collide, the law must ensure that any restriction imposed by one does not disproportionately crush the other.

Q9. How to decide what a proportional restriction is?

In a legal context, the principle/ doctrine of proportionality is the standard used to resolve conflicts between competing fundamental rights.

In *Modern Dental College & Research Centre v. State of Madhya Pradesh* (2016), the Supreme Court laid out a four-part test to determine proportionality[2]. A restriction on a fundamental right is permissible if:

- The restriction has a legitimate purpose.
- The measure used to enact such a restriction is rationally connected to the fulfilment of that purpose.
- The undertaken measures are necessary and no other measure can achieve that same purpose with a lesser degree of restriction.
- The benefits of the purpose outweigh the harm caused to the competing right.

Q10. Can the RTI and the right to privacy be balanced?

The *right to information* protects citizens from being misgoverned and the *right to privacy* protects citizens' data from being misused. Both are fundamental rights granted by our Constitution, and neither should steamroll the other.

The clash between them should be resolved through the principle of proportionality. The principle asks: Is the amendment needed? What is being achieved here? Is this restriction fair? Can it be done through any other means? And is there a balance between what's being protected and what's being given up?

Moreover, in *K.S. Puttasamy v. Union of India* (2018) the Supreme Court expressly laid down the circumstances in which the **right to privacy can be restricted**. The judgement states that the right to privacy, subject to the principle of proportionality, can be restricted when it is in imbalance with other fundamental rights AND **when public interest justifies the restriction.**

Notably, Section 8(1)(j) of the RTI Act was already a qualified exemption. The principle of proportionality was already upheld. Personal information was only disclosed when it served a larger public interest—outweighing the right to privacy of the individual.

The amendment brought in by the DPDPA entirely disregards the principle of proportionality. Now, any information that even hints at being "personal" is off limits, no matter how important it might be for public accountability

Q11. What is public interest? How is it determined, and by whom?

As the name itself suggests, public interest, simply put, is what the people want, need, or deserve in order to exercise and enjoy their constitutional rights and freedoms. A fulfilled public interest enriches democracy and adds to the greater good of society.

When it comes to the right to know, public interest is not what the people want to know; it is what they need to know in order to uphold democratic values, demand accountability, and protect their rights. In *CPIO, Supreme Court of India v. Subash Chandra Agarwal* (2019), Justice Sanjiv Khanna

aptly said that "public interest in access to information refers to something that is in the interest of the public welfare to know."[3] Justice N.V. Ramana further emphasized that "the right to information and right to privacy are at an equal footing. **There is no requirement to take a priori view that one right trumps other."**[4]

To decide whether public interest warrants the disclosure of information, Indian courts, Information Commissions, and public authorities use a public interest test on a case-by-case basis. This test is repeatedly used by courts and is reiterated in judgments of *K.S. Puttasamy and Subash Chandra Agarwal*. The test weighs factors such as: the nature of the information, the purpose of seeking disclosure, whether the information relates to public duties or private life, potential harm to the individual if disclosed, and whether the public benefit from disclosure outweighs that harm. The test thereby allows authorities to do their due diligence before deciding whether the disclosure serves the greater good or just the one asking for it.

The DPDPA amendment dropping the public interest proviso from the RTI Act raises the question: Whose interest is the law serving?

Q12. What does the amendment to Section 8(1)(j) lead to?

The amendment to Section 8(1)(j) shields corrupt and/or incompetent government officials from taking accountability for their actions/omissions, pulls a screen over government spending and dispensation of public money, and allows politicians to hide their stakes in private businesses/interests. The government has gained a right to deny information and the public are in the dark about the government officials and the system which presides over them. Information such as educational qualifications, government contractors, financial assets, service and travel records, and exam scores are unattainable due to the recent amendment.

Q13. Did requesting personal information do any good before the amendment?

Yes, RTI requests seeking personal information have been instrumental in protecting the land from corruption. RTI activists revealed malpractices such as: Air India swapping airliners to suit VIP politicians[5], IAS officers taking lavish vacations on public money[6], and Chief Ministers being allotted bungalows they rarely used in Delhi[7]—amongst thousands of other cases of corruption/ malpractices.

Q14. What are the main challenges?

Public authorities have often been the prime opponent of the RTI Act. The Act was pushed up by civil society groups, activists, and ordinary citizens demanding the right to know. The government caved under public pressure and years of advocacy by the National Campaign for People's Right to Information (NCPRI) and other groups in 2005.

However, the moment it was passed, some of those in authority got busy trying to clip its wings. In 2006, they tried to bring about a set of amendments barring the disclosure of file notings and cabinet papers (even if a decision has been made). Once again, citizens and civil society rallied against these amendments. In 2019, the government succeeded in bringing the Central and State Information Commissioners under its thumb. It gained the power to dictate the Commissioners' tenure, salaries, and other terms of service, curtailing the latter's independence to operate without fear or favour. It began appointing its own persons as Commissioners who guard the information from the people who have the right to know[8].

The attempts didn't stop. The DPDPA is just the latest attempt. Appointment of Information Commissioners are delayed endlessly—Jharkhand, for instance, hasn't had an Information Commissioner since 2020! Public authorities don't comply with Section 4(2) of the RTI Act which requires them to

proactively disclose information. There is an extensive backlog of appeals, and online RTI portals barely work, if at all present.

Q15. Is anyone fighting to save the RTI Act?

Yes, there is resistance and it is growing. Over 30 civil society organisations have joined hands and are resisting the calculated siege of the RTI Act.

The prime proponents of the Act, The National Campaign for People's Right to Information, have launched a petition, seeking a rollback on the recent amendment to reconstruct the pillar of Section 8(1)(j) without any cracks. The petition can be accessed through https://bit.ly/4mHGyGO

Civil society delegates have raised the issue with the leader of the Opposition, and subsequently, 120 MPs from the India Bloc have raised the alarm and have called for a repeal of the amendment.

The fight against devitalisation of the RTI Act is not just a legal battle. It is a fight to restore the cornerstone of democracy—the right to know and the right to ask questions.

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MILESTONES AND MISSED PROMISES

The Story of RTI— Once Celebrated, Now Endangered.

Rishikesh Kumar*

A man was gunned down on the Lucknow–Delhi National Highway.

But it wasn't a case of robbery, a political rivalry, or a random act of violence. The man killed was Raghavendra Bajpai—a local journalist and an RTI activist. His crime? He asked too many questions.

Sadly, his story is not an exception—it's part of a disturbing pattern.

Since the Right to Information (RTI) Act came into force in 2005, there have been hundreds of attacks on people using the law to uncover corruption and wrongdoing. According to the Commonwealth Human Rights Initiative (CHRI), between October 2005 and October 2016, there were 311 reported cases of threats, attacks, and harassment directly linked to RTI use. At least 56 persons died during this period— including 51 murders and 5 suicides.

But this is just one side of the problem—the visible, violent side.

In 2023, the government passed the Digital Personal Data Protection (DPDP) Act, a legislation designed to protect personal data in the digital age. But hidden within it, in Section 44(3), lies a potential death sentence for transparency. This clause, by removing the exception for "public interest" in Section 8(1)(j) of the RTI Act allows public authorities to withhold information under the broad guise of protecting "personal data"—even when the data involves public servants, public money, and decisions taken in official capacity.

This means that the very law once meant to hold power accountable may now be used to shield it from scrutiny. That shift has grave implications.

And the evidence is piling up.

Now, let's shift focus. Behind the scenes, there's another crisis—one that doesn't make headlines but affects thousands: the silence of the system.

On October 12, 2024, *The Times of India* reported that over 4 lakh RTI appeals and complaints were pending across India as of June 30, 2025. Why? Because of vacant posts in Information Commissions, slow disposal of cases, and a system that's increasingly unresponsive.

