

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper and a black leather watch with a silver face are also visible. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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**INSTITUTIONAL EROSION AND THE CRISIS OF
TRANSPARENCY: A COMPREHENSIVE RESEARCH
STUDY ON THE IMPLEMENTATION CHALLENGES OF
THE RIGHT TO INFORMATION ACT IN INDIA (2005–2025)**

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List of Abbreviations

Abbreviation	Full Form
ADR	Association for Democratic Reforms
AIR	All India Reporter
ARC	Administrative Reforms Commission
CBI	Central Bureau of Investigation
CHRI	Commonwealth Human Rights Initiative
CIC	Central Information Commission
CPIO	Central Public Information Officer
DPDP	Digital Personal Data Protection Act
FAA	First Appellate Authority
IC	Information Commissioner
MKSS	Mazdoor Kisan Shakti Sangathan
NCPRI	National Campaign for People's Right to Information
PIO	Public Information Officer
RTI	Right to Information

Abbreviation	Full Form
SCC	Supreme Court Cases
SIC	State Information Commission
SNS	Satark Nagrik Sangathan

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Introduction: The Democratic Imperative of Information

The transition of the Indian state from a culture of colonial secrecy to a framework of democratic transparency was formally inaugurated with the passage of the Right to Information (RTI) Act in 2005. This legislation was not merely a statutory grant but the culmination of decades of grassroots activism, judicial expansion of fundamental rights, and a growing recognition that an informed citizenry is the only effective check against the arbitrary exercise of power. Before 2005, the administrative apparatus operated under the shadow of the Official Secrets Act, 1923, a legacy of British rule that prioritized state security over public accountability, often using the veil of secrecy to shield systemic inefficiencies and corruption.

The RTI Act was designed to provide a practical regime for citizens to access information held by public authorities, thereby promoting transparency and accountability. In its early years, the Act was hailed as a "master key" to good governance, empowering the marginalized and the urban poor to verify their entitlements under schemes like the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and the Public Distribution System (PDS). However, as the Act completes its second decade, the initial enthusiasm has been replaced by a somber realization that the institutional framework supporting it is being systematically hollowed out.

The contemporary landscape of transparency in India is characterized by a "crisis of functioning." Information Commissions—the final appellate authorities tasked with upholding this right—are increasingly plagued by persistent vacancies, astronomical backlogs, and a perceived loss of autonomy following significant legislative amendments. Simultaneously, the physical safety of those who dare to use the Act to expose high-level corruption has become a secondary crisis, with activists facing threats, assaults, and murders in a legal environment that lacks an operational whistleblower protection mechanism.

Aim of the Research

The primary aim of this study is to conduct an exhaustive evaluation of the major challenges

hindering the effective implementation of the RTI Act in India. It seeks to analyze the causal relationships between institutional neglect (vacancies and delays) and the erosion of citizens' fundamental right to know. Furthermore, the report aims to investigate the impact of recent legislative shifts—specifically the 2019 and 2023 amendments—on the independence of Information Commissions and the overall transparency regime.

Scope of the Study

The scope of this research encompasses the operational performance of the Central Information Commission (CIC) and the 28 State Information Commissions (SICs) across India, focusing on the period between 2019 and 2025. The study details the status of vacancies, the volume of pending appeals, and the disposal rates of these commissions. It further extends to the security environment for RTI activists and whistleblowers, analyzing data on attacks and the status of the Whistleblowers Protection Act, 2014. The legal analysis is restricted to the constitutional underpinnings (Article 19(1)(a)), the RTI Act 2005, the RTI (Amendment) Act 2019, and the Digital Personal Data Protection (DPDP) Act 2023.

Research Objectives

The study is structured to achieve the following specific objectives:

- To evaluate the extent of vacancies in Information Commissions and their direct impact on the pendency of appeals and complaints.
- To analyze the administrative and infrastructural bottlenecks, including poor record-keeping and non-compliance with proactive disclosure mandates under Section 4.
- To assess the legal and constitutional implications of the RTI (Amendment) Act 2019 and the DPDP Act 2023 on the autonomy of the transparency framework.
- To document the threats faced by RTI activists and the systemic failure to provide an effective protection mechanism for whistleblowers.
- To synthesize findings into actionable recommendations for restoring the institutional integrity of the RTI Act.

