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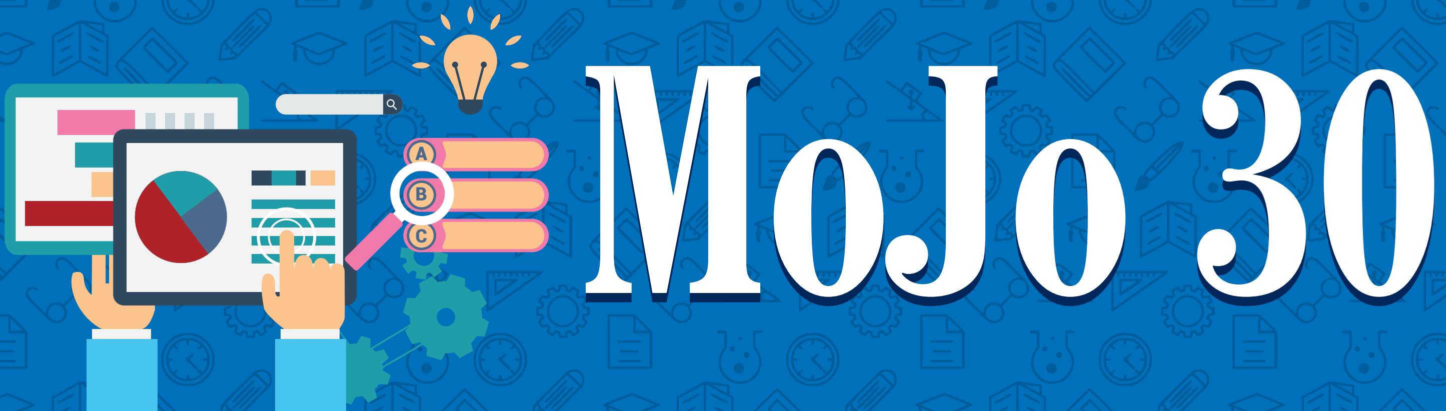

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Monitoring govt. schemes in real time

In a bid to make “data-driven decision making” more than a mere buzzword, the Ministry of Rural Development this week launched the DISHA dashboard, a nifty tool that will make it easier to monitor governance by geography in real time.

The application, which is now available to all members of Parliament and State Assemblies as well district officials, allows the user to track the progress of multiple and diverse schemes in a certain district, block, or even a gram panchayat. Currently, 18 schemes are covered; the ultimate plan is to integrate all 42 Central schemes — representing a total outlay of Rs. 3 lakh crore — which are already monitored by DISHA or District Development Coordination and Monitoring Committees.

“Government systems and schemes work in silos,” said Seema Gaur, Chief Eonomic Advisor to the Rural Development Ministry. “Several schemes have good MIS [or Management Information Systems], but they don’t talk to each other. So it is difficult for elected representatives and local planners to go through all the data and get a sense of what is happening in a particular place.”

Demonstrating the dashboard to State representatives at a consultation this week, Ms. Gaur showed how the application automatically turns sets of statistics and data into interactive and visually accessible graphics and maps.

Currently, geographic mismatches make it difficult to unite data; for instance, while the Rural Development Ministry tracks its schemes by gram panchayat, the Health Ministry tracks it by anganwadis, which are mapped by population, while crime data uses different boundaries.

“This is an outstanding tool for monitoring specific geographies,” Amarjeet Sinha, Rural Development Secretary told *The Hindu* . “So many schemes have overlaps and potential for synergies, but it is hard to see them without this kind of tool... It will help MPs, MLAs and District Magistrates to make data-driven decisions.”

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Court notice on vacancies in information panels

The Supreme Court on Monday directed the Centre and eight State governments to respond to a petition highlighting that a large number of vacancies in the Central Information Commission and the State Information Commissions have crippled the Right to Information Act and resulted in huge backlog.

A Bench led by Justice A.K. Sikri issued notice to the Centre and Maharashtra, Kerala, Andhra Pradesh, West Bengal, Telangana, Karnataka, Odisha and Gujarat.

Justice Sikri asked Additional Solicitor-General Pinky Anand why appointments were not made despite the backlog.

Advocates Kamini Jaiswal and Pranav Sachdeva, appearing for petitioners Anjali Bhardwaj, Commodore (retired) Lokesh Batra and Amrita Joshi, argued that the Centre and the State governments have attempted "to stifle the functioning of the RTI Act by failing to do their statutory duty of ensuring appointment of commissioners in the Central Information Commission and State Information Commissions, in a timely manner".

The petition said that due to non-appointment of information commissioners, several information commissions take many months, and in some cases even years, to decide on appeals and complaints due to accumulation of pending appeals/complaints, defeating the entire object of the RTI Act, 2005.

Currently, there are four vacancies in the Central Information Commission, though more than 23,500 appeals and complaints are pending.

The Andhra Pradesh Commission is completely non-functional as not a single information commissioner has been appointed.

Big backlog

The Maharashtra Commission which has a backlog of more than 40,000 appeals and complaints, has four vacancies.

The Kerala Commission is functioning with only a single commissioner and has more than 14,000 pending appeals and complaints.

Similarly, there are six vacancies in the Karnataka Commission even though nearly 33,000 appeals and complaints are pending.

Odisha is functioning with only three commissioners and Telangana with two commissioners and their backlogs are more than 10,000 and 15,000 appeals/complaints, respectively.

The West Bengal Commission is functioning with only two commissioners and is currently hearing appeals/complaints filed 10 years ago.