> ***"When the RTI Act came into force in 2005, it showed us who benefits when information is hidden, and more importantly, who suffers when it finally comes out."***

So, to understand the bigger picture, we need to ask a few difficult but necessary questions:

- What is the RTI act and why was it created?
- Who benefits when information is blocked, and who pays the price?
- Can this law still serve its purpose, or has it been quietly hollowed out?

Through answers to these questions, we will trace the RTI's roadmap—its milestone, the manipulation it has suffered, and the missed promises that still haunt its legacy.

This is not just a legal journey. This is the story of a Right—once celebrated, now endangered.

The Birth of RTI

Before it became an Act passed in Parliament…

Before it was cited in courtrooms and appeals…

RTI began with a very simple, very human problem.

* *Rishikesh Kumar is a Research Executive (Legal) at Common Cause.*

In the villages of Rajasthan in the early 1990s, people were starving—not because there wasn't enough food, but because they didn't know where the food was going.

In one village, a woman stood up during a public hearing organised by the Mazdoor Kisan Shakti Sangathan (MKSS). She had worked on a road-building project, yet her name wasn't on the muster roll and her wages had not been paid.

"How is that possible?", she asked. "My hands are cracked from the stones. I carried the gravel. I was there. Where did the money go?"

No one had an answer. Or at least, no one was willing to give one.

That's when something powerful happened. The villagers started demanding access to official records—bills, vouchers, lists. They wanted to see the files, not just hear empty promises. And when they finally got hold of a few documents, the truth spilled out: massive corruption, ghost workers, and non-existent projects eating away public funds.

It was never just about paperwork. It was about power—and the right to question it.

This movement, led by MKSS, National Campaign for People's Right to Information (NCPRI) and fuelled by the voices of the poor, eventually grew into a nationwide demand. Civil society, lawyers, journalists—everyone joined in. They weren't asking for favours. They were demanding what every democracy should guarantee: the right to know.

Pic Credit: Nikhil Dey

Volunteers and Activists of MKSS Sitting at Dharna Demanding RTI Act

That demand led to the birth of the Right to Information Act in 2005.

And for a while, it worked like magic.

People filed RTIs to uncover scams in ration shops, ghost schools, fake pension schemes, illegal land deals.

> ***"RTI's real strength lies in how it empowers not just individuals, but also institutions of public accountability"***

Walls that had stood for decades began to crack. Suddenly, the common man had a tool to look into the rooms of power. But as the flood of questions rose, so did something else—resistance. And soon, the very tool that was created to empower the powerless became a threat to the powerful.

RTI in the Crosshairs

When the RTI Act came into force in 2005, it did more than open up dusty government files—it opened up a Pandora's box of truth. It showed us who benefits when information is hidden, and more importantly, who suffers when it finally comes out. In the now-infamous 2G Spectrum Scam, RTI activist Subhash Chandra Agrawal filed a simple request that unravelled a telecom scandal, implicating top political figures, including Telecom Minister A. Raja and DMK leader Kanimozhi. In

the Commonwealth Games scam, it was an RTI by the Housing and Land Rights Network that exposed how the Delhi government diverted Rs 744 crore from Dalit welfare funds—and spent most of it on infrastructure that existed only on paper. When Prime Minister Modi announced demonetisation in 2016, an RTI filed by Venkatesh Nayak revealed that the RBI hadn't even given formal approval before the decision was made—proving that decision was bulldozed. In another revelation, an RTI reply from the RBI confirmed over 23,000 loan fraud cases involving Rs 1 lakh crore, reported by banks in just five years.

In Odisha, villagers used RTI to challenge the Vedanta University land grab, where the state had promised 15,000 acres to a private billionaire without even giving affected people the chance to be heard—as required by law. And within months of RTI's birth, an NGO exposed how Indian Red Cross Society officials had misused funds meant for Kargil war relief and disaster victims. These stories weren't leaked. They weren't 'breaking news'. They were dug out by citizens armed with the right to ask. But RTI's real strength lies in how it empowers not just individuals, but also institutions of public accountability. At Common Cause, RTI has been a vital tool to expose wrongdoing and understand systems. It has helped in collection of large-scale data on critical issues like policing, electoral matter, and governance, which fed into some of India's most respected public reports. The Status of Policing in India Report, widely used by scholars, journalists, and policymakers, drew significantly from RTI responses received across states. And like many other committed organisations, this information has been used by Common Cause to inform public discourse, strategic litigation, and policy advocacy. This is what RTI was always meant to do—build a better-informed democracy, piece by piece.

> ***RTI is not just an administrative tool—it's a democratic necessity, a constitutional promise, and a lifeline for participatory governance.***

Is RTI still Effective?

On paper, the RTI Act is still intact. Citizens still have the right to file applications. Public authorities are still required to respond. Information Commissions still exist. But here's the uncomfortable truth: The law hasn't been repealed—it's been quietly weakened, diluted, and ignored.

It wasn't a single blow. It was a slow bleed.

Step 1: Starve It

Starve the system from within. Leave key posts in Information Commissions vacant. Let appeals pile up. Don't allocate enough resources. As of mid-2025, over 4 lakh RTI appeals and complaints were pending across the country. Some applicants wait months, even years, to get a response—if they get one at all.

Step 2: Amend It

In 2019, Parliament amended the RTI Act—quietly, with minimal debate. It gave the central government power to control the tenure and salary of Information Commissioners. This was a clear message: "We control the watchdog." It weakened the independence of the very bodies meant to protect the citizen's right to know.

Step 3: Delay, Deny, Disregard

Even when applications are filed, authorities have learned to dodge. Use vague exceptions, cite "national interest", shift responsibility, pass the buck, or just stay silent—knowing most citizens don't have the time, money, or energy to chase a response across appeal after appeal.

Step 4: Intimidate

In the worst cases, activists are threatened, families harassed and whistle-blowers are abandoned. When asking a question becomes risky, fewer people ask.

RTI - A Constitutional Right

We often take pride in saying that India is the world's largest democracy. It's a phrase repeated in speeches, textbooks, and political rallies. But what does that actually mean?

The word 'democracy' has its roots in Greek and Latin—

'Demos' meaning people, and

'Kratos' meaning power or governance.

Put simply, democracy means power of the people—not just to vote, but to question, to know, and to participate in governance.

Even our Constitution begins with a powerful affirmation:

"We, the People of India…"

These five words make it clear: The Constitution draws its legitimacy from the people. And for that power to be real, for that promise to mean anything, people must be informed.

This is where RTI finds its roots—not just in a statute passed in 2005, but deep within the Constitution itself.

RTI and Article 19(1)(a)

Article 19(1)(a) guarantees the Right to Freedom of Speech and Expression. But over time, the Supreme Court has consistently interpreted this right to include the Right to Know.

In the landmark case of *Raj Narain v. State of Uttar Pradesh* (1975), the Court held:

"People cannot speak or express themselves unless they know. Therefore, the right to know is embedded in the right to freedom of speech and expression."

This case was about government transparency during the Emergency era—and it made it clear that citizens have the right to scrutinize public affairs, especially when it involves those in power.

RTI and Article 21

But the right to know doesn't stop at Article 19.

In *Maneka Gandhi v. Union of India (1978)*, the Supreme Court expanded the scope of Article 21, which guarantees the Right to Life and Personal Liberty, to include life with dignity, fairness, and justice.

The Court observed that a life without access to information—especially information that affects one's liberty, health, livelihood, or safety—cannot be a life with dignity.

If the government takes decisions that affect your land, your job, your rights—and you're kept in the dark—how can your liberty be meaningful?

In many judgments, the Supreme Court has made it clear that Articles 19 and 21 are interlinked when it comes to information:

Article 19(1)(a) gives you the right to seek and receive information and

Article 21 ensures that this information is essential to live with dignity, autonomy, and awareness.

RTI is, therefore, not just an administrative tool—it's a democratic necessity, a constitutional promise, and a lifeline for participatory governance.

RTI: Oxygen for Democracy

Can someone who doesn't know what policies are being made…

Who doesn't know where public money is being spent…

Who doesn't know their rights or entitlements…

…really call themselves a participant in democracy?

