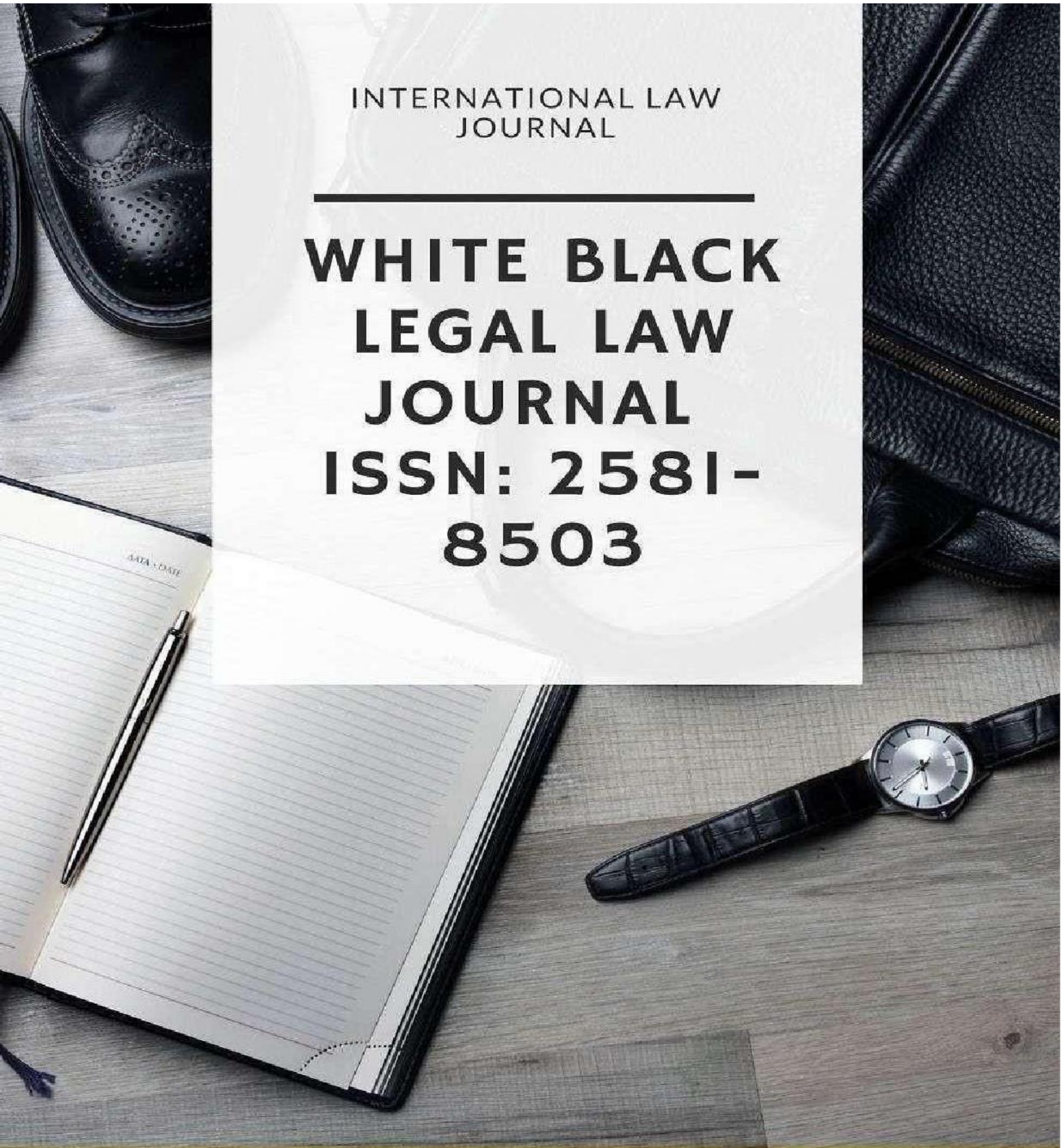

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TRANSPARENCY VERSUS CONFIDENTIALITY: EMERGING CHALLENGES UNDER THE RIGHT TO INFORMATION ACT, 2005

AUTHORED BY - SAHIL SEHRAWAT

ABSTRACT

The Right to Information Act, 2005 marked a watershed in Indian administrative law, transposing the constitutional promise of open and accountable government under Article 19(1)(a) into a justiciable statutory right. Two decades since its enactment, the Act continues to operate at the fault line between two constitutionally protected values: the citizen's right to know and the individual's right to privacy, alongside the State's legitimate claims to confidentiality in matters of security, diplomacy, and institutional integrity. This paper undertakes a doctrinal and analytical examination of the evolving jurisprudence on the transparency-confidentiality dyad under the RTI Act, tracing its trajectory from the pre-RTI free-speech cases through the exemption architecture of Section 8, the fiduciary and third-party protections of Sections 8(1)(e), 8(1)(j) and 11, and the security carve-out under Section 24. Particular emphasis is placed on the doctrinal shift effected by the Supreme Court's proportionality-based balancing test in CPIO, Supreme Court of India v. Subhash Chandra Agarwal, read alongside the recognition of informational privacy as a facet of the fundamental right to life and personal liberty in Justice K.S. Puttaswamy v. Union of India. The paper further undertakes a critical assessment of the 2019 amendment's impact on the institutional independence of Information Commissions and, most significantly, the far-reaching 2023-2025 amendment to Section 8(1)(j) effected through Section 44(3) of the Digital Personal Data Protection Act, 2023, which has removed the statutory public-interest override for personal information and reconfigured the transparency-privacy balance in favour of confidentiality. Drawing on statutory text, case law, and recent scholarship, the paper argues that the current legal architecture risks eroding the RTI Act's original constitutional purpose and proposes calibrated reforms to restore a principled, proportionality-driven equilibrium between transparency and confidentiality in Indian information law.

Keywords: *Right to Information Act, 2005; Transparency; Confidentiality; Right to Privacy;*

Digital Personal Data Protection Act, 2023; Section 8(1)(j); Proportionality; Good Governance; Information Commissions.

I. INTRODUCTION

Democracy, in its substantive sense, presupposes an informed citizenry capable of holding the machinery of the State to account. The Indian Supreme Court recognised as early as 1975, in State of U.P. v. Raj Narain, that the right to know is a necessary ingredient of the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution, holding that in a government of responsibility, the people have a right to know every public act done by their public functionaries.[1] This constitutional insight was reiterated in S.P. Gupta v. Union of India[2] and further developed in People's Union for Civil Liberties v. Union of India,[3] before eventually finding statutory expression in the Right to Information Act, 2005, a legislation enacted, in the words of its Preamble, "to provide for setting out the practical regime of right to information for citizens" and to promote transparency and accountability in the working of every public authority.[4]

The RTI Act, however, was never conceived as an unqualified right. Parliament, cognisant of countervailing interests, embedded within Section 8 an elaborate architecture of exemptions protecting, inter alia, information affecting the sovereignty and integrity of India, information held in a fiduciary relationship, personal information the disclosure of which bears no relationship to any public activity, and Cabinet papers, while Section 24 excludes the intelligence and security organisations specified in the Second Schedule from the operation of the Act altogether, subject to a proviso restoring access to information relating to allegations of corruption and human rights violations.[5] The Act, therefore, does not enact an absolute right to information; it constructs a statutory mechanism for balancing transparency against several distinct species of confidentiality, namely, personal privacy, commercial confidence, fiduciary trust, and national security.[6]

Two decades of implementation, and increasingly of litigation, have exposed the fragility of this balance. Courts and Information Commissions have had to fashion tests to determine when the "larger public interest" contemplated by Section 8(2) justifies disclosure notwithstanding