The effective functioning of information commissioners, the final adjudicators under the RTI Act, is critical for the health of the transparency regime in the country, the petition said.

Governments had tried to stifle the functioning of the RTI Act by failing to appoint commissioners

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Petition

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SC seeks steps for appointing Lokpal

The Supreme Court on Monday asked the government to file an affidavit in the next 10 days, detailing the steps it would take for the appointment of Lokpal, the anti-graft ombudsman.

A Bench of Justices Ranjan Gogoi and R. Banumathi scheduled the next hearing of the case for July 17.

It has been constantly urging the government to complete the process of appointment at the earliest. In May, the Lokpal selection committee, led by the Prime Minister, had appointed former Attorney-General Mukul Rohatgi as eminent jurist to the panel that will short-list candidates.

Besides the Prime Minister, the selection committee is composed of the Chief Justice of India and the Lok Sabha Speaker.

Passed in 2014, the Lokpal and Lokayukta Act, 2013, was not implemented all these years because there was no Leader of the Opposition (LoP) in the 16th Lok Sabha. The 2013 law includes the LoP as a member of the selection committee. The Act intends the LoP to be part of the selection committee, which has to first appoint an eminent jurist among their ranks.

However, on April 27 last year, the Supreme Court clarified that the appointment process need not be stalled merely because of the absence of the LoP. The judgment dismissed the government's reasoning that the appointment process should wait till the Act was amended to replace the LoP with the leader of the single largest Opposition party.

The hearing before Justice Gogoi's Bench is based on a contempt petition filed by Common Cause, represented by advocate Prashant Bhushan, for not implementing the April, 2017 judgment of the court.

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'Political masters wanted their own DGPs'

The Centre wanted to dilute the 2006 Supreme Court judgment on police reforms as it pleaded that Directors-General of Police should have a two-year tenure subject to superannuation, said Prakash Singh, former DGP of Uttar Pradesh who had moved the court on the subject.

On Tuesday, the court passed a slew of measures restricting the choice of State governments in such appointments. It said all proposals for the appointments should be sent to the Union Public Service Commission (UPSC) that would shortlist the names.

Mr. Singh, who had first moved the petition in the court on police reforms, said distortions had crept in the appointment of DGPs as "political masters" wanted these posts to be filled with their choice.

Poor compliance

"These distortions were brought to the notice of the court. The Home Ministry, through the Attorney-General, complained that the majority of States didn't comply with the 2006 order and suggested a remedy that DGPs should have two-year tenures subject to superannuation. This was an excuse to modify the original order of two-year fixed tenure," Mr. Singh said.

He said under SC directions, deserving officers should get time to frame policies and get them implemented during their tenure.

"If an officer with impeccable record is to retire in 22 months, should he be overlooked because he doesn't have two-year service left," Mr. Singh asked.

The Home Ministry filed an application in 2017 to modify the original judgment. The application itself was spurred by the decisions of the Andhra Pradesh and West Bengal governments to appoint police chiefs on their convenience.

The Ministry sent a terse letter to the Andhra Pradesh government last year as it sent names of seven DGP-rank officers to the UPSC, which included three officers on the verge of retirement. The State government had kept the post vacant for months and on November 24, issued an order to appoint N. Sambasiva Rao, an IPS officer of the 1984 batch who was to retire on December 31. Mr. Rao is likely to hold the post till the next general election in 2019.

Bengal example

In July 2016, the Trinamool Congress government in West Bengal allowed IPS officer Surajit Kar Purkayastha to stay in office for a fixed term of two years, though he was to retire on December 31.

Former Tamil Nadu Chief Minister Jayalalitha had also used the SC order to appoint Ashok Kumar, a 1982-batch IPS officer, as the DGP in November 2014 for a fixed term of two years, though the officer attained superannuation in June 2015. Mr. Kumar, however, took voluntary retirement in September 2016, two months before his tenure would have come to an end.

The Home Ministry insisted that only those officers be included in the panel who have a year-and-a-half to two years to retire.

"Distortion and aberrations had crept into the procedure regarding the appointment of DGPs and

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the manner in which it was being manipulated by political masters with the connivance of the bureaucracy. This had to stop,” Mr. Singh said.

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Secondly, the court directed the States to “ensure that the DGP is appointed through a merit-based transparent process and secure a minimum tenure of two years.”

Five States

On Tuesday, the Centre, represented by Attorney General K.K. Venugopal, submitted that of 29 States only five — Tamil Nadu, Andhra Pradesh, Karnataka, Telangana and Rajasthan — have implemented the Supreme Court direction of 2006 to consult the UPSC on the appointment of DGPs.

Mr. Venugopal submitted that some State governments have even gone to the extent of appointing their ‘favourite’ officers as DGP on the very date of their retirement so that they would continue to serve for another two years till the age of 62. Here, the court clarified that though States may make an endeavour to allow the DGP appointed to continue in office despite his or her date of superannuation, this extension of tenure should be only for a “reasonable period.”

On the practice of States appointing ‘Acting DGPs’, the court ordered that States shall not “ever conceive of the idea” of such appointments. “There is no concept of Acting DGPs,” the apex court said.

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Centre upholds Net neutrality

A separate committee has been set up under the DoT to examine what these critical services will be. These may include autonomous vehicles, digital healthcare services or disaster management. The regulator, in November 2017, batted in favour of Net neutrality.

The regulator had said, “Internet access services should be governed by a principle that restricts any form of discrimination or interference in the treatment of content, including practices like blocking, degrading, slowing down or granting preferential speeds or treatment to any content.”