Democracy without information is like a body without oxygen. That's why the Right to Information is imperative.

The question is no longer whether RTI is useful. The question is: Will we continue to defend it—or will we let it quietly become another broken promise of democracy?

Because the right to know isn't just about information—it's about power, ownership, and accountability.

It's about saying: This country is ours—and we deserve to know how it's being run.

CONSTITUTION & THE RULE OF LAW

How to Balance Clashing Rights?

Radhika Jha*

In the 1990s, *jansunwais*, or public hearings were organised by the Mazdoor Kisan Shakti Sangathan (MKSS) in the villages of Ajmer districts of Rajasthan. Two sarpanches were held accountable for corruption and had to return the misappropriated amounts to the Panchayat funds during the *jansunwai*. Consequently, the District Collector ordered a special audit and ensured the recovery of money, while police complaints were filed against the sarpanches and they were arrested.[1] These *jansunwais*, along with a series of similar public hearings, dharnas and public movements originating in Rajasthan, led to the formulation of the law on Right to Information in India.

Pic Credit: Hindustan Times

Aruna Roy addressing a rally at Chang Gate, Beawar in 1996

Now consider this:

In Hyderabad, during the national lockdown following the Covid-19 pandemic, activist SQ Masood was stopped by the police in the street, asked to remove his mask, and had his photo taken by the police. This photo, taken without his consent and without any cause for suspicion, was used to create the database for Facial Recognition Technology (FRT) to be used by the police.[2] Aside from raising many privacy concerns, this practise is also deeply flawed because of the inherent limitations of the technology, which suffers from notable levels of misidentifications and inaccuracies, as has ironically been revealed through RTI applications[3].

Even though these two cases are set apart not just by several decades and by geography, but also by the nature of the cases themselves, there are some common larger questions that these cases raise: how much and what information needs to be public, and what should remain private? Who has the right to obtain such information and for what purposes?

In the first case, if the Rajasthan villagers were told that the information they were seeking regarding the use of Panchayat funds could not be shared with them because it included personal information of the people/contractors involved in the transactions, would they have been able to unearth the details of the misappropriation and have the amount reimbursed? On the other hand, in the absence of any protection for the right to privacy how would SQ Masood and many others (including those who, like him, are likely to be on the radar of the police because of their religious or other socio-economic identity) safeguard their own personal, identifiable information against the state, as well as private actors who may use it without their consent?

* *Radhika Jha is Project Lead (Rule of Law) at Common Cause*

There are no easy answers to these questions. These questions bring out the core tension between two seemingly opposing rights—the right to privacy and the right to information.

Hierarchy of Rights

In this article, we try to address these questions by looking at how the Indian state has balanced other opposing rights and what are the prevailing legal philosophies that apply in the determination of these hierarchy of rights. Which rights take precedence over others, and why?

It is also important to analyse whether Section 44(3) of the DPDP Act, which significantly weakens the Right to Information Act through an amendment, will address this apparent conflict between the two rights, or if there even is a conflict to begin with? Can these two rights be, in fact, complimentary to each other?

We conclude the article by arguing that the conflict between these two rights is in fact artificial to a large extent. The exception for "larger public interest" is inherent in the right to privacy. This has also been recognised in a Supreme Court verdict upholding Aadhaar.

In this artificially created clash of rights that Section 44(3) of the DPDP Act seeks to resolve, the citizens will end up with nothing, without the full realisation of either of these rights. It is also important to note that the right to information seeks data from the government, while the DPDP Act opens a wide scope for the government to collect and use people's personal data, whether it is for reasons of national security, public order or prevention and investigation of offences—terms which are abstract and prone to misuse. The government, thus, knows everything about us, but what do we know about it?

> ***"The government knows everything about us, but what do we know about it?"***

Theories for Resolving Conflict of Rights

Pratap (2022) broadly categorises rights adjudication in two models—the rights 'specification' model and the 'balancing' model. In the rights specification model, some rights are accorded special moral, political and philosophical status and they 'trump' all other rights. In the case of a conflict, these rights prevail. This model is largely followed by the constitutional courts in the United States. On the other hand, in the balancing model, the contents and boundaries of the rights are stated generally and broadly, and these rights are balanced by the courts. The conflicting rights are weighed against each other to decide which one prevails in a specific context. The most widely accepted principle of this model is the 'proportionality' doctrine where courts consider whether a particular measure affects a right, and if the interference in the right is justified.

To ascertain whether an interference is justified, the court considers the following:[4]

- Legitimate aim: If there is a 'sufficiently important' aim for the interference of the right.
- Rational nexus: If the interfering measure is rationally connected to the legitimate aim.
- Necessity: If the measure affects the right only to the extent necessary.
- Proportionality stricto sensu: If the effects of the measures are proportionate to the objective of measures i.e., the benefits of infringement of the right must be greater than the loss incurred concerning the protected right or interest.

Pratap argues that Indian courts fail to structure its reasoning according to these models. Courts rarely contextualised the conflict of rights down to the facts of the case.[5]

Bhatia (2020) calls the balancing of rights the "anti-exclusion principle". Recognising that the Constitution guarantees rights to both individuals and groups, he argues that in cases of conflict, the balancing of rights is essential. This can be done

by "asking whether a particular practice under consideration has the effect of causing exclusion, or of treating certain constituents as second-class members of society, in ways that harm their dignity, or other rights in the non-religious domain."[6]

We look at a few cases of conflicting rights that have come up before the Indian Supreme Court.

Individual's Right to Worship vs. Community's Right to Religious Practise: The Sabarimala Verdict

One of the recent cases that caught public attention and brought out polarising opinions was the Sabarimala Temple case, where the temple's practise of barring entry to menstruating women (women between the ages of 10 and 50), was questioned and ultimately held to be unconstitutional by the Supreme Court.

In 2018, the Supreme Court delivered this landmark judgment in the *Indian Young Lawyers Association v. State of Kerala* case, holding by a 4:1 majority that women's entry to the temple cannot be barred. The case juxtaposed the community's right to religious practice and tradition against the constitutional principles of equality, non-discrimination, and the right to religious freedom. In effect, the Court was asked to navigate a complex web of statutory law, religious doctrine, and constitutional guarantees, to determine whether a religious practice rooted in custom could stand the scrutiny of the Constitution.[7]

Renowned constitutional law scholar Gautam Bhatia analysed the Sabarimala judgement from the perspective of group autonomy and cultural dissent.[8] Borrowed from Madhavi Sundar, the term "cultural dissent" refers to norms and values defined and imposed by cultural gatekeepers and dominant groups, which have been challenged. Both Justice Chandrachud and Justice Nariman recognise that cultural dissent is at the heart of the Sabarimala issue.

Bhatia argues that when marginalised groups within cultures or religions challenge oppressive norms or practices, more often than not, they will need an external authority (such as Courts, acting under the Constitution) to support them in that struggle. However, the claim must originate from the marginalised groups themselves. An external authority cannot assume the mantle of speaking on their behalf.

> ***"In the balancing model, the conflicting rights are weighed against each other to decide which one prevails in a specific context"***

On the other hand, in her dissenting opinion, Justice Indu Malhotra upholds the principles of group autonomy over individual rights. She argues that the exclusion of women is an "essential religious practice" and therefore protected by Article 25(1). She further notes that constitutional morality in India's plural society requires respect and tolerance for different faiths and beliefs, which have their own sets of practices that might nevertheless appear immoral or irrational to outsiders. Thus, she was of the opinion that discrimination against women is in fact not counter to constitutional morality.

However, the majority decision taken by the Court gives precedence to individual rights over group autonomy. In choosing to privilege the former, the majority signalled a decisive shift in Indian constitutional jurisprudence: from preservation of custom to a vision of transformative justice anchored in dignity and equality.