[1]State of U.P. v. Raj Narain, (1975) 4 SCC 428, 453 (per Mathew, J.).
[2]S.P. Gupta v. Union of India, AIR 1982 SC 149, 234.
[3]People's Union for Civil Liberties v. Union of India, (2004) 2 SCC 476.
[4]The Right to Information Act, 2005, No. 22 of 2005, Acts of Parliament, 2005 (India) [hereinafter "RTI Act"].
[5]RTI Act, 2005, s. 8(1)(a)-(j).
[6]RTI Act, 2005, s. 24 read with the Second Schedule.

an exemption, and when it does not. The tension has become considerably sharper following the constitutional recognition of privacy as a fundamental right in Justice K.S. Puttaswamy (Retd.) v. Union of India,[7] and, more recently, following the amendment of Section 8(1)(j) of the RTI Act by Section 44(3) of the Digital Personal Data Protection Act, 2023, a provision operationalised through the Digital Personal Data Protection Rules, 2025, notified by the Ministry of Electronics and Information Technology on 14 November 2025.[8] This amendment has removed the express public-interest override that had previously qualified the personal-information exemption, provoking sustained concern among transparency activists, opposition parliamentarians, and constitutional scholars that the amendment tilts the balance decisively — and, in the view of many commentators, unconstitutionally — towards confidentiality.[9]

Against this backdrop, the present paper undertakes a critical, doctrinal examination of the transparency-confidentiality dyad under the RTI Act, 2005, situating recent statutory and jurisprudential developments — current up to mid-2026 — within the broader constitutional framework of Articles 19(1)(a) and 21 of the Constitution of India. The paper is structured as follows. Part II reviews the existing literature on the subject and identifies the gap this paper seeks to address. Part III analyses, in turn, the constitutional foundations of transparency, the statutory exemption architecture, the evolution of judicial balancing tests, the impact of the Puttaswamy privacy jurisprudence, the institutional consequences of the RTI (Amendment) Act, 2019, the 2023-2025 DPDP amendment to Section 8(1)(j), the national-security carve-out under Section 24, and a brief comparative perspective drawing on the freedom-of-information regimes of the United Kingdom and the United States. Part IV distils the principal findings of the study, Part V proposes reform recommendations, and Part VI offers concluding observations.

The paper adopts a doctrinal and analytical methodology, relying primarily on statutory text, judicial precedent, Central Information Commission ("CIC") decisions, parliamentary debates, and secondary literature. Given the fast-moving nature of developments surrounding the DPDP Act's interface with the RTI Act, the paper also draws upon contemporaneous commentary and reportage current as of the first half of 2026, while flagging that certain aspects — most notably pending constitutional challenges to Section 44(3) of the DPDP Act — remain sub judice and are therefore treated as live rather than settled questions of law.

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[7] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.
[8] The Digital Personal Data Protection Act, 2023, No. 22 of 2023, Acts of Parliament, 2023 (India), s. 44(3) [hereinafter "DPDP Act"].
[9] Ministry of Electronics and Information Technology, Notification G.S.R. (E), Digital Personal Data Protection Rules, 2025 (14 Nov. 2025).

II. LITERATURE REVIEW

Scholarship on the RTI Act has evolved through roughly three overlapping phases that track the statute's own trajectory. The first, spanning the years immediately following the Act's enactment in 2005, was predominantly celebratory in character. Commentators such as Sudhir Naib, in his widely cited handbook on the Act, documented the RTI Act's transformative potential as a tool of participatory governance, situating it within India's broader post-liberalisation shift towards administrative accountability.[10] Madabhushi Sridhar's early treatise similarly framed the Act as operationalising the constitutional guarantee of freedom of expression, tracing its doctrinal lineage to the pre-2005 free-speech jurisprudence.[11] This first phase of literature was largely concerned with establishing the constitutional pedigree of the right and with cataloguing the procedural mechanics of the Act — the two-stage appellate structure, the role of Public Information Officers, and the time-bound response obligations under Section 7.

A second, more critical phase of scholarship emerged after 2010, coinciding with a wave of litigation testing the boundaries of the Section 8 exemptions. Scholars writing in journals such as the Journal of the Indian Law Institute and the National Law School of India Review began to interrogate the judiciary's inconsistent application of the "public interest" test, noting a discernible institutional reluctance on the part of constitutional courts to subject their own administrative functioning to the same transparency standards demanded of the executive.[12] This literature was crystallised around the protracted litigation concerning the applicability of the RTI Act to the office of the Chief Justice of India, which occupied the Delhi High Court and, eventually, a three-judge bench of the Supreme Court for over a decade.[13] Commentators including Shailesh Gandhi and Venkatesan documented, through empirical surveys of Information Commission orders, a marked divergence in the standard applied to personal-information exemptions across different Information Commissions, foreshadowing the doctrinal uncertainty that would later be addressed — imperfectly — by the Supreme Court in Girish Ramchandra Deshpande and Subhash Chandra Agarwal.[14]

A third and still-unfolding phase of scholarship, dating from approximately 2019 onward, has been shaped by two developments external to the RTI Act itself: first, the Supreme Court's

[10]Sudhir Naib, The Right to Information Act, 2005: A Handbook 3-19 (Oxford Univ. Press, 2011).
[11]Madabhushi Sridhar, Right to Information: Law and Practice 45-62 (LexisNexis, 2d ed. 2013).
[12]Ananth Padmanabhan, "The Right to Information Act and Judicial Accountability", 53 J. Indian L. Inst. 187, 191-96 (2011).
[13]Sudhanshu Ranjan, "Judicial Accountability and the Right to Information", 4 NUJS L. Rev. 331, 335-40 (2011).
[14]V. Venkatesan, "The Right Divided", Frontline, Aug. 2012, at 45.

recognition of informational privacy as a fundamental right in Puttaswamy, and second, the enactment of the Digital Personal Data Protection Act, 2023. Scholars such as Gautam Bhatia have argued that the RTI Act's pre-2023 architecture already embodied a workable, judicially refined proportionality standard for reconciling privacy and transparency, rendering a statutory override unnecessary and, in constitutional terms, disproportionate.[15] More recent commentary, published contemporaneously with the notification of the DPDP Rules, 2025, has been sharply critical of the amendment to Section 8(1)(j), with commentators observing that the removal of the public-interest override converts a calibrated, case-by-case exemption into what is, in practical effect, a blanket bar on disclosure of any information that can be characterised as "personal".[16] Scholars affiliated with the National Campaign for People's Right to Information ("NCPRI") and academic commentators writing on the Oxford Human Rights Hub have similarly warned that the amended provision, by dispensing with any inquiry into the relationship between the information sought and public activity, threatens to insulate from scrutiny precisely the categories of information — asset declarations, disciplinary records, educational qualifications of public officials — that have historically been most vulnerable to RTI-enabled exposure of corruption and malfeasance.[17]

A related strand of literature has focused on the institutional independence of Information Commissions following the RTI (Amendment) Act, 2019, which altered the statutorily fixed tenure and salary protections of the Chief Information Commissioner and Information Commissioners, subjecting these to rules prescribed by the Central Government. Commentators including Anjali Bhardwaj and the petitioners in the subsequent Supreme Court litigation have argued that this amendment compromises the functional autonomy of an institution designed to adjudicate disputes between citizens and the State.[18] A distinct body of empirical literature has documented chronic vacancies in State and Central Information Commissions, delays that, several authors argue, constitute as significant a threat to the transparency regime as any substantive exemption.[19]

Notwithstanding this substantial body of scholarship, a gap remains. Existing literature tends either to focus narrowly on the pre-2023 judicial balancing tests, treating the RTI Act's privacy exemption as a matter now doctrinally settled by Subhash Chandra Agarwal, or to engage with

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[15]Gautam Bhatia, "The Proportionality Standard and the Right to Information", 2019 SCC OnLine Blog OpEd 45.

[16]"The Amendment to Section 8(1)(j): Shifting from 'Public Interest' to 'Total Prohibition'", AMLEGALS Blog (Dec. 10, 2025).