This principle, it had added, would apply to any discriminatory treatment based on the sender or receiver, the network protocols, or the user equipment, but not to specialised services or other exclusions. It had also said that these would not apply to “reasonable traffic management practices” by the service provider. India’s decision to uphold Net neutrality assumes greater significance given that in the U.S., the rules on Net neutrality were repealed. The decision, which came into effect in June, paves the way for service providers to block or slow down access to particular content for users.

To implement Net neutrality, the regulator had recommended that the terms of licence agreements that govern the provision of Internet services in India be amended “to incorporate the principles of non-discriminatory treatment of content along with the appropriate exclusions and exceptions.” The regulator has recommended establishing a multi-stakeholder not-for-profit body for the monitoring and enforcement of the principles. Besides, the Telecom Commission also gave its approval to the new digital communications policy 2018 (new telecom policy), which will now be sent for Cabinet approval.

The policy, unveiled in May this year, aims to attract $100 billion investments into the country’s digital communications sector, provide broadband access for all with 50 mbps speed and create 40 lakh new jobs in the sector by 2022.

The Commission also gave its nod to install 12.5 lakh Wi-Fi hotspots in all gram panchayats.

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Telecom Commission approves net neutrality, new telecom policy

Illustration: Sreejith R. Kumar | Photo Credit: The Hindu

In a move that will ensure open and free Internet in India, the government has approved the principle of net neutrality. This means that telecom and Internet service providers must treat all data on the Internet equally, and not discriminate or charge differently by user, content, site, platform, or application. They cannot engage in practices such as blocking, slowing down or granting preferential speeds to any content.

The Telecom Commission (TC) — which is the highest decision-making body in the Department of Telecom, on Wednesday approved the recommendation made by the Telecom Regulatory Authority of India (TRAI) on the subject eight months ago. “The TC today [Wednesday] approved net neutrality as recommended by TRAI,” Telecom Secretary Aruna Sundararajan said after the meeting.

She, however, added that certain emerging and critical services will be kept out of the purview of these norms.

A separate committee has been set up under the Department of Telecom (DoT) to examine what these critical services will be. These may include autonomous vehicles, digital healthcare services or disaster management.

The regulator, in November 2017, batted in favour of net neutrality – which has been one of the most hotly debated topics in India for over 4 years now.

The regulator had said, “Internet access services should be governed by a principle that restricts any form of discrimination or interference in the treatment of content, including practices like blocking, degrading, slowing down or granting preferential speeds or treatment to any content.”

This principle, it had added, will apply to any discriminatory treatment based on the sender or receiver, the network protocols, or the user equipment, but not to specialised services or other exclusions. It had also said that these will not apply to “reasonable traffic management practices” by the service provider.

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To implement Net neutrality, the regulator had recommended that the terms of licence agreements that govern the provision of Internet services in India be amended “to incorporate the principles of non-discriminatory treatment of content along with the appropriate exclusions and exceptions.”

It has further recommended establishing a multi-stakeholder not-for-profit body for the monitoring and enforcement of these principles.

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Experts weigh in on the debate

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Vice President's Secretariat

Make people active agents of transforming India: Vice President tells IAS officers

Adopt a more empathetic, responsive and inclusive approach of administration;

Addresses 2016 batch of IAS Officers

Posted On: 11 JUL 2018 6:58PM by PIB Delhi

The Vice President of India, Shri M. Venkaiah Naidu has asked the IAS officers to look upon people as active agents of transforming India, not merely as 'target groups' or 'beneficiaries' as we used to call them. He was addressing IAS Officers of 2016 batch posted as Assistant Secretaries in Government of India, in New Delhi today. The Minister of State for Development of North Eastern Region (I/C), Prime Minister's Office, Personnel, Public Grievances & Pensions, Atomic Energy and Space, Dr. Jitendra Singh and other dignitaries were present on the occasion.

The Vice President said that unless this approach becomes an integral part of our planning and implementation process, the programmes will not succeed. He further asked the young officers to make good use of the opportunity and understand the role of Union government in formulation of policies and programs. You belong to a civil service that was conceived of as a steel frame of our country by the great visionary unifier and the first Home Minister of independent India, Sardar Vallabhbhai Patel, he added.

Saying that streamlining service delivery and effective, transparent, people-centred good governance are the need of the hour, the Vice President stressed on the need to address challenges in delivering basic services to the common man. Aim at greater 'efficiency' and 'effectiveness' and build a culture of 'evaluation' and constant 'learning' in our governance systems, he added.

The Vice President asked officers to adopt a more empathetic, responsive and inclusive approach of administration. It should be an approach that cares for women, differently abled, the marginalized and those who have been left out of developmental process, he added.

The Vice President asked officers to view every programme as a "societal mission" and implement them with dedication. There has to be a genuine commitment at all levels of administration to spread the benefits of democratic governance to all sections in society without any discrimination in the spirit of the principle "Sab ka Saath, Sab ka Vikaas," he added.

Following is the text of Vice President's address:

"I congratulate all the IAS Officers for your successful completion of IAS probationers training programme and hope you will find the next 13 weeks of deputation to Central Government a useful learning experience.

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This exposure is intended to help you to acquire a national perspective.

It is a view from the top.

It is a macro-level view that enables you to appreciate the nuances of policy making in a federal system like ours.

It is helpful to connect with what you learn here with the micro-level implementation at the state level.

It is an opportunity for you to see the role of Union government in formulation of policies and programs.

As an initiator, coordinator and motivator, the Union government ensures that the country as a whole makes progress.