In another context, Gautam Bhatia argues that the Indian Constitution is committed to an 'anti-exclusion principle'– that is, group rights and group integrity are guaranteed to the extent, and only to the extent, that religious groups do not block individuals' access to the basic public goods required to sustain a dignified life.[9]

Right to Enjoy Property vs. The Right to Protest

In the case of *Mazdoor Kisan Shakti Sangathan (MKSS) vs. Union of India,* 2018, decided just a few months prior to the Sabarimala judgement, the petitioner argued that though a particular order passed under Section 144 of the CrPC remains in force for a period of 60 days. On the expiry of the said period another order of identical nature is passed, thereby banning the holding of public meetings, peaceful assembly and peaceful demonstrations by the public at large. This, according to the petitioner, is the arbitrary exercise of power which infringes the fundamental right to peaceful assembly guaranteed under Article 19(1)(b) of the Constitution of India. By these orders, the entire Central Delhi area is virtually declared a prohibited area for holding public meetings and dharnas or peaceful protests.

In this case, the Court held that "no fundamental right is absolute and it can have limitations in certain circumstances. Thus, permissible limitations are imposed by the State. The said limitations are to be within the bounds of law."[10] When it comes to intra-conflict of a right conferred under the same article, the test applied should be that of "paramount collective interest" or "sustenance of public confidence in the justice dispensation system", as per the judgement. The Court gave the example of the *Vikas Yadav vs State of UP*[11] case wherein it was held that a group of persons, in the name of "class honour", cannot curtail or throttle the choice of a woman.

The Court further said that the test of primacy of rights, which is based on legitimacy and public interest, has to be adjudged on the facts of each case and cannot be stated in abstract terms. It upheld the need for balancing of rights, by ensuring that that one right is not totally extinguished over the other.

It held that "Balancing would mean curtailing one right of one class to some extent so that the right of the other class is also protected." In this case, however, the Court did not agree that the rights of the petitioner were being extinguished, since Section 144 contains a provision for permission that can be granted in some cases. It directed the Commissioner of Police and other official respondents to frame proper guidelines for regulating such protests, demonstrations, etc.

> ***"In the Sabrimala verdict the majority decision taken by the Court gives precedence to individual rights over group autonomy"***

In essence, while the Court upheld the basic right to assembly and peaceful protest, it also held that the order to impose Section 144 was not unconstitutional and the protests should be regulated to ensure that the residents of that locality are not inconvenienced.

A similar issue was brought before the Apex Court in 2020, two years after the MKSS verdict, in the *Amit Sahni vs Commissioner of Police* case[12]. Following large-scale protests against the Citizenship (Amendment) Act, a writ petition was filed by lawyer-activist Amit Sahni against the protests, saying that the public roads are obstructed by crowd protesting in the Shaheen Bagh locality. This was causing grave inconvenience to the commuters, the petitioner argued. Here too, while the Court recognised the right to freedom of speech and expression and the right to peaceful protests, it held that public ways and public spaces cannot be occupied for an infinite time period. It stated that while dissent and democracy go hand-in-hand, demonstrations expressing dissent must occur in designated areas.[13]

The Puttaswamy Judgements: Reasonable Restrictions to the Right to Privacy

In the landmark case of *KS Puttaswamy vs Union of India,* 2017,[14] the Supreme Court held that the right to privacy is

a fundamental right. The court held that the right to privacy "is a right which protects the inner sphere of the individual from interference from both State and non-State actors and allows the individuals to make autonomous life choices." The court further said, "Statutory provisions that deal with aspects of privacy would continue to be tested on the ground that they would violate the fundamental right to privacy, and would not be struck down, if it is found on a balancing test that the social or public interest and the reasonableness of the restrictions would outweigh the particular aspect of privacy claimed."

Even as the judgement did not define the contours of the right to privacy (some of it was defined in what is known as the *Puttaswamy II* judgement of 2018, or the *Aadhaar* case), it is clear that even in the original verdict the court recognises the inherent reasonable restriction within the right to privacy in larger public interest.

In the 2018 *Puttaswamy II* judgement[15], the court applied the proportionality doctrine to balance competing rights. In this, popularly known as the *Aadhaar* case, the collection and use of biometric data for Aadhaar and making it mandatory for accessing state subsidies were challenged. At the balancing stage, it principally prioritised the right to food, which was a part of the right to life, and upheld a substantial part of the program.

> ***"The Courts have been inclined to give precedence to individual rights over group rights in case of an infringement of one by the other"***

While subjecting the measure to the test of proportionality, Justice Sikri, in his majority judgement, considered the following:

- *"the action must be sanctioned by law;*
- *the proposed action must be necessary in a democratic society for a legitimate aim;*
- *the extent of such interference must be proportionate to the need for such interference;*
- *there must be procedural guarantees against abuse of such interference".*

Justice Sikri laid down a four-fold test to determine proportionality:

1. A measure restricting a right must have a legitimate goal (legitimate goal stage).
2. It must be a suitable means of furthering this goal (suitability or rationale connection stage).
3. There must not be any less restrictive but equally effective alternative (necessity stage).
4. The measure must not have a disproportionate impact on the right holder (balancing stage).

Using this proportionality test, the majority opinion upheld this linkage with Aadhaar, with some provisions being struck down.

Justice Chandrachud, in his dissenting opinion, came to a different conclusion. He was of the opinion that just the legitimate aim is insufficient and it is important to meet other parameters of the proportionality test, and that the Aadhaar scheme has a disproportionate impact on the right holder.[16]

Conclusion

While these legal philosophies help in understanding various kinds of approaches that Indian courts take towards resolving the conflicts arising between different rights--or sometimes, within a right itself, a larger reading of different cases shows that there has been an attempt to align the existing rights with larger public interests. Even in the *Puttaswamy* judgement that held the right to privacy as a fundamental right, the court recognised and noted the inherent limitations within the right in larger public interest. It is thus ironical that the "public interest" provision from the Right to Information Act is being purportedly amended in the interest of the right to privacy.

The Courts have been inclined to give precedence to individual

rights over group rights in case of an infringement of one by the other. However, this is a false dichotomy in the present case, seeing as how both right to information as well as right to privacy can be interpreted as individual rights that are, at times, accessed collectively. News reports are replete with cases of the right to information being used by individuals to access some of their basic rights. Thus, the larger "public interest" provision in the RTI Act in fact boils down to concrete access to essential rights such as the right to food, right to livelihood, right to education, right to life, freedom of speech, to name a few. Just as the government needs data on its citizens to provide services, the people also need access to the government data to hold it accountable and assert their basic rights. The Section 44(3) of the DPDP Act appears to be more of an attempt to systematically dismantle the right to information, rather than safeguard people's right to privacy.

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SHADOWS IN THE MIRROR

India's Transparency in Global Perspective

Rishikesh Kumar*

How much money was spent on the 'Make in India' project?

Not in the public's interest. Denied.

How much money did the government spend on defence equipment last year?

Access denied—citing national security, individual privacy, or... no reason at all.

How many beneficiaries received subsidies under a flagship scheme?

Data not available in this format.

Why was my RTI request rejected?

Because we can.

Sounds strange, doesn't it? Almost like fiction. But this is the future we're inching toward—where your right to ask exists, but the right to get an answer quietly disappears.

Whether you're a student curious about exam patterns, a journalist chasing a lead, a farmer asking where the subsidy money went, or just a citizen doing your duty—you could be denied answers. Legally.

Now you might think: Wait, how is that possible? RTI is still there, right? There's been no amendment to it…

And you're right. There's been no direct attack on the Right to Information Act, 2005. No big headlines. No Parliament debate.

But here's the twist: the blow didn't come from the front—it came from the side. It's strategic, subtle, and disguised under the sophisticated brand new law that claims to protect your personal data. Enter the Digital Personal Data Protection (DPDP) Act, 2023—a law that says it's here to protect your privacy. Sounds good, right? In today's digital world, who doesn't want their data to be safe?