[17]Sanya D. Kishwar, Sadqua Khatoon & Kritika Vatsa, "Revisiting Right to Information in India: Is the DPDP Act Counterproductive to RTI Act?", Oxford Human Rights Hub (Jul. 11, 2025).

[18]Anjali Bhardwaj v. Union of India, (2019) 18 SCC 155.

[19]Satark Nagrik Sangathan, Report Card on the Performance of Information Commissions in India 12-28 (2023).

the DPDP amendment in isolation, as a data-protection question rather than as a fundamental reconfiguration of the RTI Act's own internal transparency-confidentiality equilibrium. Few studies have attempted an integrated doctrinal account that traces the transparency-confidentiality balance across its full arc — from the pre-RTI constitutional foundations, through the Section 8 exemption jurisprudence and the Puttaswamy privacy turn, to the institutional and statutory developments of 2019 through 2026. This paper seeks to fill that gap by offering a unified analytical framework within which each of these developments can be understood as successive iterations of a single, unresolved constitutional question: where does the line between the citizen's right to know and the State's or the individual's legitimate claim to confidentiality properly lie, and who — Parliament, the courts, or the Information Commissions — is institutionally best placed to draw it.

III. ANALYSIS AND DISCUSSION

A. The Constitutional Foundations of Transparency

The right to information in India is not purely a creature of statute; it possesses an antecedent constitutional pedigree traceable to Article 19(1)(a). In State of U.P. v. Raj Narain, the Supreme Court held that the concept of an open government is derived from the concept of freedom of speech, and that the citizen's right to know facts and information about the administration of the country flows directly from this freedom.[20] This reasoning was extended in S.P. Gupta v. Union of India, where a seven-judge bench held that the disclosure of information regarding the functioning of government must be the rule and secrecy an exception, justifiable only where the strictest requirement of public interest so demands.[21] By the time the Supreme Court decided People's Union for Civil Liberties v. Union of India in 2004, the right to information had been firmly located within Article 19(1)(a) as an implicit facet of the freedom of speech and expression, with the Court holding that this freedom includes the right to impart and receive information.[22]

It is significant that even in this foundational jurisprudence, the Court was careful to note that the right to know is not absolute and must be reconciled with other public interests, including the confidentiality of sensitive information.[23] The constitutional right to information was, in other words, always already a qualified right, subject to reasonable restrictions of the kind

[20] State of U.P. v. Raj Narain, (1975) 4 SCC 428, 453.
[21] S.P. Gupta v. Union of India, AIR 1982 SC 149, 234 (per Bhagwati, J.).
[22] People's Union for Civil Liberties v. Union of India, (2004) 2 SCC 476, 493.
[23] S.P. Gupta v. Union of India, AIR 1982 SC 149, 235.

contemplated by Article 19(2). This dual character — an expansive constitutional presumption in favour of openness, coupled with a recognition that certain categories of information legitimately warrant protection — was subsequently codified in the RTI Act's exemption architecture, to which the paper now turns.

B. The Statutory Architecture: Sections 8, 9, 11 and 24

Section 3 of the RTI Act confers upon all citizens the right to information, defined broadly under Section 2(f) to include any material in any form held by or under the control of a public authority.[24] Section 4 imposes proactive, suo motu disclosure obligations on public authorities, reflecting the legislative intent that transparency should be the ordinary mode of governmental functioning rather than something citizens must litigate to obtain.[25] Against this presumption of openness, Section 8(1) enumerates ten categories of exempted information, ranging from information that would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, or relations with foreign States [Section 8(1)(a)], to information the disclosure of which would cause a breach of privilege of Parliament or a State Legislature [Section 8(1)(f)], Cabinet papers including records of deliberations of the Council of Ministers [Section 8(1)(i)], and, most contentiously for present purposes, 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 [the pre-amendment Section 8(1)(j)].[26]

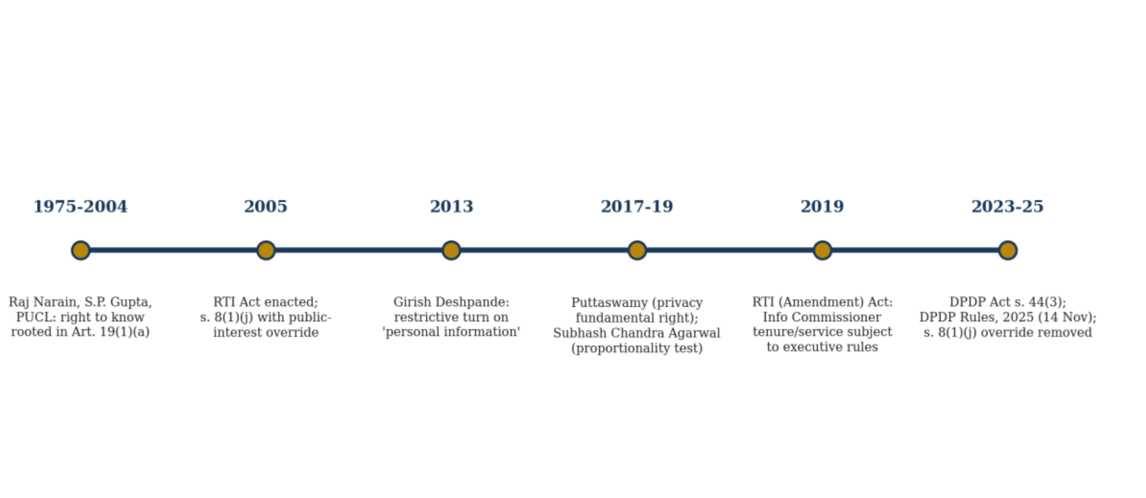
Critically, Section 8(2) of the Act — a provision that has, until the 2023 amendment, been central to the judicial balancing exercise — provides that a public authority may allow access to information notwithstanding any of the exemptions in Section 8(1), or even under the Official Secrets Act, 1923, if the public interest in disclosure outweighs the harm to the protected interest.[27] Section 8(2) thus operationalises a proportionality logic within the statute itself, requiring a case-by-case weighing exercise rather than a categorical exclusion. Section 9 further permits refusal of access where disclosure would involve infringement of copyright subsisting in a person other than the State, while Section 11 establishes a distinct procedural safeguard for third-party information, requiring the Public Information Officer to issue notice to, and consider the representations of, any third party whose commercial confidence, trade

[24]RTI Act, 2005, ss. 2(f), 3.
[25]RTI Act, 2005, s. 4(1)(b).
[26]RTI Act, 2005, s. 8(1)(a)-(j) (as originally enacted).
[27]RTI Act, 2005, s. 8(2).

secrets, intellectual property, or — significant for the privacy analysis developed below — other interests are involved, before deciding whether disclosure is warranted in the public interest.[28]

Section 24 constitutes the most categorical of the Act's confidentiality carve-outs. It excludes intelligence and security organisations specified in the Second Schedule — including the Intelligence Bureau, the Research and Analysis Wing, the Central Bureau of Investigation, and various specialised units of the armed and para-military forces — from the application of the Act in its entirety, save that the exclusion does not extend to information relating to allegations of corruption and human rights violations, which may be furnished only with the approval of the Central Information Commission and, in the case of human-rights violations, within forty-five days of the receipt of the request.[29] This provision reflects Parliament's judgment that certain categories of State activity are so inherently bound up with security concerns that they warrant a blanket, rather than a case-by-case, exemption — a legislative choice that, as discussed in Section III.G below, has itself generated significant controversy regarding the scope of the corruption and human-rights proviso.