Research Gap

While existing literature extensively covers the history of the RTI movement and early success stories in exposing corruption, there is a notable deficit in analyzing the *long-term institutional decay* resulting from what critics describe as "stealth dilution" via collateral legislation. Current academic papers often focus on legal theory or raw statistics in isolation; this report bridges

that gap by connecting the administrative practice of "returning" appeals on technical grounds with the strategic manipulation of pendency data. Furthermore, the socio-cultural impact of the 2023 DPDP Act on social audits and local-level accountability remains an emerging area that this research seeks to address in detail.

Research Questions

The research is guided by the following fundamental inquiries:

1. How do persistent vacancies in the CIC and SICs facilitate the strategic denial of information by the executive?.
2. What is the causal link between the removal of the "public interest override" in the 2023 DPDP Act and the 48% surge in RTI rejections reported in recent cycles?.
3. To what extent does the non-implementation of the Whistleblowers Protection Act 2014 contribute to the increasing brutality of attacks on RTI users?.
4. How does the demographic and professional profile of Information Commissioners (predominantly retired male bureaucrats) influence the imposition of penalties under Section 20?.

Hypothesis

The central hypothesis of this study is that the current implementation crisis in the RTI Act is not a result of resource scarcity alone, but a structural recalibration intended to re-establish executive dominance over public information. It is hypothesized that the centralization of power over commission tenures and the creation of blanket exemptions for "personal data" serve as a mechanism to shield public officials from accountability, thereby transitioning the RTI from an empowerment tool into a "Right to Deny Information".

Methodology

This research employs a qualitative doctrinal approach combined with a quantitative analysis of performance metrics released by major transparency watchdogs, including Satark Nagrik Sangathan (SNS) and the Commonwealth Human Rights Initiative (CHRI).

The qualitative component involves:

- Critical legal analysis of the RTI Act 2005 and its subsequent amendments.
- Review of landmark judicial pronouncements from the Supreme Court and High Courts between 2020 and 2025.

- Analysis of reports from the 2nd Administrative Reforms Commission (ARC) and Parliamentary Standing Committees.

The quantitative component analyzes data clusters relating to:

- Filing and disposal patterns across 29 Information Commissions as of June 30, 2025.
- The frequency, quantum, and distribution of penalties imposed on Public Information Officers (PIOs).
- Incidence reports of violence and fatalities from the CHRI "Attacks on RTI Users" database.

Literature Review: The Intellectual and Political Evolution of RTI

The genesis of the RTI movement in India is unique in the global context of transparency laws. Literature points to the 1990s environmental movements and grassroots struggles for minimum wages in Rajasthan as the foundational triggers for the demand for transparency. The Mazdoor Kisan Shakti Sangathan (MKSS) pioneered the concept of *Jan Sunwais* (public hearings), which demonstrated that access to records like muster rolls was essential for uncovering corruption in rural works.

Pre-Legislative Initiatives and Early Drafts

Before the 2005 Act, several attempts were made to draft a transparency law. In 1993, the Consumer Education and Research Council (CERC) proposed a draft, followed by a model law presented by the Press Council of India under Justice P.B. Sawant in 1996. These early iterations faced significant bureaucratic inertia, leading to the "half-hearted" Freedom of Information Act, 2002, which was never notified and later repealed by the 2005 legislation.

The 2nd Administrative Reforms Commission (ARC) Vision

The 2nd ARC, chaired by Veerappa Moily, produced its first report titled "Right to Information: Master Key to Good Governance" in June 2006. The Commission argued that transparency is not an end in itself but a means to empower the poor and foster participatory democracy. It emphasized that a "cultural shift" from secrecy to openness was mandatory for India's administrative capability.

The Commission proposed radical changes, some of which were accepted and others rejected by the government, as shown in the table below:

Recommendation Category	Specific 2nd ARC Recommendation	Government Implementation Status
Legal Framework	Repeal Official Secrets Act, 1923; substitute with National Security Act chapter.	Not Accepted ; OSA 1923 remains a primary tool for denying info.
Institutional Oaths	Replace "Oath of Secrecy" with an "Oath of Transparency".	Not Accepted ; colonial oath continues for ministers.
Proactive Disclosure	Mandatory Section 4 implementation to reduce RTI filings.	Accepted in principle, but compliance remains critically poor.
Information Bodies	Constitute SICs in all states within 3 months.	Accepted , yet several states allow commissions to go defunct.
Monitoring	CIC/SICs to be entrusted with monitoring implementation.	Accepted , but commissions lack staff to perform this role.