But here's the catch: While protecting your privacy, it quietly weakens your right to know. Buried in this new law is Section 44, which says that if any other law—including the RTI Act—goes against DPDP, then DPDP will take over. And that's a problem. Because under the RTI Act, Section 8(1)(j) allowed access to personal information if it serves public interest—like exposing corruption or holding officials accountable. Now, that door is closing.

Under DPDP Act, if someone says, "its personal data," that's enough. No questions asked. No public interest test. No accountability.

So, while the RTI Act still exists, it's being quietly sidelined—not by changing it directly, but by making it weaker through another law; a law that was supposed to protect your rights, but might end up protecting secrets instead.

The Irony of Amrit Kaal: Progress Without Permission to Ask

"How the UK Can Learn from India's Right to Information Act" — The Guardian, 2010

"India's Act is more powerful than its counterpart in the UK, particularly in its use of penalties for delay or non-compliance... The UK act gives officials a host of reasons to refuse information; this was strongly and successfully opposed by citizens in India."

That was not from an Indian newspaper. That was The Guardian, writing from London—13 years ago. They were telling their government to look east, to India. To learn from a country that had just enacted one of the world's strongest information laws. A country where ordinary citizens

* *Rishikesh Kumar is a Research Executive (Legal) at Common Cause.*

could demand answers and government officials could be fined—personally—for denying or delaying the truth.

Today, we are told that we've entered the Amrit Kaal—India's golden era. An age of transformation. A nation leading on the world stage. We are the fourth-largest economy, set to overtake Japan in GDP, racing ahead with digital power, economic ambitions, and global influence.

But here's the question no one wants to ask:

Are we entering this golden age with our mouths shut and our hands tied?

You can cheer for the growth, nod during the broadcasts, and repeat the national slogans. But try asking a tough question—Where did the money go? Who signed the contract? Why was that decision made?—and you might just hit a wall of silence. A legal silence, one that looks official, feels polite, but shuts the door just the same.

But let's pause for a moment and go back—back to the time when India was not a rising power, but a newborn democracy, just stepping out of colonial rule. When our leaders sat down in the Constituent Assembly, they didn't just write a Constitution—they studied the world. They read every major democratic constitution then in existence: the American Bill of Rights, the British parliamentary system, French civil liberties, Canadian federalism, Irish directives, and more. They weren't trying to copy the West. They were trying to create something that worked for India—a democracy rooted in equality, justice, and above all, accountability.

The idea was simple but powerful: learn from the world, choose what works best, and make it our own. That's how we got the Constitution we proudly celebrate today—a living document that gave citizens the right to speak, to ask, to challenge, and to know.

And now, as we face a new kind of threat—not from invaders or colonizers, but from within the framework of our own laws—the time has come to look outward again. Because as a nation, we have long believed in 'Vasudhaiva Kutumbakam'—the world is one family. We've shown the world that learning from others is not weakness; it's wisdom.

> ***"While the RTI Act still exists, it's being quietly sidelined—not by changing it directly, but by making it weaker through another law; a law that was supposed to protect your rights, but might end up protecting secrets instead"***

Always leading from the front is not the only mark of a true leader. Sometimes, being in the back—by listening, adapting, and evolving—is just as powerful.

So once again, let's look beyond our borders. Not to borrow blindly. But to see how other democracies—many of which once looked up to our RTI law—are balancing the delicate line between personal privacy and public transparency. To understand how they're protecting their citizens without silencing them. To ask: Are we truly protecting our people, or are we just protecting power?

International Comparison and Historical Context

The global evolution of Right to Information (RTI) laws can be traced back to Sweden, which in 1766 became the first country to adopt such legislation, driven by parliamentary efforts to ensure transparency in royal governance. This pioneering move laid the groundwork for future legislative developments in other democracies. A significant milestone followed two centuries later when the United States introduced its first Freedom of Information (FOI) law in 1966. Norway adopted a similar framework in 1970, signalling a gradual but steady trend toward institutionalising access to information.

The momentum spread to other Western democracies, with

France and the Netherlands adopting FOI laws in 1978, followed by Australia, New Zealand, and Canada in 1982, Denmark in 1985, Greece in 1986, Austria in 1987, and Italy in 1990. By the end of that decade, 13 countries had established formal RTI frameworks.

A pivotal moment came in 2000 with the adoption of the European Union's Charter of Fundamental Rights, which explicitly enshrined both freedom of expression and the right of access to documents, thus reinforcing RTI as a core democratic value within the EU and setting a standard for other regions to follow.

Adopting a law is only the first step. What really matters is how deeply a country commits to upholding that law, strengthening it over time, and ensuring that citizens—not just institutions—remain at the heart of the process.

So, to see where we stand today, we've created a simple comparative table—looking at the Swedish, UK, US, and Indian access to information laws. We've compared how easy it is to file a request, whether the right is constitutionally protected, how exceptions are handled, and what penalties exist for non-compliance.

And we'll leave it to you to decide: which one truly empowers its citizens—and which ones just pretend to?

> ***"The increasing commodification of personal data has exposed individuals to new vulnerabilities—identity theft, unauthorised profiling, digital surveillance. That's why the need for robust data governance is not just technical, it's constitutional"***

But before you draw conclusions, here's a bit of truth that stings.

According to a Times of India report from 2018, India was once a global leader in the right to information. When global RTI ratings began in 2011—measuring over 60 indicators like access, scope, appeals, and protections—India ranked number 2 out of 123 countries.

By 2018, we had slipped to number 6. Not a free fall, but still several steps down. And that was before the first major amendment hit RTI in 2019. Before laws like the DPDP Act, 2023, began quietly changing the rules of the game.

We are living in an age where truth no longer hides in locked cabinets—it floats in the cloud. In the era of artificial intelligence, block chain, cloud computing, and biometric surveillance, data has become currency. Every click, scroll, purchase, and post is recorded, processed, and often sold. The world has entered a digital economy where data is not just information, it is power. It drives markets, personalises services, predicts behaviour, and silently shapes choices.

But power, without checks, breeds risk.

The increasing commodification of personal data has exposed individuals to new vulnerabilities—identity theft, unauthorised profiling, digital surveillance. That's why the need for robust data governance is not just technical, it's constitutional. A democracy must strike a delicate balance: protecting privacy, ensuring data security, while never compromising the citizen's right to transparency.

This article has attempted to explore that balance—not in theory, but in law.

We compared India's Digital Personal Data Protection Act, 2023 with the European Union's GDPR—a gold standard for data rights. We saw how GDPR limits state surveillance, requires proportionality tests, grants individuals the right to object, and enforces strict penalties for breaches. By contrast, the DPDP Act offers broad government exemptions, lacks independent oversight, and weakens citizen control over personal data.

But this isn't just a debate about privacy. It's about something deeper: democratic accountability.

Global Overviews on Right to Information Laws

Country	Sewden	UK	US	INDIA
Constitutional Protection	Protected	Not protected	Not protected	Protected through judicial interpretation
Legislation	Freedom of the Press Act 1766	FOI Act 2000	FOI Act 1966	RTI 2005
Right of Access	Not limited by nationality or residence	Not limited by nationality or residence	Not limited by nationality or residence. But with exceptions	Limited only to citizens
Procedural Guarantees	Personal details of the applicant +reasons for request	Personal details of the applicant + description of the information desired	Personal details of the applicant + description of the information desired	Only contact details required
Procedural Guarantees	No specific timelines, requests dealt quickly and promptly	20 working days of receipt of the application	Under the statute, federal agencies are required to respond to a FOIA request within 20 working days.	In normal course, information to an applicant shall be supplied within 30 days from the receipt of application by the public authority. If information sought concerns the life or liberty of a person, it shall be supplied within 48 hours.
Procedural Guarantees	Inspection of document provided free of charge. Rates apply when copies exceed nine pages	Contains two separate systems for fees, one for ordinary request and another for more complicated requests	Contains provisions relating to fees, distinguishing between commercial, educational or scientific institutions, and other requesters	Access upon payment of fee, including for information provided in electronic format. No fee for BPL
Procedural Guarantees	When information refused, notice sent giving reasons	When information refused, notice sent giving reasons	Refusal notice includes name of the deciding official, quantity of information denied	When information refused, notice sent giving reasons

Because when the DPDP Act's Section 44(3) overrides Section 8(1)(j) of the RTI Act, it doesn't just secure personal data—it shields public offices from public questions. It tells the citizen, you have the right to be protected, but not the right to know. And in doing so, it hollows out one of the most powerful tools Indian democracy ever gave its people.