It identifies critical gaps in development and tries, through policies and programmes, to reach out to populations that need greater support. It identifies the national priorities, in consultation with States, and keeping in view India's strengths as well as emerging global opportunities.

Friends,

You are inheritors of an illustrious legacy left behind by a number of Indian civil servants who have served our country well over the last seven decades.

You belong to a civil service that was conceived of as a steel frame of our country by the great visionary unifier and the first Home Minister of independent India, Sardar Vallabhbhai Patel.

It would be good to recall his words when he addressed the first batch of IAS officers on 21 April, 1947. Terming the ICS as neither 'Indian' nor 'Civil', Sardar Patel had said:

'….your predecessors were brought up in the traditions in which they felt out of touch and kept themselves aloof from the common run of the people. It will be your bounden duty to treat the common men in India as your own or to put it correctly, to feel yourself to be one of them and amongst them and you will have to learn not to despise or disregard them. In other words, you will have to adapt yourselves to democratic ways of administration….'

This is the first transition we have already made.

We moved away from serving a foreign master to serving the people of independent India.

Over the last seventy years, we have collectively been translating "Swarajya" to "Surajya".

However, we have still a long way to go. The unfinished agenda before us is to reach out to people who have not yet benefited from Swarajya.

Streamlining service delivery and effective, transparent, people-centred good governance are the need of the hour. We are still facing enormous challenges in delivering basic services to the common man.

Illiteracy, ill health, poor quality of education, lack of clean drinking water and sanitation facilities, poor urban planning, inadequate attention to environmental pollution and a host of other issues continue to pose formidable challenges.

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We have to gear up the implementation processes so that the intended benefits of the policies and programmes of our government reach the people on time. Good governance should be constantly on our radar screen.

We should aim at greater ‘efficiency’ and ‘effectiveness’. We have to build a culture of ‘evaluation’ and constant ‘learning’ in our governance systems.

Friends,

We are living in exciting times. It is a time of seemingly intractable challenges but also of limitless new opportunities.

The Union government has embarked on a new vision for a new India.

It has launched many programmes that focus on key elements of socio-economic development like Swacch Bharat, Smart cities, Skill India, Direct Benefit Transfer, Digital India, AMRUT, PM Awas Yojana and so on.

All these schemes go beyond the conventional delivery mechanisms of development administration. They require a radically different approach that Prime Minister has been repeatedly underlining.

We must, view every programme as a **“societal mission”** catalyzed by the government.

We must look upon people as active agents of transforming India, not merely as ‘target groups’ or ‘beneficiaries’ as we used to call them.

Unless this approach becomes an integral part of our planning and implementation process, the programmes will not succeed.

The administration has to adopt a more empathetic, responsive and inclusive approach.

It should be an approach that cares for women, differently abled, the marginalized and those who have been left out of developmental process.

There has to be a genuine commitment at all levels of administration to spread the benefits of democratic governance to all sections in society without any discrimination in the spirit of the principle “Sab ka Saath, Sab ka Vikaas”.

Friends,

Over the last seventy years after our independence, there have been many changes in the world and the country. As a result, you will be working in a different environment as compared to your predecessors.

There are, however, some guiding principles that form the bedrock of the higher civil services in the country.

These essential well springs must not be allowed to dry up.

I shall outline four salient aspects you may like to keep in view: ‘empathy’, efficiency’, ‘impartiality’ and ‘incorruptibility’.

The first is ‘**empathy**’.

I would like all of us to remind ourselves what Mahatma Gandhi ji had advised. He had said that whenever you are in doubt if an action is good or bad, you should put oneself in the situation of the poorest of the poor in the country and see how a particular policy and programme will impact him or her.

This is a timeless talisman that will undoubtedly stand you in good stead when you weigh the pros and cons before taking a decision in your career.

The second principle is **‘efficiency’.** As administrators occupying the highest positions of power and authority, you have an onerous responsibility to translate policies into programmes and to implement schemes on ground.

You will be providing that most important link between legislation and implementation.

A policy is only as good as its implementation.

The tardy, inefficient execution of projects and programmes hurt the common people whom we are trying to serve.

The cost and time overruns retard nation’s developmental progress.

We must look at the strengths our society offers and how we can build partnerships with civil society and the private sector. We should move away from the traditional paradigm under which government had assumed the role of “Mai-Baap”. Now it is time to make it a “Hum-aur-Aap” collaboration and partnership.

The third and the fourth principles – ‘**impartiality**’ and ‘**incorruptibility**’ are contained in Sardar Patel’s exhortation:

“Above all I would advise you to maintain to the utmost **impartiality** and **incorruptibility** of administration.”

The civil service was created to provide an impartial, inclusive management culture in the country’s governance.

This was absolutely necessary in the multi-lingual, multi-religious, pluralistic society that India is.

The civil services were the binding force that are expected to bridge the many ‘divides’ that India has.

The last principle I would like to underscore is the **‘incorruptibility’**.

The words of Sri Sardar Patel again ring so true even 70 years after he made those remarks. He had said:

“Unhappily India today cannot boast of an incorruptible service, but I hope that you who are now starting, as it were, a new generation of Civil Servants, will not be misled by black sheep in the fold, but would render your service without fear or favour and without, any expectation of extraneous rewards. If you serve in the true spirit of service I am sure you will have your best reward.”

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The ‘Iron man’ of India had conceived of the ‘steel frame’.

All of you are distinguished members of this steel frame. I would urge you all to add lustre to this frame. Make it a stainless steel frame, bright and shining. You have a unique opportunity which comes only to a select few.

You can make a difference in the lives of our people through your work. The country expects you to make the second big transition from being merely “administrators” to “transformational managerial leaders”.