Figure 1: Jurisprudential Evolution of the Transparency-Confidentiality Balance Under the RTI Act, 1975-2025



C. Judicial Balancing Tests: From Mechanical Exemption to Proportionality

The judicial elaboration of the Section 8(1)(j) exemption has been the single most active site of transparency-confidentiality litigation under the RTI Act. Early Central Information Commission decisions, exemplified by S. Muthumalai v. CPIO, held that the personal-information exemption could be invoked only upon a threefold finding: that the information

[28] RTI Act, 2005, ss. 9, 11.
[29] RTI Act, 2005, s. 24(1), (4) & Second Schedule.

sought was inherently private in character, that it bore no relationship to any public activity or interest, and that its disclosure would cause an unwarranted invasion of privacy.[30] This threefold test was substantially endorsed by the Supreme Court in Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi, where the Court held that the expression "personal information" in Section 8(1)(j) must be read to exclude information that, although personal in a literal sense, nevertheless bears upon a public activity or interest, such as the qualifications or conduct of examiners engaged by a public service commission.[31]

A markedly more restrictive approach, however, emerged in Girish Ramchandra Deshpande v. Central Information Commissioner, where the Supreme Court held that the details disclosed by a public servant in his income tax returns, including the source of income, expenditure, and details of gifts received, are "personal information" which stand exempted from disclosure under Section 8(1)(j) unless it involves a larger public interest, and that mere involvement of a public servant does not automatically render such information subject to disclosure.[32] This decision, though narrowly confined to the service and disciplinary records of a particular official, was subsequently invoked by Public Information Officers and lower appellate authorities as authority for a considerably broader proposition — namely, that virtually any information concerning a named individual, including the assets and disciplinary records of public servants, falls presumptively within the Section 8(1)(j) exemption. Commentators have criticised this expansive reading as a doctrinal overreach inconsistent with the statute's transparency-oriented purpose, noting that Girish Deshpande did not purport to dispense with the public-interest inquiry mandated by the proviso to Section 8(1)(j) and Section 8(2), but was interpreted by subordinate authorities as though it had.

The Supreme Court partially corrected this trajectory in R.K. Jain v. Union of India, holding that while the confidential character of Annual Confidential Reports of a quasi-judicial member could attract the fiduciary exemption under Section 8(1)(e), the applicant — himself an aggrieved litigant before the tribunal in question — could nevertheless be entitled to access where he demonstrated a specific and reasoned public interest in disclosure connected to allegations of misconduct.[33] A parallel doctrinal development occurred in the sphere of fiduciary relationships under Section 8(1)(e). In Reserve Bank of India v. Jayantilal N. Mistry, the Supreme Court rejected the RBI's contention that its inspection reports and other

[30] S. Muthumalai v. CPIO, CIC/OK/A/2006/00046 (2020).
[31] Bihar Pub. Serv. Comm'n v. Saiyed Hussain Abbas Rizwi, (2012) 13 SCC 61, 68-70.
[32] Girish Ramchandra Deshpande v. Cent. Info. Comm'n, (2013) 1 SCC 212, 216.
[33] R.K. Jain v. Union of India, (2013) 14 SCC 794, 815-16 (noting the need to confine the ratio of Girish Deshpande to its facts).

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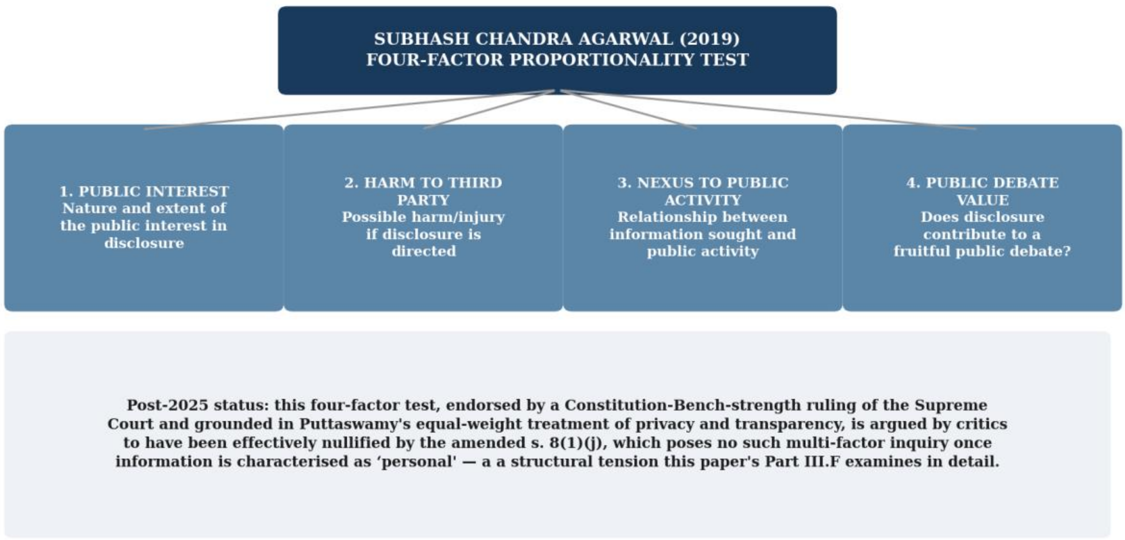
supervisory communications with banks were held in a fiduciary capacity exempting them from disclosure, holding that the RBI's regulatory relationship with banks was not one of fiduciary trust but of statutory oversight, and that the RBI, as a public authority discharging statutory duties in the public interest, could not withhold information touching upon the financial health of banking institutions from the very citizens whose deposits were at stake.[34] This decision has proved to be one of the most consequential applications of the transparency principle in the financial-regulatory domain, and the RBI's continuing reluctance to fully implement its directions has itself generated a further round of contempt litigation before the Supreme Court.[35]

Figure 3: The Subhash Chandra Agarwal Proportionality Test for RTI Disclosure



The doctrinal high-water mark of the balancing approach, however, is the Constitution Bench — in substance, though formally a three-judge bench — decision in Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal, decided in November 2019 and reported in 2020. The case arose from RTI applications seeking disclosure of correspondence between the Chief Justice of India and other constitutional functionaries regarding the appointment of judges, as well as information concerning the assets declared by judges of the Supreme Court. The Supreme Court held, first, that the office of the Chief Justice of India is a "public authority" within the meaning of Section 2(h) of the RTI Act and is therefore subject to the Act. Second, and more significantly for present purposes, the Court articulated a structured proportionality test for resolving the tension between the right to information under

[34]Reserve Bank of India v. Jayantilal N. Mistry, (2016) 3 SCC 525, 542-46.
[35]Girish Mittal v. Parvinder Singh, (2017) 4 SCC 578.

Section 8(1)(j) and the right to privacy, drawing explicitly upon the doctrinal framework laid down in Puttaswamy. The Court held that four factors must be weighed: the nature and extent of the public interest, the possible harm and injury to the third party if disclosure is directed, the relationship between the information sought and the public activity in question, and whether the information sought contributes to a fruitful public debate.[36] Justice D.Y. Chandrachud, in a separate concurring opinion, went further, holding that judicial independence and privacy are not warrants for institutional secrecy, and that transparency does not undermine judicial independence but is a vital constitutional value that must be woven consistently into how information is disclosed.[37]

The significance of Subhash Chandra Agarwal lies not merely in its specific holding regarding judicial appointments, but in its methodological contribution: it definitively rejected a categorical, all-or-nothing approach to the privacy-transparency conflict in favour of a structured, proportionality-based balancing exercise conducted on the facts of each case. This approach found further reinforcement in the Court's treatment of professional and institutional information in cases such as Institute of Chartered Accountants of India v. Shaunak H. Satya, where the Court held that examination-related information held by a statutory professional body must be disclosed where it serves the public interest in the fairness and integrity of the examination process,[38] and Central Board of Secondary Education v. Aditya Bandopadhyay, where the Court directed disclosure of evaluated answer scripts to students, holding that the right to access one's own examination records is a facet of the fairness owed by public examining bodies, while cautioning that the RTI Act was not intended to make public authorities “answerable for the wisdom of their decisions” in every particular.[39]