The Right to Information Act, 2005, especially Section 8(1)(j), provides the balance—protecting privacy unless a larger public interest demands disclosure.

According to Section 8(1)(j) in The Right to Information Act, 2005:

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information

To insert Section 44(3) into this equation is not reform. It is retreat. In this new digital dawn, we need stronger rights—not quieter citizens. Let's not dim the light of transparency just as the world gets more complex. Because in a democracy, data can be encrypted—but truth should never be.

A Final Thought: Different Questions, Same Silence

"Voter list? Will not give machine-readable format. CCTV footage? Hidden by changing the law. Election photos and videos? Now they will be deleted in 45 days, not 1 year. The one who was supposed to provide answers – is the one deleting the evidence."

> ***When the DPDP Act's Section 44(3) overrides Section 8(1)(j) of the RTI Act, it doesn't just secure personal data—it shields public offices from public questions***

These words come from a member of the opposition—not directly linked to this article, but the reasoning behind them sounds all too familiar.

Yes, the subject is different. But the message is the same: Information is being taken away. The light is being dimmed. And the citizen is being left to guess. So, we ask again:

If Section 8(1)(j) of the RTI Act, 2005 already strikes a balance between privacy and public interest, then why introduce Section 44(3) of the DPDP Act?

Why create a law that overrides a hard-won right? Why weaken the very tool that has empowered so many to expose injustice, ask difficult questions, and demand answers?

At Common Cause, we have always stood for transparency, for privacy, for national security, and most importantly, for the constitutional rights of every Indian. But we have also stood—without compromise—against any move that chips away at public trust, that hides the state behind legal smoke, or that makes the people of India less powerful in their own democracy.

Whether the issue is election transparency, new criminal laws, police accountability, or digital surveillance—we believe that the right to information is not just a governance issue. It is linked to the Right to Life with Dignity under Article 21 of our Constitution. Because dignity begins with awareness. And dignity dies in silence.

So, we leave you with this:

Think about what is being taken away, and why?

Ask why questions are being treated like threats?

Write back to us. Join hands with us. And stand with the right to know.

Because in the end, democracy is not built on announcements.

It is built on answers.

COMMON CAUSE EVENTS

Pic Credit: Mohd Aasif

Ms Maja Daruwala, Editor-in-Chief, IJR, presenting the findings of the report at the launch of the India Justice Report 2025

India Justice Report 2025 Launch

April 15, 2025: The Common Cause team attended the launch of the India Justice Report 2025 at the India International Centre, New Delhi. The event brought together legal experts, civil society leaders, researchers, and policymakers to unveil the fourth edition of India's only comprehensive ranking of states on justice delivery. Justice (Retd) Madan B Lokur emphasised the urgent need to strengthen frontline justice institutions, noting that the burden of accessing justice still falls disproportionately on individuals. Ms Maja Daruwala, Chief Editor of the report, called for immediate and sustained reforms, stressing that a responsive justice system is a constitutional imperative. The event was followed by a panel discussion on the portrayal of the criminal justice system and the idea of justice in Bollywood movies.

Dr Vipul Mudgal, Director, Common Cause, and member of the steering committee of the report, was a panelist at the event. Ms Radhika Jha, Project Lead (Rule of Law) at Common Cause and one of the key authors, contributed significantly to the report's research, development, and advocacy efforts.

Strategic Dialogue on Judicial Data Collaborative

April 25, 2025: The Judicial Data Collaborative project of Daksh organised a discussion on project strategies and future directions to maximise impact and sustainability. Ms Radhika Jha from Common Cause participated in the well-attended discussion, which had representatives from various other organisations, independent practitioners and lawyers. Ideas for taking the project to the next stage were discussed with a long-term vision of making the judicial data wiki pages accessible for public contributions.

Domestic Workers' Sammellan on International Domestic Workers' Day

June 16, 2025: To mark the International Domestic Workers' Day, Common Cause teamed up with the National Platform for Domestic Workers (NPDW), in collaboration with Nari Shakti Manch and Seva Bharat, to host a vibrant convention at Rajendra Bhawan, New Delhi.

The event drew over 200 domestic workers from across the National Capital Region, filling the auditorium with energy and solidarity. Representatives from Common Cause -- Dr Vipul Mudgal, Mr Rishikesh Kumar, and Mr Vinson Prakash – attended in support.

Two engaging panels featured domestic workers who shared first-hand accounts of their experiences on the job and the

Pic Credit: Vinson Prakash

Dr Vipul Mudgal, Common Cause Director, delivering a keynote address on the rights and entitlements of domestic workers

struggles faced therein. They called for dedicated legislation ensuring fair wages, decent working conditions, and social security.

Dr Vipul Mudgal delivered a keynote address on the issues at hand. The convention concluded with lively folk-dance performances by domestic workers, celebrating their resilience and community spirit.

Collaborative Legal Action for Domestic Workers' Rights

May 26, 2025: A meeting with the National Convenors of the National Platform for Domestic Workers (NPDW) was held for filing a joint petition on fair working conditions for domestic workers. Common Cause is in the process of drafting the petition, with NPDW as co-petitioners, which will be filed in the Supreme Court soon.

Steering Committee Meeting on Global Tech Accountability

May 28, 2025: Global Coalition for Tech Justice organised a steering committee meeting to analyse the latest developments and trends in the global and regional tech accountability landscape and deliberate on the future course of action. Ms Radhika Jha represented Common Cause in the meeting.

Workshop on Quantitative Analysis

May 29-30, 2025: Ms Radhika Jha and Mr Vinson Prakash from Common Cause participated in a workshop on 'Quantitative Analysis using STATA' organised by the Population Council of India. The two-day immersive workshop was designed to strengthen analytical capabilities and learn practical tools for working with quantitative data using STATA software.

Seminar Against Torture

June 23, 2025: Ms Radhika Jha from Common Cause attended a session on "Challenging Torture in India", during the Global Week Against Torture. The seminar brought together survivors, legal experts and former members of the judiciary to examine the systemic nature of torture in India and the alarming failure of accountability mechanisms.

Brainstorming Sessions for Upcoming SPIR

On June 24, 2025, an online brainstorming session took place to begin work on the next edition of the *Status of Policing in India Report (SPIR)*, which will focus on cybercrimes, digital security, and the role of the police. Mr Nandkumar Saravade, IPS (Retd); Mr Sanjay Sahay, IPS (Retd), Mr Ramanjit Singh, Global Cybersecurity Lead at Access Now; Ms Namrata Maheshwari, Senior Policy Counsel and Ms Anushka Jain, Research Associate at Digital Futures Lab, participated in the session and provided valuable inputs on the matter.

On June 25, Mr Apar Gupta, co-founder of the Internet Freedom

Foundation (IFF), helped the SPIR team understand the nuances of the matter and the data sources related to the issue at hand.

On July 3 and 4, similar sessions took place online. Ms Merrin Muhammad Ashraf, a technology law and policy researcher at IT for Change, and Mr Mukul Singh, reporter at Jist, joined the online meeting. Ms Merrin focused on the misuse of technology for crimes against women in cyberspace, whereas Mr Mukul provided insights into the police's inability to deal with cybercrimes.

These sessions were conducted by Dr Vipul Mudgal, Director, Common Cause, and Ms Radhika Jha, Project Lead (Rule of Law). Mr Mohd Aasif and Mr Vinson Prakash, both Research Executives at Common Cause, attended the session and assisted as and when required.

