

1. Right to Information to Deny – Polity

India's Right to Information (RTI) Act is being severely weakened by the new Digital Personal Data Protection (DPDP) Act, which amends a key section on personal information. This creates a loophole that encourages a "default denial" of information, threatening to turn the RTI into a "Right to Deny" and undermining democratic transparency.

The Core Issue – From Right to Information (RTI) to Right to Deny (RDI)

The Right to Information (RTI) Act, 2005, a landmark legislation for transparency, is being systematically weakened by recent judicial interpretations and legislative changes. The most significant dilution comes from the Digital Personal Data Protection (DPDP) Act, 2023, which has amended a key provision of the RTI Act, effectively shifting the balance from a citizen's "Right to Information" towards a government's "Right to Deny Information (RDI)."

The Philosophical and Constitutional Basis of RTI

Democratic Philosophy – The Act is founded on the principle that in a democracy, all government-held information inherently belongs to the citizens. The government acts merely as a custodian, not the owner.

Constitutional Grounding – The right to information is judicially recognized as an integral part of the Fundamental Right to Freedom of Speech and Expression under Article 19(1)(a) of the Constitution.

Principle of Transparency – It ensures that government functioning remains open to public scrutiny, empowering citizens to hold their elected representatives and public officials accountable.

The Evolution of RTI in India – A Timeline

Judicial Recognition (1975–1989) – The Supreme Court first recognized the "Right to Know" as part of fundamental rights in 1975 and later expanded this interpretation under Articles 19(1)(a) and 21.

Grassroots Movements (1990s) – The movement for RTI gained significant momentum from grassroots organizations, most notably the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan, which used public hearings (Jan Sunwai) to demand accountability in local public works.

Legislative Efforts (1996–2004) – Following the formation of the National Campaign for People's Right to Information (NCPRI), several draft bills were proposed, and states like Tamil Nadu, Rajasthan, and Maharashtra passed their own RTI laws. A weak Freedom of Information Act was passed in 2002 but never implemented.

Enactment of the RTI Act (2005) – After sustained pressure from civil society and a commitment in the UPA government's Common Minimum Programme, the comprehensive RTI Act was passed by Parliament and came into force on October 12, 2005.

How the RTI Act Works – Key Features

Right to Access – Any citizen can request information from any "public authority."

Time-Bound Response – A Public Information Officer (PIO) must provide the information within 30 days. In matters concerning life or liberty, the deadline is 48 hours.

Proactive Disclosure – **Section 4** of the Act mandates that all public authorities must proactively publish key information to reduce the need for citizens to file individual requests.

Original Exemption for Personal Information (Section 8(1)(j)) – Originally, personal information could be denied *only if* it had no relation to public activity or was an unwarranted invasion of privacy, **unless a larger public interest justified its disclosure**. A crucial safeguard stated that information which cannot be denied to Parliament or a State Legislature cannot be denied to a citizen.

The DPDP Act's Impact – Diluting the RTI

Drastic Amendment to Section 8(1)(j) – The DPDP Act has amended this key section, reducing the nuanced clause to just six vague words – **"information which relates to personal information."**

Expanded Definition of "Person" – The DPDP Act defines a "person" very broadly to include not just an individual but also a **Hindu Undivided Family (HUF), a company, a firm, and even the State itself**. This

creates a massive loophole, as almost any government information can be linked to a "person" and denied.

Nullification of Safeguards – The critical proviso linking a citizen's right to information with that of Parliament has been rendered ineffective, as the broad new definition of "personal information" can be used to override it.

Creating a Culture of "Default Denial" – The DPDP Act imposes severe penalties (up to ₹250 crore) on entities for the wrongful disclosure of personal data. This incentivizes PIOs to err on the side of caution and deny information by default to avoid personal liability, fostering a culture of secrecy.

The Enduring Significance of the RTI Act

Fighting Corruption – RTI has been a powerful tool in exposing major scams like the Adarsh Housing Scam and Coalgate, and in uncovering grassroots corruption like the use of ghost employees or beneficiaries in welfare schemes.

Strengthening Democracy – It empowers ordinary citizens, including the most marginalized, to act as watchdogs, demand accountability, and access their rights and entitlements.

Empowering Media and Whistleblowers – Journalists and activists rely heavily on RTI to gather primary evidence and bring issues of public importance to light. The dilution of the Act directly threatens their ability to hold power to account.

Major Challenges to the Implementation of RTI

Bureaucratic Resistance – A persistent culture of secrecy and a tendency to delay or wrongfully deny information remain significant hurdles.

Understaffed Commissions – Information Commissions at the central and state levels face huge backlogs, long delays in appointments, and staff shortages, which cripples the appeals process.

Previous Legislative Dilutions – The **RTI (Amendment) Act, 2019**, had already weakened the autonomy of Information Commissions by changing their tenure and status.

Threats to Activists – RTI users and activists often face harassment, threats, and physical violence for seeking information that exposes corruption.

The Way Forward – Restoring the Spirit of RTI

Restore RTI's Original Spirit – The amendments must be revisited to clarify the definition of "personal information," restore the public interest test, and harmonize the DPDP Act with the RTI Act's core principles of transparency.

Enhance Proactive Disclosure – There must be a renewed focus on the mandatory implementation of **Section 4** of the Act to ensure that most information is made public by default.

Protect Activists – The full and effective implementation of the Whistleblower Protection Act is urgently needed to provide security to those who use RTI to expose wrongdoing.

Citizen Awareness and Mobilization – Civil society, the media, and citizens must launch mass campaigns to raise awareness about the dangers of the new amendments and pressure political parties to protect this fundamental right.

Conclusion – Safeguarding Democratic Accountability

The Right to Information is more than just a law; it is a cornerstone of democratic accountability in India. The recent amendments threaten to turn this powerful tool for citizen empowerment into an instrument of state secrecy. Restoring the original spirit of the RTI Act is essential to ensure that the government remains transparent, accountable, and truly "for the people."

Source – <https://www.thehindu.com/opinion/lead/the-rtis-shift-to-a-right-to-deny-information/article70042967.ece#~:text=It%20stipulated%20that%20personal%20information,pu>