Academic Critiques of Effectiveness

Recent academic evaluations characterize the RTI as a "first-generation" civil-political right that has failed to redefine the citizen-state relationship fully. Studies suggest that while the Act has been transformative in exposing scams like the Commonwealth Games and Adarsh Housing Society scandals, its potential is limited by "bureaucratic stonewalling" and the "ignorance among citizens". Researchers highlight that transparency tends to enhance accountability only when there is a matching willingness by the state administration to reform institutional structures.

Findings I: Institutional Atrophy—The Crisis of Vacancies and Delays

The most significant bottleneck in the effective implementation of the RTI Act is the dysfunctional state of the Information Commissions. These commissions act as the final arbiters between the citizen and the state; when they are non-functional, the right to information is effectively suspended.

The Pandemic of Vacancies

As of October 2025, a pattern of "voluntary disability" by governments across states and at the center has emerged. Vacancies are not merely administrative lapses but are often prolonged for

months or even years.

- **Central Information Commission (CIC):** The CIC has been operating with severely reduced strength for years. In early 2025, it was functioning with only 3 out of 11 sanctioned members. As of late 2025, it has been headless for the seventh time in eleven years.
- **Defunct Commissions:** Six of the 29 Information Commissions—Jharkhand, Himachal Pradesh, Telangana, Goa, Tripura, and Madhya Pradesh—were defunct for varying periods between July 2024 and October 2025.
- **The "Headless" Syndrome:** Several state commissions, including Chhattisgarh and Andhra Pradesh, have functioned without a Chief Information Commissioner for over two years.

The impact of these vacancies on the backlog of cases is summarized in the table below:

Metric (as of June 30, 2025)	Statistics and Details
Total Pending Cases Nationwide	Over 4.13 lakh appeals and complaints.
Increase in Backlog	80% increase from 2019 levels (2.18 lakh to 4.05 lakh+).
Highest Pendency (State)	Maharashtra: 95,340 cases.
Registration vs. Disposal	2.41 lakh filed; only 1.82 lakh disposed of (2024-25 cycle).
Commissions Operating at <50%	CIC, Odisha, Maharashtra, Karnataka.

The Waiting Time Paradox

The time taken to resolve an appeal has reached absurd levels in several states. If a complaint were filed in 2025, the estimated wait time for disposal in certain jurisdictions makes the right to information "dead" for all practical purposes.

This massive pendency defeats the very purpose of the Act, which mandates a 30-day response time. When an appeal takes a decade to be heard, the information is often irrelevant by the time it is obtained, a phenomenon critics label "information delayed is information denied".

Findings II: Legislative Dilution and the Loss of Autonomy

The RTI (Amendment) Act of 2019 and the Digital Personal Data Protection (DPDP) Act of 2023 represent a fundamental shift in the legal architecture of transparency in India. These changes have collectively moved the control of Information Commissions from statutory

protection to executive discretion.

The 2019 Amendment: Tinkering with the Backbone

State/Commission	Estimated Disposal Time (Years/Months)	Implications
Telangana	29 years and 2 months.	Effectively denies timely access to information for entitlement verification.
Tripura	23 years.	The delay exceeds the retention period for most public records (typically 20 years).
Chhattisgarh	11 years.	Backlog of cases remains stagnant due to lack of a Chief IC for 2 years.
Madhya Pradesh	10 years.	Commission was defunct for several months, exacerbating the crisis.
West Bengal	10 years.	Persistent refusal to provide data on penalty impositions.

The original 2005 Act provided fixed tenures (5 years) and high salaries for Information Commissioners to ensure they could function without the fear of executive reprisal. The 2019 Amendment removed these safeguards, granting the Central Government the power to determine salaries, tenures, and service conditions.

Feature	Pre-Amendment (2005 Act)	Post-Amendment (2019 Rules)
Tenure	Fixed 5 years.	Reduced to 3 years; determined by CG.
Salary Parity	Equivalent to Election Commissioners.	Fixed through Rules (approx. ₹25,000 reduction).
State Influence	States controlled their own SIC conditions.	CG dictates conditions for both Central and State ICs.
Pension	Pension deducted from salary (prev. bureaucrats).	Deduction provision removed; more attractive for retirees.

The second-order impact of this change is the "bureaucratization" of the Commissions. Since the government can now revise tenure and salary at will, commissioners have a "perceived lack of security". This creates a conflict of interest when hearing cases involving high-ranking officials or political deliberations, as commissioners may feel pressured to align their decisions

with the executive's preferences to ensure their continuation in office.