Not every judicial intervention, it must be noted, has expanded the ambit of disclosure. In Khanapuram Gandaiah v. Administrative Officer, the Supreme Court held that the RTI Act does not require a judicial or quasi-judicial authority to furnish reasons for its decisions beyond what is contained in the order itself, since to require otherwise would in effect create a form of appellate review through the medium of an information request.[40] Similarly, in Thalappalam Service Cooperative Bank Ltd. v. State of Kerala, the Court restrictively construed the expression “substantially financed” in Section 2(h)(d)(i), holding that co-operative societies

[36]CPIO, Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481, 522-24.
[37]CPIO, Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481, 604-08 (per Khanna, J.); id. at 656-58 (Chandrachud, J., concurring).
[38]Institute of Chartered Accountants of India v. Shaunak H. Satya, (2011) 8 SCC 781, 789-92.
[39]Central Bd. of Secondary Educ. v. Aditya Bandopadhyay, (2011) 8 SCC 497, 524-27.
[40]Khanapuram Gandaiah v. Administrative Officer, (2010) 2 SCC 1, 4-6.

registered under State co-operative societies legislation do not, without more, become "public authorities" merely by virtue of incidental governmental financial assistance, thereby limiting the horizontal reach of the Act into cooperative and quasi-private institutions.[41] These decisions illustrate that the confidentiality side of the ledger has not been without judicial reinforcement, even as the dominant doctrinal trend since 2019 has moved towards structured proportionality rather than categorical exemption.

D. The Privacy Turn: Puttaswamy and Its Aftermath

The unanimous nine-judge bench decision in Justice K.S. Puttaswamy (Retd.) v. Union of India fundamentally altered the constitutional terrain upon which the RTI Act's privacy exemption operates. The Court held that the right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution, and that any invasion of privacy by the State must satisfy a threefold test of legality, legitimate aim, and proportionality.[42] Although Puttaswamy arose in the context of the Aadhaar biometric identification scheme, its articulation of informational privacy as a distinct facet of the fundamental right to privacy has been directly transplanted into the RTI context, most explicitly in Subhash Chandra Agarwal, where the Court held that both the right to information and the right to privacy are fundamental rights of equal constitutional weight, neither of which is per se superior to the other, such that any conflict between them must be resolved through a proportionality exercise rather than through a rule of automatic priority.[43]
This equalisation of the two rights carries significant doctrinal consequences. Prior to Puttaswamy, privacy in the RTI context was treated principally as a statutory exemption under Section 8(1)(j), to be construed, in keeping with the general interpretive principle applicable to exceptions in a beneficial statute, narrowly and in favour of disclosure. After Puttaswamy, privacy claims arising under Section 8(1)(j) carry independent constitutional weight, such that a court or Information Commission adjudicating a disclosure dispute is not merely construing a statutory exception but is balancing two co-equal constitutional rights. It is precisely this doctrinal elevation of privacy that has, as discussed in Section III.F below, provided the normative vocabulary — even if not, in the view of many critics, the analytical rigour — for the 2023 amendment to Section 8(1)(j), which its proponents have defended as merely giving legislative effect to the constitutional privacy protections recognised in Puttaswamy.

[41] Thalappalam Serv. Coop. Bank Ltd. v. State of Kerala, (2013) 16 SCC 82, 121-24.
[42] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1, 264-67 (per Chandrachud, J., for four judges); id. at 501-04 (Kaul, J., concurring).
[43] CPIO, Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481, 601-03.

E. The 2019 Amendment and Institutional Independence

Institutional design questions form an underappreciated dimension of the transparency-confidentiality balance, for the substantive generosity of a disclosure regime is of limited value if the body charged with adjudicating disputed claims lacks functional independence from the executive whose conduct it is called upon to scrutinise. The original RTI Act, 2005 conferred upon the Chief Information Commissioner and Information Commissioners a fixed five-year tenure (or until the age of sixty-five) and salary and service conditions equivalent to those of the Chief Election Commissioner and Election Commissioners respectively, protections evidently designed to insulate the Commissions from executive pressure.[44] The Right to Information (Amendment) Act, 2019 altered this framework, empowering the Central Government to prescribe, by rules, the term of office and the salaries, allowances, and other terms of service of Information Commissioners, both at the Centre and in the States.[45]

The 2019 amendment was defended by the Government on the footing that the RTI Act had, without adequate constitutional basis, equated a statutory body with a constitutional authority such as the Election Commission, and that rationalisation of service conditions was a matter properly left to executive rule-making.[46] Critics, including a broad coalition of civil-society organisations under the banner of the National Campaign for People's Right to Information, argued that by making the tenure and service conditions of Information Commissioners subject to executive rule-making, the amendment compromised the very independence that is a structural precondition for effective adjudication of transparency disputes against the government.[47] The constitutional validity of the 2019 amendment was challenged before the Supreme Court, though the challenge remains pending disposal; in the interim, the Court has repeatedly expressed concern over a distinct but related institutional pathology — namely, the chronic failure of the Central and State Governments to fill vacancies in Information Commissions in a timely manner. In Anjali Bhardwaj v. Union of India, the Supreme Court directed the Central and State Governments to complete the process of appointment of Information Commissioners in a time-bound manner, observing that a non-functional or vacancy-ridden Information Commission defeats the very purpose for which the RTI Act was enacted, since pending appeals and complaints before under-staffed Commissions routinely

[44] RTI Act, 2005, ss. 13, 16 (as originally enacted).
[45] The Right to Information (Amendment) Act, 2019, No. 24 of 2019, Acts of Parliament, 2019 (India), ss. 2-3, amending RTI Act, 2005, ss. 13, 16.
[46] Lok Sabha Debates, The Right to Information (Amendment) Bill, 2019, July 22, 2019 (statement of the Minister of State for Personnel, Public Grievances and Pensions).
[47] NCPRI, Statement on the RTI (Amendment) Bill, 2019 (Jul. 19, 2019).

take years to be heard, rendering the statutory remedy illusory.[48]

Empirical monitoring by civil-society organisations corroborates the Court's concern. Successive report cards published by Satark Nagrik Sangathan have documented Information Commissions functioning without a Chief Information Commissioner for extended periods, backlogs running into tens of thousands of pending appeals in several States, and average waiting times for the disposal of a second appeal exceeding one to three years in a number of jurisdictions.[49] This institutional erosion operates as a functional confidentiality mechanism independent of the substantive exemptions in Section 8: information that is, in principle, disclosable may nonetheless remain inaccessible for years for want of a functioning adjudicatory forum, illustrating that the transparency-confidentiality balance is shaped as much by administrative capacity and institutional design as by the statutory text.