I am hopeful that the Prime Minister’s call to ‘Reform, perform and transform’ would inspire you to acquire new competencies, scale new heights in efficiency and help you evolve into transformational leaders.

I wish you all the best!

Jai Hind!”

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Net neutrality rules are evidence of India’s progressiveness

Even as the US was busy dismantling one of the pillars of a free Internet, India was busy building one. And so, on Wednesday, India announced it had approved net neutrality rules which many experts have termed among the strongest in the world, if not the strongest.

Net neutrality means internet service providers (ISPs) can’t discriminate against content, either reducing speeds for access of certain websites or types of content, or practice differential pricing. In effect, it is a recognition that the Internet is a public good, much like a public road, and that it isn’t a toll road where there’s a separate lane for people driving a certain type of car and willing to pay a certain price.

The arguments for net neutrality are many: that it provides a level playing field to all content generators and companies dependent on the network; that it is an intrinsic, if not often articulated, component of freedom of expression; that it fosters entrepreneurship, innovation; and that it is good for business.

The arguments against it are few, and not particularly strong — that it inhibits companies from making investments and is bad for innovation — although, as evident from the US example, there are many takers for it.

The rules approved on Tuesday provide exceptions for some Internet of Things (IoT) services, and also some so-called “specialised services”, and India’s telecom regulator and Department of Telecommunications should define these quickly and specifically so that everyone knows what these are. While it is clear that all ISPs will now have to adhere to net neutrality rules which will be part of their new licence agreements, what isn’t clear is the kind of reporting they will now have to do to demonstrate their net neutrality.

Still, these are minor quibbles, if they can be called that, and it is likely that they will be addressed soon.

While the rules themselves, and the ringing endorsement of free Internet, is evidence of India’s progressiveness, it is also important that much of this was achieved because of civil society action that prompted a progressive policy from a receptive regulator and government. A coalition of activists came together to achieve this objective, and took on Facebook, which was offering Free Basics, a zero-rated app. Zero rating is the process under which ISPs rate zero data consumption to a certain service or app. Free Basics sought to provide limited Internet access.

This is the kind of policy-making model India would do well to follow in many other areas — in terms of both content and process.

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Dark clouds over the RTI

The Bharatiya Janata Party (BJP)government has struck another blow against transparency and accountability. Its already negative track record — that has been marked by an unwillingness to operationalise the Lok Pal, the Whistleblowers Act and the Grievance Redress law — has taken another step backwards if one is to go by a single line in item 14 in the legislative agenda of the monsoon session of Parliament (from July 18). It says: “To amend The Right to Information (RTI) Act 2005 — for Introduction, Consideration, and Passing.” The government will most likely proclaim these proposed amendments to be “progressive” as it did with its inverted definition of bringing about “transparency” in political party funding through “secret” electoral bonds. For such a dispensation, the RTI is an obvious threat.

Information as a right

Since 2005, the RTI Act has helped transform the relationship between the citizen and government, dismantle illegitimate concentrations of power, legitimise the demand for answers, and assist people in changing centuries of feudal and colonial relationships. But public servants, troubled by accountability, have seen this as interference. As a result, the RTI Act has been under constant threat of amendments. At least two major attempts to amend the Act have been met with such strong popular resistance that the government of the day has had to back off. This time, it seems as if the government has decided to avoid all norms of transparency and consultation in trying to impose its undemocratic will.

It is a bitter irony that a little over a decade after the RTI Act was operationalised, proposed amendments have been kept secret; there has not even been a hint of public consultation.

Undermining consultation

It is no secret that the intent of this government is questionable. Applications for information about amendments made under the RTI Act have been stonewalled and information denied. Any amendment to the law should have been discussed before it went to the cabinet, as in the “pre legislative consultation policy” of the government of India (https://bit.ly/2NVl4Gi).

But more danger lies ahead. Bureaucratic jargon such as “consideration” is a euphemism for pushing the amendment through without due consideration of parliamentary processes. For some time now, major pieces of legislation, including those that affect the transparency regime, are being pushed through without being sent to multi-party standing committees. Worse still, in order to avoid facing the strength of the Opposition, there have been steps to steamroller legislative measures (in the garb of money Bills) that have destabilised access to information such as Aadhaar and electoral bonds.

Blow to transparency

The spirit of the RTI law lies in not just the filing of an RTI application and getting an answer. It actually mandates the replacement of a prevailing culture of secrecy with a culture of transparency. Under Section 4(2) of the RTI Act, which has been poorly implemented, it says: “It shall be a constant endeavour of every public authority... to provide as much information *suomotu* to the public at regular intervals... so that the public have minimum resort to the use of this Act to obtain information.” One can understand why there is an attempt to undermine the RTI Act in letter and spirit.

Hampering acccountability

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The popular movement for accountability which swept across the country five years ago has also been successfully neutralised — at least for now. While the RTI Act allowed us to uncover fraud, it was difficult to ensure that the information could be used to hold a bureaucrat or elected representative accountable. The Lokpal debate, for example, highlighted grand corruption, but those who protested across India were personally fed up with the inefficiency of public servants and their impunity. Accountability to the people should have been institutionalised through a strong social accountability and Grievance Redress Act, as promised by the BJP. That promise has been forgotten. The Lokpal Act is now in cold storage. No Lokpal appointments have been made, despite repeated prodding by the Supreme Court; in fact the government has tried to protect bureaucrats by amending the Lokpal Act in such a way that assets of family members of public servants do not have to be disclosed in the public domain.