The DPDP Act 2023: The Privacy Shield

Section 44(3) of the DPDP Act amended Section 8(1)(j) of the RTI Act to remove the "public interest override." Previously, personal information could be disclosed if it served a larger public interest. The new law creates a blanket exemption for all "personal data".

- **Elimination of Accountability:** Information regarding the assets, conduct, and qualifications of public officials, which was previously accessible, can now be denied under the guise of privacy.
- **Surge in Rejections:** Transparency activists report that rejections citing "personal data" rose by 48% in 2024.
- **Impact on Social Audits:** Records related to MLA fund utilization and public welfare beneficiary lists are being shielded, effectively disabling mechanisms that prevent leakages in programs like MGNREGA.

Findings III: Administrative Stonewalling and Record-Keeping Failures

The implementation of RTI is hampered not only by legal shifts but by a deep-rooted bureaucratic resistance. PIOs frequently view RTI requests as an "inconvenience" or a "threat to their power" rather than a democratic obligation.

Strategic Denial and Technical Barriers

One of the most problematic trends is the practice of "returning" appeals on flimsy technical grounds—such as incorrect pagination—without passing a formal order.

- **CIC Performance:** In the 2023-24 cycle, the CIC returned nearly 14,000 appeals, representing 42% of its total received cases.
- **Bihar SIC:** Returned 11,807 appeals, more than it registered during the same period.
- **Frustrating the Seeker:** Statistics show that 96% of citizens whose cases are returned by the CIC never resubmit them. This indicates that the procedure itself is being used as a deterrent to exhaust the resources of marginalized information seekers.

Section 4 and Infrastructure Deficits

Section 4 mandates the "proactive disclosure" of information. However, the lack of digital infrastructure and poor record-keeping practices make compliance difficult.

- **Poor Digitization:** Many government offices still rely on physical files that are poorly cataloged, leading to claims that "information is not available".

- **Transparency Deficit:** 69% of Information Commissions failed to publish their annual reports for 2023-24, despite this being a legal requirement under Section 25.

The Impunity of Public Information Officers (PIOs)

The RTI Act allows for fines up to ₹25,000 for non-compliance. However, commissions are notoriously reluctant to impose these penalties.

- **Enforcement Rate:** Between 2015 and 2023, penalties were imposed in only 4% of erring cases.
- **Systemic Failure:** In Tamil Nadu, only 21 penalties were imposed out of 13,966 cases in 2024.
- **Impunity Culture:** In 98% of cases where penalties were legally permissible due to unjustified delays, commissions failed to act.

Findings IV: The Safety of Activists and the Whistleblower Deficit

The physical danger faced by RTI users is the most visceral challenge to the transparency regime. In the absence of an operational whistleblower protection law, citizens who expose corruption are left vulnerable to state and corporate retaliations.

The Hall of Shame: Statistics of Violence

Data collated by the CHRI reveals a "disturbing pattern" of attacks and killings across India. Since 2005, over 300 instances of serious harm have been reported.

Type of Attack	Number of Incidents (2005-2024)	High-Risk States
Killed	109.	Maharashtra, Gujarat, Bihar, Uttar Pradesh.
Assaulted	187.	Maharashtra (29+), Gujarat, Delhi.
Harassed/Threatened	191.	Maharashtra (24+), Gujarat, Delhi.
Death by Suicide	7.	Linked to police inaction or harassment after filing RTIs.

Case Studies of Martyrdom for Information

- **Ranjeet Soni (2022):** Shot dead outside the PWD office in Madhya Pradesh after consistently filing RTIs regarding illegal road construction and hospital allocations.

- **Vipin Agarwal (2021):** Shot dead in broad daylight in Bihar after exposing land-grabbing mafias with political connections.
- **Amrabhai Boricha (2021):** A Dalit activist in Gujarat murdered; his case highlighted the intersectional vulnerability of marginalized groups using RTI.
- **Jawahar Lal Tiwary (2015):** Kidnapped and murdered for questioning local officials about the distribution of flood relief funds.

Implementation Status of the Whistleblowers Protection Act 2014

Although the Whistleblowers Protection Act was enacted to safeguard individuals and eliminate corruption, its current status is one of "statutory dormancy".

- **Enacted but Not Notified:** The Act has not been implemented even after a decade.
- **Structural Flaws:** The Act does not permit anonymous complaints—even with overwhelming evidence—and provides no rewards or incentives for successful disclosures.
- **Lapsed Amendments:** The government introduced an Amendment Bill in 2015 that would have further weakened the Act by restricting disclosures related to national security; this bill lapsed in 2019.
- **International Comparison:** Unlike the US Sarbanes-Oxley Act, which requires no showing of "retaliatory intent" for protection, Indian law places the burden of proof on the victim and lacks a dedicated agency to monitor enforcement.