F. The DPDP Act, 2023 and the Reconfiguration of Section 8(1)(j)

The most consequential recent development in the transparency-confidentiality balance under the RTI Act is unquestionably the amendment of Section 8(1)(j) effected by Section 44(3) of the Digital Personal Data Protection Act, 2023. The unamended Section 8(1)(j) exempted from disclosure "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", and further provided that information which could not be denied to Parliament or a State Legislature could not be denied to any citizen.[50] Section 44(3) of the DPDP Act substitutes this provision in its entirety with a single, unqualified exemption for "information which relates to personal information", simpliciter — thereby deleting both the requirement that the information bear a relationship to public activity or interest, and the public-interest override that had permitted disclosure notwithstanding the personal character of the information.[51]

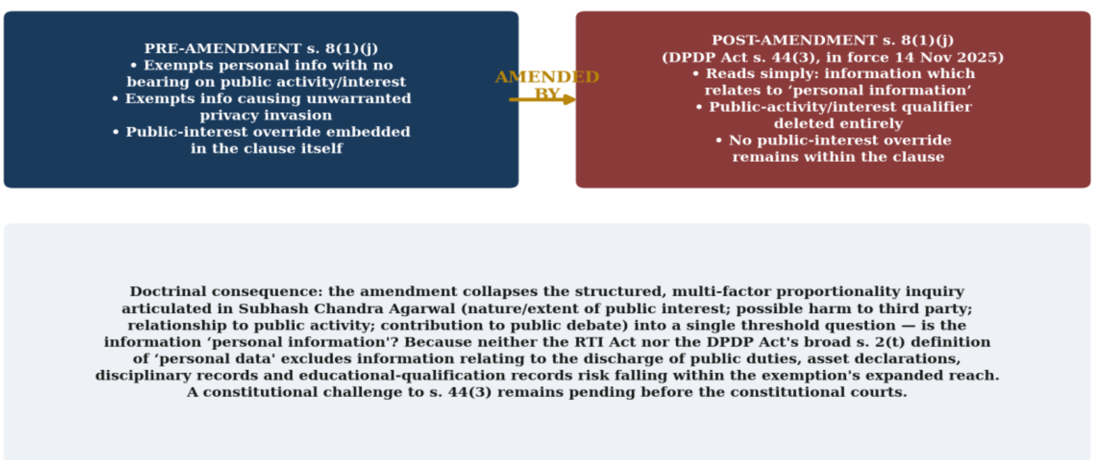
Although the DPDP Act received Presidential assent on 11 August 2023, the amendment to Section 8(1)(j) was, by virtue of the phased commencement scheme adopted under Section 1(2) of the DPDP Act, brought into force only upon notification of the Digital Personal Data

[48]Anjali Bhardwaj v. Union of India, (2019) 18 SCC 155, 162-66.
[49]Satark Nagrik Sangathan & Centre for Equity Studies, Report Card on the Performance of Information Commissions in India, 2023, at 9-14.
[50]RTI Act, 2005, s. 8(1)(j) (as originally enacted, prior to amendment by the DPDP Act, 2023).
[51]DPDP Act, 2023, s. 44(3).

Protection Rules, 2025 by the Ministry of Electronics and Information Technology on 14 November 2025 — with the amendment to the RTI Act taking effect immediately upon that notification, even though several other provisions of the DPDP Act, including those concerning the Data Protection Board of India, were granted a further eighteen-month transition period.[52] The amendment has thus been in force for less than a year at the time of writing, and its practical consequences are only beginning to be documented through Information Commission decisions and litigation.

The doctrinal consequences of this amendment are, in the assessment of the substantial majority of commentators, severe. First, the amendment collapses what had been a structured, multi-factor proportionality inquiry — of the kind articulated in Subhash Chandra Agarwal and Saiyed Hussain Abbas Rizwi — into a single, threshold question: is the information "personal information"? Because the RTI Act itself does not define "personal information", and because the DPDP Act's own definition of "personal data" under Section 2(t) is exceptionally broad, encompassing "any data about an individual who is identifiable by or in relation to such data", the amended Section 8(1)(j) is capable of being invoked to withhold categories of information that were previously disclosed as a matter of course, including the asset declarations of public servants, disciplinary proceedings, educational qualification records — a category of particular practical significance given a series of well-publicised controversies concerning fabricated academic credentials and caste certificates among public officials — and minutes of public meetings in which named individuals participated in their official capacity.[53]

Figure 2: Section 8(1)(j) RTI Act — Before and After the DPDP Act Amendment



[52]Ministry of Electronics and Info. Tech., Notification G.S.R. (E), Digital Personal Data Protection Rules, 2025 (14 Nov. 2025); "Privacy at the Price of Transparency: Legal Implications of the Amendments to Section 8 of the RTI Act", Lexology (Dec. 17, 2025).
[53]DPDP Act, 2023, s. 2(t).

Second, and relatedly, the removal of the public-interest override is argued by critics to nullify the very proportionality framework endorsed by the Supreme Court in Subhash Chandra Agarwal only a matter of years earlier. Where the pre-amendment Section 8(1)(j) required a public authority to consider whether the "larger public interest" justified disclosure notwithstanding the personal character of information, the amended provision poses no such question: once information is characterised as "personal information", it is, on a plain reading, absolutely exempt, regardless of the extent or urgency of any competing public interest. It is on precisely this ground that a constitutional challenge to Section 44(3) of the DPDP Act has been filed, contending that the amendment offends Article 19(1)(a) by providing a blanket exemption to personal information without any mechanism for weighing the public interest in disclosure, and thereby defeats the very purpose of the right to information as constitutionally guaranteed.[54] This challenge remained pending before the constitutional courts as of the date of this paper.[55]

Third, the procedural manner of the amendment has itself attracted criticism independent of its substantive content. Because the amendment to the RTI Act was introduced not as freestanding legislation subject to dedicated parliamentary scrutiny of its RTI-specific implications, but as a consequential amendment tucked within Section 44 of a comprehensive data-protection statute, critics contend that the RTI-specific ramifications of the change received markedly less legislative and public deliberation than a direct amendment to the RTI Act would have attracted — a concern amplified by the fact that more than thirty civil-society organisations, and a substantial number of opposition Members of Parliament, publicly registered objections to the provision at the bill stage, warning that it would have a severely damaging effect on the transparency framework.[56] The Government's principal defence, articulated by the Minister of Electronics and Information Technology, has been that personal information which is otherwise subject to mandatory disclosure under other statutes — such as service rules requiring publication of asset declarations — would continue to be disclosable under those statutes notwithstanding the RTI amendment, since Section 3 of the DPDP Act itself does not apply to processing required by law.[57] Critics have responded that this defence mischaracterises the scope of the problem, since the amended Section 8(1)(j) applies to the RTI Act's own

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54 "RTI Amendment via DPDP Act, 2023 — Explained Pointwise", ForumIAS (Apr. 15, 2025).

55 "DPDP Act v. RTI Act", Legasis (updated Mar. 2, 2026) (discussing pending constitutional challenge to s. 44(3) of the DPDP Act, 2023).

56 "RTI Amendment via DPDP Act, 2023 — Explained Pointwise", ForumIAS (Apr. 15, 2025) (noting objections from over thirty civil society groups and 130 opposition Members of Parliament).

57 "Pause, Review, Repeal: Jairam Ramesh Says Changes to RTI Act is Disallowing Disclosure of Personal Information", Deccan Herald (2025).

machinery independently of Section 3 of the DPDP Act, such that the availability of information under a wholly separate disclosure obligation does not restore the public-interest override that has been excised from the RTI Act itself.[58]

It bears emphasis that not all commentary on the amendment has been uniformly critical. Some data-protection scholars have argued that the pre-amendment Section 8(1)(j), by conditioning disclosure on a subjective and often inconsistently applied "larger public interest" test administered by thousands of individual Public Information Officers across the country, generated precisely the kind of unpredictable, ad hoc privacy invasions that a rights-respecting data-protection framework is designed to prevent, and that a clearer, more categorical rule — even one weighted towards non-disclosure — offers PIOs and citizens alike greater certainty than the discretion-laden regime it replaces.[59] This paper does not adopt this position, for reasons elaborated in Part IV, but records it as a genuine strand of the ongoing scholarly and policy debate.

G. National Security, Section 24 and the Limits of Confidentiality

The confidentiality claims examined thus far — personal privacy, fiduciary trust, commercial confidence — operate through a case-by-case exemption mechanism subject to the Section 8(2) public-interest override (at least prior to the 2023 amendment to Section 8(1)(j)). Section 24 operates differently: it excludes specified intelligence and security organisations from the Act's application altogether, subject only to the narrow corruption and human-rights proviso.[60] This distinction matters because it represents Parliament's own judgment that certain confidentiality interests are so weighty as to warrant categorical, rather than proportionate, protection.