Seminar on Cybersecurity Challenges in Governance and Industry

July 5, 2025: Ms Radhika Jha attended a seminar on 'Emerging Cybersecurity Challenges for India's Governance, Trade and Industry', organised by the Indian police Foundation and Jain International Trade Organisation (JITO). The discussion focused on growing threats posed by cybersecurity breaches, cybercrime, and digital financial fraud to the integrity and future of India's industrial and financial ecosystem.

Seminar on Organisational Maturity in the Development Sector

July 12, 2025: Ms Radhika Jha participated in a conversation and dramatised seminar with Prof Vijay Padaki on "Exploring Maturity in Human Organisations". The event, organised by Development Alternatives, was a unique and thought-provoking session on using knowledge from behavioural sciences to work towards organisational maturity in the development sector.

Representation Challenging Discriminatory Recruitment Criteria for Legal Professionals

April 21, 2025: Common Cause; submitted a formal representation to the Ministry of Corporate Affairs (MCA) challenging the recruitment notification dated March 19, 2025, for the engagement of "Young Professionals (Law)". The notification restricts eligibility exclusively to law graduates from National Law Schools (NLUs), which the organisation argues is unconstitutional and discriminatory. We contend that the exclusion of graduates from other recognised law institutions lacks reasonable classification and violates the principles of equality before the law and equal opportunity in public employment.

The representation emphasises that any classification in public employment must be based on intelligible differentia and should have a rational nexus to the objective. It argues that the NLU-only criterion fails both tests and constitutes arbitrary executive discretion. Furthermore, the submission highlights the broader social impact of such exclusion, noting that only a small fraction of law graduates come from NLUs, thereby marginalising capable candidates from underprivileged and remote regions.

Common Cause urges the Ministry to revise the eligibility criteria to include all law graduates from institutions recognised by the Bar Council of India and/or UGC. It also requests that the current selection process be paused until the criteria are amended to reflect constitutional values of inclusivity, fairness, and meritocracy. Dr Vipul Mudgal, Director and Chief Executive of Common Cause, signed the representation.

Review Contribution to Legal-Ethical Discourse

May 2, 2025: Ms Radhika Jha from Common Cause reviewed an article by Mr Vernon Gonsalves and Mr Arun Ferreira for publication in

the Indian Journal of Medical Ethics. The article, titled "Where Constitutional Protections need protection: Much needed light on first production of accused in Magistrates' Courts", was a review of a 2024 study conducted by Project 39A on first production and remand in Delhi courts.

Timely Tabling of CAG Reports

April 30, 2025: Common Cause had a meeting with Mr Govind Bhattacharjee on a possible petition for CAG reports to be tabled before Parliament within a specific time frame. This was followed by RTIs to the Governor's Office and the Legislative Assembly Secretariat to further furnish the information.

Meeting on Credit Card Interest and CIBIL Dispute Concerns

June 3, 2025: The legal team at Common Cause met with Mr Mayur Shah, Founder and CEO of Awaaz, an NGO working on financial rights and consumer protection. The discussion centred around the pressing issue of exorbitant interest rates levied on credit card users and the adverse impact of CIBIL scores during dispute resolution processes. The meeting explored potential legal remedies and advocacy strategies to address these concerns, including regulatory interventions and public interest litigation.

Contributions to Judicial Data Collaborative's Justice Definitions Project

During May–June 2025, Common Cause interns Mr Abdul Samad and Mr Siddharth made valuable contributions to the Judicial Data Collaborative's Justice Definitions Project led by Daksh. The initiative aims to build a publicly accessible repository of key legal and justice-related terms through Wikipedia entries. Mr Siddharth finalized the draft for the term "Statelessness", providing a nuanced understanding of its implications in the Indian legal context. Mr Abdul Samad completed the draft for "E-Sewa Kendra", detailing its role in enhancing digital access to judicial services. Their work supports the broader goal of democratising legal knowledge and making justice-related information more accessible to the public.

RTI on the Formation of the Expert Committee for Domestic Workers

As part of its ongoing advocacy for inclusive legal reform and labour rights, the organisation submitted RTI application to four key ministries—Women & Child Development, Labour and Employment, Social Justice and Empowerment, and Law and Justice. The RTI application seeks to ascertain whether the committee has been formed, its composition, and the progress made toward fulfilling the Court's directive following the Supreme Court's judgment in *Ajay Malik v. State of Uttarakhand & Anr.*

The application specifically requests details on the committee's membership, inter-ministerial correspondence, meeting minutes, and the roadmap for preparing the mandated report.

Lokniti's 17th Summer School on Survey Method

Mr. Vinson Prakash from Common Cause participated in Lokniti's 17th Summer School on Survey Method for Understanding Indian Politics, held from 22 to 29 June 2025 at NITTE Meenakshi Institute of Technology, Yelahanka, Bengaluru. The program was designed to convene young scholars and enhance their proficiency in designing survey-based research studies and conducting empirical analysis, with a particular emphasis on quantitative data techniques using SPSS software.

COMMON CAUSE CASE UPDATES

Supreme Court Cases

MA 18/2025 Registered on January 3, 2025, in writ petition on Illegal Mining in Odisha:

In January 2025, Common Cause filed a Miscellaneous Application (MA) in the writ petition on Illegal Mining in Odisha. The MA prayed for directions to the State of Odisha to expedite the recovery/attachment proceedings on an urgent basis by complying with directions contained in previous orders passed by the Supreme Court and to take immediate action to pursue all available remedies before the appropriate forum (Division bench of High Court or SLP before this Hon'ble Court) to have unfavourable orders reversed or altered. The MA was listed several times in January, February, March, April and May 2025.

The IA filed by Common Cause on February 23, 2023, focused on getting directives issued for the Union of India and the State of Odisha to impose limits on the extraction of minerals and on constituting a committee of two or three independent experts to suggest and recommend such limits and submit its report in a time-bound manner. The matter was disposed of by the Supreme Court on May 7, 2025. The IA also sought an updated status report on the amount of penalty deposited by the lessees including the amount to be recovered, lease-wise details of the ore reserve, extraction permitted, the current status of the mining lease, total iron ore reserves and total permitted extraction in the State as directed in the judgment dated August 2, 2017.

Significantly, the Supreme Court granted Common Cause, the petitioner, the liberty to file an independent writ petition for the same relief, which had been sought in the IA. The Court also granted our request that the State of Odisha may be called upon to file a status report about the points referred to in paragraphs 3 and 6 of the SC's order dated March 5, 2025, which is the prayer in the MA too. The matter is directed to be listed on July 29, 2025.

Petition challenging the electoral irregularities and to ensure free and fair elections and the rule of law (W.P. (C) 1382/2019)

Common Cause, along with ADR, filed a writ petition in 2019 to ensure free and fair elections and the rule of law, and for the enforcement of fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India. The writ petition highlighted the dereliction of duty on the part of the Election Commission of India (ECI) in declaring election results (of the Lok Sabha and State Legislative Assemblies) through Electronic Voting Machines (EVMs), not based on accurate and indisputable data, which is put in the public domain.

The petitioners sought a direction from the Hon'ble Court to the ECI not to announce any provisional and estimated election results before the actual and accurate reconciliation of data. A direction to the ECI was sought by the petitioners to evolve an efficient, transparent, rational and robust procedure/ mechanism by creating a separate department/grievance cell.

On May 10, 2024, Common Cause and ADR filed an application seeking directions from the Supreme Court to the ECI to disclose authenticated records of voter turnout by uploading scanned legible copies of Form 17C Part-I (the total number of Votes Recorded) of all polling stations after each phase of polling in the on-going 2024 Lok Sabha elections on its website and to provide in public domain a tabulation of the constituency and polling station wise figures of voter

turnout in absolute numbers and percentage.