Holding power to account

Citizens' movements in India have been energetic and courageous. The use of the RTI has led to more than 70 citizens fighting corruption losing their lives, but the government remains unaffected. People have been demanding a strong whistle-blower protection law, but like the Lokpal, the Whistle Blowers Protection Act has been ignored, with attempts to amend the law that will completely negate its intent.

It is notable that amendments to the RTI rules that were put up for public feedback have reportedly been withdrawn after objections. It is without justification that a government which could place its rules for public consultation should now shy away from placing amendments in the public domain. Though there have been reports that the proposed amendments seek to change the status of the information commissions, it is not worth discussing these in an opaque framework.

Secret amendments to a law fashioned and used extensively are deeply suspect. This time round, it is far more critical that all of us rally together again for the people of India cannot afford to lose what has been gained through the RTI.

Nikhil Dey and Aruna Roy are founder members of the Mazdoor Kisan Shakti Sangathan and National Campaign for People's Right to Information

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This refers to the tendency to form friendships and other forms of interpersonal relationships with people we come across often in our daily lives.

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A welcome move: On India's net neutrality regulations

In a vital decision that will help secure the rights of Internet users in the country, the Telecom Commission has approved the recommendations of the Telecom Regulatory Authority of India (TRAI) on net neutrality. By endorsing steps that call for amendments to access services licences for Internet Service Providers (ISPs) and Telecom Operators, the Commission has made it clear that any violation of net neutrality will be treated as a violation of the licence conditions. It has said that some specialised and emerging services such as Voice over Internet Protocol (VoIP) may be exempt from the non-discriminatory principles, but these cannot be at the cost of the overall quality of Internet access. Combining this approval with the fact that TRAI had barred telecom service providers from charging differential rates for data services (zero rating, for example), India will now have among the strongest net neutrality regulations. This is as it should be. Net neutrality is the basic principle of an open Internet that does not allow for content discrimination by ISPs. The user is free to access any web location at the same paid-for speed without any discrimination by the ISP.

What is net neutrality and why does it matter?

This proviso has helped democratise the Internet and undergird its growth from a networked system of computers that enabled e-commerce, social interaction, knowledge flow and entertainment, among other functions. Internet pioneers — including World Wide Web inventor Tim Berners-Lee and Transmission Control Protocol/IP Protocol co-inventor Vint Cerf — have consistently maintained that the principle of net neutrality is built into the structure of the Internet itself. The layers and protocols for connectivity via the network have been erected in such a way that access is seamless irrespective of the nature of the physical infrastructure of the network. It is to the credit of the Telecom Commission and TRAI that this principle has been upheld in India — in contrast, in the U.S., on President Donald Trump's watch, the Federal Communications Commission repealed net neutrality regulations that had been put in place by the Barack Obama administration. The repeal was ostensibly to allow ISPs and broadband providers to invest in new technology although evidence shows that such investment was not affected by the regulations. The other argument for the repeal has been a functional one, suggesting that the Internet is very different today, controlled by a handful of big companies, unlike the much more egalitarian environment earlier; and that therefore, the principle is redundant now. This is misleading. In India, for instance, the steep growth in Internet access and use has allowed for newer services to thrive. The government should now ensure that net neutrality is followed in practice.

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Ministry of Personnel, Public Grievances & Pensions

Amendment in RTI Act

Posted On: 18 JUL 2018 3:34PM by PIB Delhi

The Government is considering a proposal to amend the Right to Information Act, 2005.

A notice of intention has been given to introduce “The Right to Information (Amendment) Bill, 2018” in the Rajya Sabha for consideration and its passage during the current session of Parliament. The purport of the amendments proposed is to provide for enabling provision under the RTI Act to frame Rules regarding salaries, allowances and conditions of service for Chief Information Commissioners and Information Commissioners and State Information Commissioners. Presently, there are no such provisions available under the RTI Act.

Consultations with Department of Expenditure, Department of Legal Affairs and Legislative Department have been undertaken while preparing/formulating the RTI (Amendment) Bill, 2018.

This information was provided by the Union Minister of State (Independent Charge) Development of North-Eastern Region (DoNER), MoS PMO, Personnel, Public Grievances & Pensions, Atomic Energy and Space, Dr Jitendra Singh in written reply to a question in Lok Sabha today.

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Ministry of Personnel, Public Grievances & Pensions

Status of Appointment of Lokpal

Posted On: 19 JUL 2018 4:26PM by PIB Delhi

The Lokpal and Lokayuktas Act, 2013 came into force w.e.f. 16.01.2014. The Government initiated the process for appointment by convening the Selection Committee meeting on 03.02.2014. The Selection Committee under section 4(1) of the Act, also constituted an eight Member Search Committee on 21.02.2014 in terms of section 4(3) of the Act. Two members of the Search Committee declined the offer of appointment. Looking into such difficulties experienced and to remove certain difficulties in the operationalisation of the Act including issues relating to appointment of Chairperson and Members of Lokpal, etc. in the absence of a Leader of Opposition recognized as such in the Lok Sabha, the Government introduced the Lokpal and Lokayuktas and other related law (Amendment) Bill, 2014 in Lok Sabha on 18.12.2014. The Bill was referred to the Department –related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice for examination and report. The said Committee has submitted its report in the Parliament on 07.12.2015. In view of the apex court's decision in the matter of Writ Petition (C) No. 245/2014 filed by *Common Cause – a registered society*, wherein it was observed that the law as it stands today is an eminently workable piece of legislation, two meetings of the Selection Committee under section 4(1) of the Lokpal and Lokayuktas Act, 2013 were held on 1st March, 2018 and 10th April, 2018. Upon the recommendations of the Selection Committee, Hon'ble President has nominated Shri MukulRohatgi, former Attorney General of India as "Eminent Jurist" Member of the Selection Committee. The next meeting of the Selection Committee has been convened on 19th July, 2018 to consider the constitution of Search Committee in terms of provisions of section 4(3) of Lokpal and Lokayuktas Act, 2013.