Litigation concerning Section 24 has principally concerned the scope of the corruption and human-rights proviso. Information Commissions have generally construed the proviso narrowly, requiring an applicant to demonstrate a specific and credible allegation of corruption or human-rights violation, rather than permitting a generalised inquiry into the affairs of an excluded organisation under the guise of anti-corruption oversight.[61] The Delhi High Court has similarly held that the exclusion under Section 24 must be construed strictly given its status as a derogation from the general transparency principle underlying the Act, while equally cautioning that the proviso cannot be so expansively read as to defeat the very purpose of the

[58] "DPDP Act v. RTI Act", Legasis (updated Mar. 2, 2026).
[59] "[Analysis] Reconciling DPDP Act and RTI Act — Privacy vs Transparency in India", Taxmann (Nov. 29, 2025).
[60] RTI Act, 2005, s. 24.
[61] Vihar Durve v. Central Bureau of Investigation, CIC/SA/A/2013/000725 (Cent. Info. Comm'n).

exclusion, which is to shield genuinely sensitive intelligence and security operations from routine disclosure.[62] This body of case law illustrates a more general point developed further in Part IV: that even within the Act's most categorical confidentiality carve-out, courts have consistently resisted a purely mechanical application, insisting instead on a purposive construction that keeps the exclusion tethered to its underlying security rationale rather than allowing it to operate as a general immunity from accountability.

H. Comparative Perspectives

A brief comparative survey illuminates the distinctiveness of the Indian approach. The United Kingdom's Freedom of Information Act, 2000 similarly employs a mixed model of absolute and qualified exemptions, with several exemptions — including those relating to security bodies and court records — operating as absolute bars, while most others, including the personal-data exemption under Section 40, are subject to a public-interest balancing test administered by the Information Commissioner's Office and, on appeal, the Information Rights Tribunal.[63] Notably, the UK's personal-data exemption operates in tandem with, rather than in substitution for, its data-protection legislation, with the Information Commissioner's Office having developed detailed guidance for reconciling the two regimes rather than treating the data-protection statute as impliedly amending the freedom-of-information statute.[64]

The United States' Freedom of Information Act, 1966, by contrast, exempts "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" under Exemption 6, a formulation that US federal courts have consistently interpreted to require an explicit balancing of the public interest in disclosure — understood narrowly as the interest in shedding light on the operations and activities of government — against the privacy interest at stake, on a case-by-case basis.[65] Even the US regime, often characterised as affording strong privacy protection, therefore retains a mandatory balancing exercise structurally analogous to the pre-2023 Indian position, rather than the categorical exemption that now obtains under the amended Section 8(1)(j) of the RTI Act. Viewed against this comparative backdrop, the Indian amendment represents an outlier among major common-law freedom-of-information jurisdictions, none of which has, to date, replaced a judicially developed proportionality test for personal information with an

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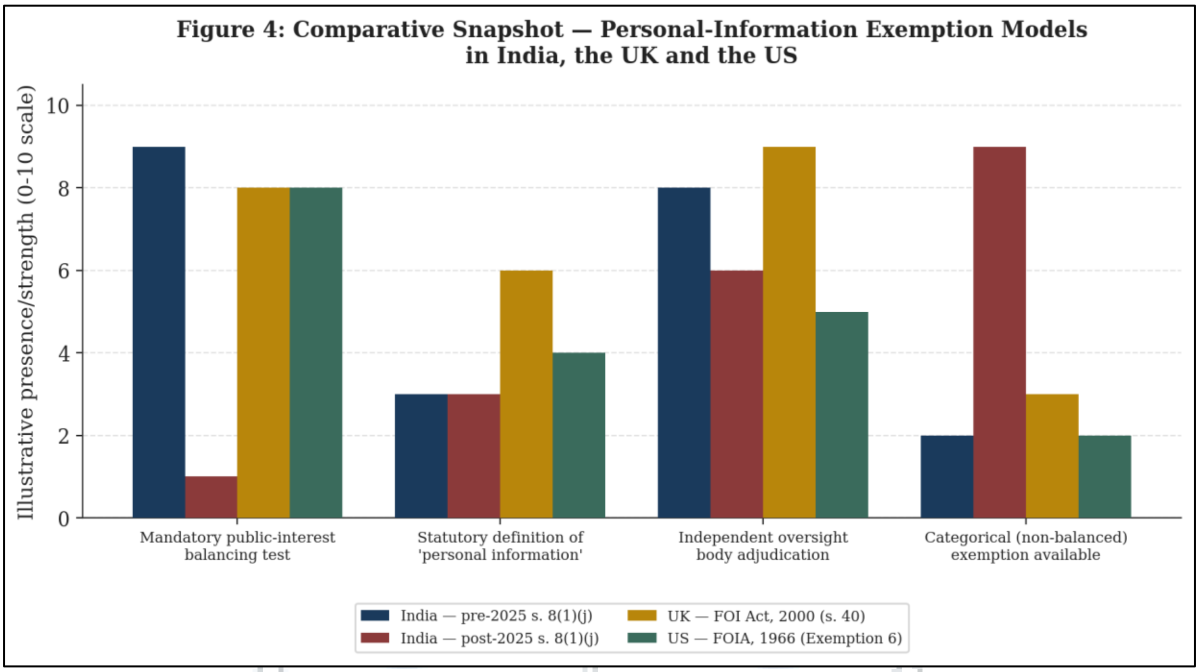
[62]Union of India v. Central Information Commission, 2011 SCC OnLine Del 5556.
[63]Freedom of Information Act, 2000, c. 36, ss. 2, 40 (U.K.).
[64]Information Commissioner's Office (U.K.), Guide to Freedom of Information: Personal Information, s. 40, at 4-9 (2022 rev.).
[65]United States Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749, 762-71 (1989).

unqualified categorical exemption of the kind introduced by Section 44(3) of the DPDP Act.



I. Comparative Snapshot: Personal-Information Exemption Regimes

Table 1 below synthesises the comparative position examined in Section III.H.

Jurisdiction	Governing Provision	Balancing Mechanism
India (pre-2025)	RTI Act, 2005, s. 8(1)(j) (as originally enacted)	Public-interest override embedded in the exemption; proportionality test per Subhash Chandra Agarwal
India (post-2025)	RTI Act, 2005, s. 8(1)(j), as amended by DPDP Act s. 44(3)	None within the clause itself; unqualified exemption for 'personal information'
United Kingdom	Freedom of Information Act, 2000, s. 40	Public-interest balancing administered by the Information Commissioner's Office and Information Rights Tribunal
United States	Freedom of Information Act, 1966, Exemption 6	Mandatory case-by-case balancing of public interest against 'clearly unwarranted' privacy invasion

Table 1: Comparative snapshot of personal-information exemption regimes in India, the UK and the US.

IV. FINDINGS

This study yields six principal findings.

- First, the transparency-confidentiality balance under the RTI Act has never been static; it has been continuously renegotiated through successive waves of judicial interpretation, from the mechanical, category-based reasoning of early Central Information Commission decisions and Girish Ramchandra Deshpande, through the more structured, multi-factor proportionality test articulated in Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi and consolidated in Subhash Chandra Agarwal. The dominant doctrinal trajectory prior to 2023 was towards greater analytical rigour and away from categorical presumptions in either direction.
- Second, the constitutional recognition of privacy in Puttaswamy did not, contrary to a common misreading, establish privacy as a right superior to the right to information; rather, Subhash Chandra Agarwal expressly held the two rights to be of co-equal constitutional weight, to be reconciled through proportionality rather than through a hierarchy. The 2023 amendment to Section 8(1)(j), insofar as its proponents defend it as a legislative implementation of Puttaswamy, therefore rests on a questionable premise: nothing in Puttaswamy or its progeny required or even suggested the wholesale elimination of a public-interest balancing mechanism.
- Third, the amendment of Section 8(1)(j) by Section 44(3) of the DPDP Act, 2023, operationalised through the DPDP Rules, 2025, represents the single most significant contraction of the transparency regime since the RTI Act's enactment in 2005. By replacing a conditional exemption — personal information disclosable where the larger public interest so justifies — with an unconditional one, the amendment removes the very mechanism through which courts and Information Commissions had, over fifteen years of jurisprudence, sought to reconcile competing constitutional claims. The absence of any statutory definition of "personal information" in the RTI Act, combined with the DPDP Act's own expansive definition of "personal data", creates a substantial risk that the exemption will be construed so broadly as to encompass asset declarations, disciplinary records, and other categories of information historically central to anti-corruption and public-accountability RTI applications.
- Fourth, institutional independence is an underappreciated but structurally indispensable component of the transparency-confidentiality balance. The RTI (Amendment) Act, 2019, by subjecting the tenure and service conditions of Information Commissioners to

executive rule-making, and chronic executive delay in filling vacancies notwithstanding the Supreme Court's directions in Anjali Bhardwaj, function as an informal confidentiality mechanism that operates independently of, and in addition to, the substantive Section 8 exemptions — through simple attrition and delay rather than through any considered application of a statutory exemption.