On May 17th, 2024, IA no. 115592 was heard by CJI DY Chandrachud, Justices JB Pardiwala and Manoj Mishra. The Election Commission of India requested a fair opportunity to deal with the contents of the IA. The court granted a week to the ECI to file a response. On May 24 2024, the application was heard by the bench of Justice Dipankar Datta and Satish Chandra Sharma. Prima facie, the court was not inclined to grant any instant relief in view of the similarity of prayers in the main writ petition and the application under hearing. On March 18, 2025, the counsel for ECI suggested that the petitioners may file representation(s) and approach the ECI with their grievances and suggestion(s) and the ECI would inform them about the date of hearing so as to try to resolve the issues and contentions raised. Such representation(s) were required to be made within a period of ten days from March 18, 2025 and the ECI would hear the petitioner(s) and proceed to decide such representation(s). The registry was directed to relist the matter in the week commencing July 28, 2025.

Petition seeking directions to implement the recommendations of the National Electric Mobility Mission Plan, 2020 (W.P. (C) 228/2019)

Common Cause partnered with CPIL and Jindal Naturecure Institute to seek directions for the implementation of the recommendations of the National Electric Mobility Mission Plan, 2020, promulgated in 2012 by the Ministry of Heavy Industries (nodal agency for the automobile sector), and the recommendations of Zero Emission Vehicles: Towards a Policy Framework, promulgated in September of 2019 by the Niti Aayog to curb the problems of climate change, air pollution, and cost of importing fossil fuels to India.

This petition has been filed under Article 32 as fundamental rights of citizens to health and clean environment guaranteed under Article 14 and Article 21 of the Constitution of India are being violated due to governmental apathy in mitigating the impact of Climate Change and Air Pollution, partly attributable to emissions from vehicles that burn fossil fuels.

On March 5, 2019, taking note of the contentions of the petitioners, the bench consisting of the Chief Justice of India Ranjan Gogoi and Justice Sanjiv Khanna ordered the government to apprise it of the status of implementation of the FAME-India scheme.

On January 17, 2020, the Ministry of Road Transport & Highways of India, through its Secretary, was impleaded as a respondent in the petition, and the Bench consisting of Chief Justice and Justices Gavai and Surya Kant issued a notice to the ministry.

On February 19, 2020, the bench consisting of the Chief Justice and Justices Gavai and Surya Kant discussed that the issue of the use of electric vehicles is connected to several other issues which are pending before the Court. The bench observed that issues pertaining to the source of power of public and private electric vehicles have a great impact on the environment of the whole country, and all such issues must be discussed simultaneously. The court sought the assistance of authorities empowered with decision-making, specifically on the following:

The procurement of electric vehicles; providing charging ports; the feebate system, i.e, imposing a fee on vehicles with high emissions and providing a subsidy on electric vehicles; use of hydrogen vehicles; any other alternate means of power for vehicles; overall impact on imports and environment.

On March 11 2024, the matter was heard along with a suo motu writ petition (c) no.4/2019 by the Coram of Justices Surya Kant and KV Vishwanathan. The respondents were granted four weeks to file the counter-affidavit.

On May 6 2024, upon hearing,

the court granted four weeks to the respondents as requested. On July 22, 2024, upon hearing the counsel, the Court granted four weeks to Mr. Devashish Bharukha, learned Senior Counsel representing the UOI, to file the counter affidavit, along with all the policy decisions taken by the UOI from time to time to promote electric vehicles. The court also impressed upon Mr Bharukha to inform the learned Attorney General for India to assist the court in the matter on the next date of hearing and posted the matter for September 23, 2024.

The matter was listed on April 22, 2025, when the government sought time to place on record the policy decisions taken by it from time to time for promoting electric vehicles and also for setting-up of the requisite infrastructure to facilitate the consumers of electric vehicles. The Court granted four weeks' time to respond. On May 14, the AG stated that the process of taking policy decision, as indicated in the order dated April 22, 2025, involved inter-ministerial deliberations and it would take some more time to take a conscious decision in this regard. Meanwhile, the SC directed the petitioner as well as the intervenor to provide their respective suggestions to the AG for onward transmission to the concerned Ministry and posted the matter for August 13, 2025.

Contempt Petition against Lawyers Strike: The contempt petition filed by Common Cause against the strike of lawyers in the Delhi High Court and all district courts of Delhi on the issue of conflict over pecuniary jurisdiction has led to the submission of draft rules by the Bar Council of India (BCI).

On January 24, 2024, the BCI counsel stated that the rules may be examined by the Court, and the suggestion of the court, if any, shall be accepted by the BCI without any condition.

On February 6, 2024, arguments by the counsels were heard by the court. On February 9, 2024, the court appointed Justice Muralidhar as Amicus to examine the rules in the context of the existing judgments and objections and to submit his report. On May 3, 2024, the matter was ordered to be listed on August 13, 2024.

On August 27, 2024, Dr. S. Muralidhar, learned Senior Counsel, submitted that pursuant to his being appointed as Amicus Curiae by the Court, he had held a hybrid meeting with the BCI on April 29, 2024 and given suggestions which were also put in writing. Though the Bar Council of India had taken a stand that it would consider the suggestions in its meeting, no such meeting was convened. The counsel for the BCI requested that the Amicus Curiae forward his formal report to it. The Court observed that, considering the nature of the issues involved, such modalities were required for the reason that ultimately, the final suggestion/report by the Amicus Curiae would be submitted to the Court after considering the suggestions given by the BCI. Accordingly, the Court requested the Bar Council of India to hold such a meeting within four weeks from the date of hearing and provide its response to the Amicus Curiae, who would then submit his final report to the Court within the next four weeks. On April 2, 2025, three weeks' time was sought by Mr. Manan Mishra, when he apprised the Court that a committee has been formed and it is likely to give its opinion within that period. The matter is likely to be taken up on July 15, 2025.

Writ for Supreme Court Directions on Police Reforms: The battle for police reforms has been going on for the last 29 years. The Supreme Court took 10 years to give a historic judgment in 2006, in the petition filed by Prakash Singh, Common Cause and NK Singh IN 1996. Since then, it has been a struggle to get the Court's directions implemented. On July 3, 2018, responding to an interlocutory application filed by the Ministry of Home Affairs regarding the appointment of acting Director General of Police (DGP) in the states, the Supreme Court gave a slew of directions to ensure that there were no distortions in such appointments. It laid down that the states shall send their proposals to the UPSC three months before the retirement of

the incumbent DGP. The UPSC shall then prepare a panel of three officers so that the state can appoint one of them as DGP.

In October 2022 and December 2022, the Court entertained applications filed by the State of Nagaland and the UPSC to finalise the names of the DGP for the state. In January 2023, the matter was listed twice, when the Court decided on the IA filed by the State of Nagaland on the appointment of DGP. This matter was listed several times. On March 25, 2025, after hearing the counsels for the petitioners, the bench directed that an advance copy of the contempt petitions be served on the nominated/standing counsel for the State of Jharkhand.

Mr. Prashant Bhushan stated that he filed I.A. Nos. 150155/2023 and 67359/2023 in Writ Petition (Civil) No. 310/1996 on behalf of the petitioner, Prakash Singh, seeking appropriate orders/ directions as to compliance and for modification of the order(s) of this Court, which have been registered, but were not listed. The registry was directed by the bench to examine and list these applications on the next date and list all pleas for hearing in the week commencing May 5, 2025. The matter has not been listed since.

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Status of Policing in India Report 2025

Police Torture and (Un)Accountability

Jointly prepared by Common Cause and its academic partner, Lokniti-CSDS, the Status of Policing in India Report 2025: Police Torture and (Un)Accountability, explores the nature, causes and factors that contribute to the perpetuation of police violence and torture in India.

SPIR 2025 surveyed 8,276 police personnel at 82 locations such as police stations, police lines, and courts across 17 states and UTs. Responses were gathered from urban and rural areas, state capitals, district headquarters, and other small, medium and big towns. The respondents cover the police personnel of constabulary ranks, upper subordinates, and IPS officers. The study includes in-depth interviews with stakeholders who are supposed to act as safeguards against police torture—judges, lawyers and doctors

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