This information was provided by the Union Minister of State (Independent Charge) Development of North-Eastern Region (DoNER), MoS PMO, Personnel, Public Grievances & Pensions, Atomic Energy and Space, DrJitendra Singh in written reply to a question in Rajya Sabha today.

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Sunlight and shadow: on amendments to the RTI Act

As a law that empowers the citizen, the Right to Information Act, 2005 quickly struck root in a country saddled with the colonial legacy of secretive government. The move by the NDA government to amend the far-sighted law aims at eroding the independence of the Information Commissions at the national level and in the States. The proposed amendments show that the Central government seeks control over the tenure, salary and allowances of the Chief Information Commissioner and Information Commissioners at the Centre, and the State Chief Information Commissioners. Such a change would eliminate the parity they currently have with the Chief Election Commissioner and Election Commissioners and, therefore, equivalence with a judge of the Supreme Court in matters of pay, allowances and conditions of service. The Centre will also fix the terms for State Information Commissioners. This is an ill-advised move and should be junked without standing on prestige. If at all, the law needs to be amended only to bring about full compliance by government departments and agencies that receive substantial funding from the exchequer, and to extend its scope to more institutions that have an influence on official policy. The Supreme Court has held the right to information as being integral to the right to free expression under Article 19(1)(a); weakening the transparency law would negate that guarantee.

In its rationale for the amendments, the Centre has maintained that unlike the EC, Information Commissions are not constitutional bodies but mere statutory creations under the law. This is a narrow view, betraying an anxiety to tighten the hold of the administration on the Commissions, which even now get little official support to fill vacancies and improve efficiency. A recent public interest petition filed in the Supreme Court by the National Campaign for People's Right to Information pointed out that the Central Information Commission has over 23,500 pending appeals and complaints, and sought the filling up of vacancies in the body. In many States, the Commissions are either moribund or working at low capacity owing to vacancies, resulting in a pile-up of appeals. The challenges to the working of the law are also increasing, with many State departments ignoring the requirement under Section 4 of the Act to publish information *suo motu*. The law envisaged that voluntary disclosure would reduce the need to file an application. Since fines are rarely imposed, officers give incomplete, vague or unconnected information to applicants with impunity. Proposals to make it easier to pay the application fee, and develop a reliable online system to apply for information, are missing. These are the serious lacunae. Attempts were made by the UPA government also to weaken the law, including to remove political parties from its purview. Any move to enfeeble the RTI Act will deal a blow to transparency.

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Others wince as Kerala celebrates top slot

Kerala is first in women and child development andchild-friendly approach.

One person’s happiness is another's misery. This applies equally to States involved in the high stakes game of competitive governance too. As Kerala trumped high-profile peers such as Tamil Nadu, Karnataka and Telangana to emerge on top of the Public Affairs Index 2018, celebrations in one place have been matched by excuses in others.

The losers have the argument that the checklist of the Public Affairs Centre, the Bengaluru-based think tank, is skewed in favour of Kerala: its focus is on social development and service delivery rather than big ticket investments. Kerala, according to the think tank, has emerged first overall among 30 States in the country, with a top ranking in four of the 10 parameters for big States. These include essential infrastructure, support to human development, women and child development and child-friendly approach. The ranking has not come without riders as the State has some ground to cover in areas such as protection of the environment and maintenance of law and order.

There was not much celebration though on the government’s part. News reports about Kerala emerging on top in the PAI index with a brief matter-of-fact press note was all that was to be found on the Chief Minister’s FB page. But, within a few hours, the posts were shared by close to a thousand people and viewed by over 30,000 Facebook users.

The parameters chosen for the study have given an edge for Kerala, a State that has won acclaim for its high human development indices. PAI 2018 comprises 10 broad themes, 30 focus subjects and 100 indicators as well as a special chapter on the children of India. While the theme on essential infrastructure includes power, water, roads and communication and housing, that on support to human development covers education and health.

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Muzzling information

The Right to Information (RTI) Act, 2005, has empowered millions of Indians to question governments and hold public functionaries accountable. Of the nearly six million RTI applications filed every year in the country, a large proportion are by the poorest and the most marginalised who seek information about their basic rights and entitlements, like rations, pensions and health facilities. The use of the law has not been limited to accessing information about delivery of basic services, however. The RTI Act has been used extensively by citizens to question the highest offices in the country — from the educational qualifications of the Prime Minister and assets of public servants to human rights violations and false claims made by government functionaries — and seek answers from them.

It is not surprising, therefore, that the RTI law has frequently faced a backlash from powerful vested interests. The latest attack on the legislation is the proposal of the BJP-led National Democratic Alliance government to amend it.

In complete contravention of the pre-legislative consultation policy, the government has drafted a bill to amend the RTI Act. The proposed amendment bill, which was brought in surreptitiously, seeks to destroy the independence of Information Commissions — the final adjudicators under the law.

The RTI Act fixes the tenure of information commissioners at five years, subject to the retirement age of 65 years. Further, Sections 13 and 15 of the law state that the salaries, allowances and other terms of service of the Chief of the Central Information Commission shall be the same as that of the Chief Election Commissioner. Those of the Central Information Commissioners and State Chief Commissioners will be on par with Election Commissioners. The Chief and other Election Commissioners are paid a salary equal to the salary of a judge of the Supreme Court, which is decided by Parliament.