- Fifth, the Section 24 national-security exclusion, notwithstanding its categorical statutory form, has in practice been subjected to a purposive, non-mechanical judicial construction that keeps the exclusion tethered to genuine security concerns and prevents it from operating as a general immunity, suggesting that even Parliament's most categorical confidentiality choices remain amenable to judicial calibration through interpretive technique, in a manner that the post-2023 Section 8(1)(j) — being considerably more recent and less judicially tested — has not yet undergone.
- Sixth, comparative analysis reveals that the amended Section 8(1)(j) now positions India as an outlier among major common-law freedom-of-information jurisdictions, none of which — whether the United Kingdom under the Freedom of Information Act, 2000, or the United States under the Freedom of Information Act, 1966 — has replaced a mandatory public-interest balancing test for personal information with an unqualified categorical exemption, suggesting that the Indian amendment departs not merely from prior domestic jurisprudence but from broader comparative best practice in reconciling privacy and transparency.

V. RECOMMENDATIONS

Based on the foregoing analysis, this paper advances the following recommendations, directed variously at Parliament, the judiciary, and Information Commissions.

- Restoration of a calibrated public-interest override in Section 8(1)(j). Parliament should reconsider Section 44(3) of the DPDP Act, 2023 and amend Section 8(1)(j) of the RTI Act to reinstate a structured public-interest override, whether through direct legislative amendment or through a harmonisation clause in the DPDP Act itself expressly preserving the RTI Act's pre-existing balancing mechanism for personal information relating to public officials acting in their official capacity. Such a provision could adopt the multi-factor test articulated in Subhash Chandra Agarwal on a statutory footing, thereby placing beyond doubt the continued applicability of proportionality analysis to disclosure requests involving personal information.

- A statutory definition of "personal information" calibrated to public office. The absence of a definition of "personal information" in the RTI Act, combined with the deliberately broad definition of "personal data" in the DPDP Act, creates unacceptable interpretive uncertainty. Parliament should introduce a definition — or, at minimum, illustrative categories — clarifying that information relating to the discharge of public duties by public servants, including asset declarations, disciplinary proceedings, and educational and professional qualifications relied upon for appointment, does not fall within the protected category of "personal information" for RTI purposes, consistent with the reasoning in Saiyed Hussain Abbas Rizwi.
- Judicial resolution of the pending constitutional challenge on an expedited basis. Given the significant practical consequences flowing from the amended Section 8(1)(j) and the number of pending RTI applications and appeals directly affected by its operation, the constitutional courts should prioritise expeditious disposal of the pending challenge to Section 44(3) of the DPDP Act, and, pending final disposal, consider appropriate interim directions preserving disclosure in categories of information — such as asset declarations of public officials mandated to be disclosed under service rules — where the public interest in continued transparency is manifest and the risk of irreversible harm from an erroneous denial of disclosure is comparably low.
- Restoration of statutory tenure and service-condition protections for Information Commissioners. Parliament should revisit the RTI (Amendment) Act, 2019 and restore fixed statutory protections — rather than executive rule-making — for the tenure, salary, and service conditions of the Chief Information Commissioner and Information Commissioners, at both the Central and State levels, in order to secure the functional independence that is a structural precondition for even-handed adjudication of transparency disputes involving the government.
- Time-bound and transparent appointment processes. In light of the Supreme Court's directions in Anjali Bhardwaj, the Central and State Governments should institutionalise a time-bound, transparent selection process for Information Commissioners, including advance public notification of vacancies, published selection criteria, and a fixed outer time limit — such as three months from the occurrence of a vacancy — within which appointments must be completed, enforceable through periodic judicial monitoring where necessary.
- Capacity building and digitisation of Information Commissions. To address chronic backlogs documented by civil-society monitoring, Information Commissions should be

adequately staffed and resourced, and should adopt digitised case-management systems enabling online filing, tracking, and hearing of appeals, measures that would reduce the informal, delay-based confidentiality that currently results from institutional under-capacity rather than from any considered application of a statutory exemption.

- Structured guidance from the Central Information Commission on the amended Section 8(1)(j). Pending legislative or judicial correction, the Central Information Commission should issue structured interpretive guidance to Public Information Officers clarifying that the amended Section 8(1)(j), notwithstanding the deletion of the express public-interest override, must still be construed consistently with the RTI Act's overriding purpose under Section 3 and the constitutional presumption in favour of disclosure recognised since State of U.P. v. Raj Narain, so as to avoid the amendment being applied in a manner disproportionate to its stated data-protection rationale.

VI. CONCLUSION

The Right to Information Act, 2005 was enacted to give statutory life to a constitutional promise first articulated by the Supreme Court half a century ago: that in a democracy, the people are entitled to know what their government does in their name. That promise was never absolute; the Act's own text has, from its inception, recognised that transparency must coexist with legitimate claims of privacy, fiduciary trust, commercial confidence, and national security. The genius of the original statutory design lay in Section 8(2), which converted this coexistence from a rigid, legislatively predetermined hierarchy into a dynamic, case-by-case proportionality exercise — an exercise that the judiciary, over more than a decade of jurisprudence culminating in CPIO, Supreme Court of India v. Subhash Chandra Agarwal, refined into a structured, principled methodology capable of accommodating both the citizen's right to know and the individual's right to privacy as co-equal constitutional values.

The amendment of Section 8(1)(j) by Section 44(3) of the Digital Personal Data Protection Act, 2023 — brought into force through the DPDP Rules, 2025, notified on 14 November 2025 — threatens to unravel this carefully constructed equilibrium. By deleting the public-interest override without substituting any comparable balancing mechanism, the amendment risks converting a targeted, proportionate exemption into a broad and largely unreviewable bar on the disclosure of personal information, with potentially serious consequences for the RTI Act's historic role in exposing corruption, nepotism, and administrative malfeasance. Whether this risk materialises in practice will depend substantially on how Information Commissions, Public

Information Officers, and, ultimately, the constitutional courts choose to construe the amended provision in the years ahead — and, not least, on the outcome of the constitutional challenge currently pending before the courts.

This paper has argued that the transparency-confidentiality balance under the RTI Act is best understood not as a fixed line but as a continuously contested constitutional frontier, shaped in equal measure by statutory design, judicial interpretation, and institutional capacity. The path forward lies not in abandoning the legitimate confidentiality interests that the RTI Act has always recognised, but in restoring the proportionality-based methodology through which those interests were, for over a decade, successfully reconciled with the equally fundamental right to know. Absent such a course correction — whether through legislative amendment, judicial intervention, or a combination of both — the Right to Information Act risks drifting from its constitutional origins as an instrument of citizen empowerment towards a diminished, more heavily qualified right, at precisely the moment when administrative accountability in India's digital governance ecosystem is most needed.

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