Findings V: Judicial Trends (2020–2025)

The judiciary remains a crucial actor in the RTI landscape, issuing rulings that simultaneously broaden and restrict the scope of the Act.

Pro-Transparency Rulings

- **CJI Office:** The Supreme Court recognized the CJI as a "public authority," bringing judicial administration under RTI scrutiny.
- **Public Recruitment:** The Bombay High Court (2024) ruled that candidate marks are not private and must be disclosed to ensure fair selection.
- **Public Servant Assets:** The Madras High Court (2024) held that service registers containing assets and liabilities of public servants cannot be shielded from public view, as they are not "private information".

- **Electoral Bonds (2024):** The Supreme Court struck down the scheme, ruling it unconstitutional for violating the voter's right to information.

Restrictive Trends

- **Defining Information:** Courts have clarified that "reasons for delay" or information regarding "individual complaints" held by regulators like TRAI are not "information" under the Act.
- **Sensitive Investigations:** While the CBI is not entirely exempt, courts have allowed it to withhold data on "sensitive investigations," provided human rights and corruption cases remain accessible.

Conclusion

The Right to Information Act in India, once a revolutionary pillar of democratic accountability, is currently facing an existential crisis. The analysis of performance between 2005 and 2025 indicates a transition from a "transparency regime" to a "regime of strategic denial." The findings suggest that institutional atrophy—manifested as persistent vacancies and decade-long waiting times—is the primary mechanism through which the Act is being neutralized.

The legislative amendments of 2019 and 2023 have successfully shifted the power balance, making Information Commissions vulnerable to executive influence and creating blanket exemptions for "personal data" that shield public officials from scrutiny. Furthermore, the physical danger to activists and the failure to notify the Whistleblowers Protection Act 2014 have created a "chilling effect," where the cost of democratic inquiry is often a person's life or liberty.

The "returning" of appeals on technical grounds and the near-total lack of penalties for erring officials have created a culture of impunity within the bureaucracy. Without immediate intervention to restore the autonomy of the commissions and ensure the safety of activists, the RTI Act risks becoming a "dead letter law," effectively returning the Indian administration to its pre-2005 state of colonial-era opacity.

Recommendations

To revitalize the RTI Act and protect the democratic rights of citizens, the following measures are recommended:

I. Institutional and Human Resource Reforms

- **Mandatory Filling of Vacancies:** Parliament should legislate a time-bound process (e.g., within 3 months) to fill vacancies in the CIC and SICs. Commissions must never be allowed to go defunct.
- **Transparent Appointment Process:** Appointments should move beyond "retired male bureaucrats" to include diverse experts from law, journalism, and civil society, as directed by the Supreme Court in the *Anjali Bhardwaj* case.
- **Gender Balance:** Deliberate efforts must be made to address the gender gap, where currently only 9% of commissioners are women.

II. Legislative and Legal Adjustments

- **Repeal 2019 Amendments:** Revert to fixed five-year tenures and salary parity with Election Commissioners to restore institutional independence.
- **Amend DPDP Act 2023:** Reintroduce the "public interest override" in Section 8(1)(j) of the RTI Act to ensure that the CONDUCT of public officials remains transparent.
- **Notify the Whistleblowers Protection Act:** The 2014 Act must be implemented immediately, with amendments to allow for anonymous complaints and a dedicated protection agency.

III. Administrative and Technological Interventions

- **Enforce Penalties:** Information Commissions must move away from a culture of "bureaucratic solidarity" and strictly impose Section 20 fines on erring PIOs to establish a deterrent.
- **Digitization of Records:** A national mission for the digitization of all public records must be launched to facilitate Section 4 compliance and rapid retrieval of information.
- **AI-Driven Case Management:** Implement AI systems for the automated sorting of appeals and complaints to prioritize urgent matters and reduce the 4.13 lakh case backlog.
- **Transparency Audits:** Conduct mandatory annual third-party audits of all public authorities' Section 4 disclosures, with ratings published on a public dashboard.

IV. Socio-Cultural Awareness

- **Nationwide Campaigns:** Launch mass awareness programs, particularly in rural and marginalized communities, to educate citizens on their rights and safe RTI practices.
- **Curriculum Integration:** Include RTI as a mandatory chapter in school and college textbooks to foster a "culture of questioning" in future generations.

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