The amendments seek to empower the Central government to decide the tenure, salaries, allowances and other terms of service of all Information Commissioners in the country. The rationale provided for undertaking this step is that treating Information Commissioners on par with functionaries of the Election Commission is incorrect, as the latter is a constitutional body while Information Commissions are statutory bodies.

This contention is inherently flawed. The principle of statutorily securing tenure, and protecting the terms of service by equating it to functionaries of constitutional bodies, is routinely adopted to ensure independent functioning of statutory oversight institutions like the Central Vigilance Commission and the Lokpal. The fixed tenure and high status conferred on Commissioners under the RTI Act is to empower them to carry out their functions autonomously, without fear or favour, and direct even the highest offices to comply with the provisions of the law.

Empowering the Central government to decide the tenure and salaries of Information Commissioners is a clear attempt to undermine their independence and to effectively make Commissions function like regular government departments.

The BJP came to power on the plank of anti-corruption. The last four years, however, have witnessed repeated attempts to undermine the RTI Act.

The selection committee for the appointment of Central Information Commissioners is headed by the Prime Minster. Since May 2014, not a single Commissioner of the Central Information Commission has been appointed without citizens having to approach courts. It was without a chief

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for 10 months. The RTI Amendment Bill comes at a time when the Supreme Court has issued notice to the government for failing to fill vacancies in the Commission. Out of a total sanctioned strength of 11 Commissioners, there are currently four vacancies and four more are due to arise in 2018, including that of the chief. Failure to make timely appointments is leading to huge backlogs of appeals and complaints resulting in inordinate delays in the Commission, which render the law meaningless for citizens.

The latest move to furtively subvert the RTI Act exposes the real intent of the BJP government – to not allow public scrutiny of its actions. In the face of overwhelming public and political opposition to the bill, the government has deferred its introduction in Parliament for the moment. But whether the will of the people prevails and the RTI law, which safeguards peoples' fundamental right to information, is immunised this time from legislative challenge remains to be seen.

Anjali Bhardwaj and Amrita Johri are RTI activists associated with the National Campaign for Peoples' Right to Information and Satark Nagrik Sanghatan

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Has the Right to Information Act been weakened?

The Right to Information (RTI) Act of 2005 is being weakened absolutely and decisively. Let's understand how. For over a decade, citizens of India have tenaciously protected and guarded this people's legislation, preventing repeated attempts to dilute the Act through amendments. Interestingly, no government has bothered to propose amendments which would make the RTI Act more robust and effective.

The BJP-led NDA government has diabolically planned and moved a set of targeted and fashioned amendments to the RTI Act which will not only undermine one part of the Act but structurally weaken the independence and authority of the only body that gives it teeth, thereby nullifying the entire Act.

One unique and attractive feature of the RTI Act was that it did not create a new bureaucracy for implementing the law. The RTI Act tasked and mandated officials in every office to change their attitude and duty from one of secrecy to one of sharing and openness. Despite many officials having a vested interest in not sharing information, the RTI statute carefully and deliberately empowered the Information Commission to be the highest authority in the country with the mandate to order any office in the country to provide information as per the provisions of the Act. And it empowered the Commission to fine any official who did not follow the mandate. This was enough of a strategic deterrence, and with all its difficulties, information did begin to flow out of government files and offices. In the stifling and dark atmosphere of governance that excluded people, this was a blast of fresh air and sunshine.

It has led to a situation where an estimated 70 lakh people apply for information every year. So probing and effective are many of the questions that powerful vested interests try to threaten, bribe, cajole, browbeat, and when all else fails, kill the person seeking to expose their misdeeds. More than 70 people have been murdered in this fashion. Applicants know that however much the official may try to stonewall, there is an independent authority which can be approached, which can extract the information for them, and which can even fine the official. No other law in the country has set up a mechanism that can, at the initiative and pursuit of an ordinary citizen, make officials pay a fine from their salaries for not doing their duty. All this is sought to be diluted so that the structural credibility of the RTI law crumbles.

One needs to ask why this is being done in the first place. A spurious excuse is trotted out in the Statement of Objects and Reasons of the Bill. It states that equivalence in salaries with the Chief Election Commissioner (CEC) is not acceptable because the CEC is a constitutional authority. The RTI Act does not seek to make the Information Commission a constitutional body. As E.M. Sudarsana Natchiappan, the Chairperson of the Parliamentary Standing Committee that examined the law, said in the Rajya Sabha as the law was being discussed: "This is the essence of the Bill… the mechanism of access to information will depend on effectiveness of this system. It should therefore be ensured that the Commission and its functionaries perform their duties independently and with complete autonomy. For this, it is necessary to elevate their status to that of the Election Commission of India... If this organisation (the Commission) is not going to function properly, then what is the purpose of bringing this enactment? We are not enacting this law just to become a part of the statute book."

Unfortunately, that is exactly what the BJP government wants to do to the RTI law.

Nikhil Dey is a founder member of the Mazdoor Kisan Shakti Sangathan and the National Campaign for People's Right to Information

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The government is committed to transparency and openness. The RTI Amendment Bill, 2018, is aimed at preserving and promoting administrative efficiency and accountability throughout the country. However, the Opposition has raised some objections regarding the proposed amendment to the RTI Act.

The RTI Act was enacted to enable citizens to secure access to information under the control of public authorities, to promote transparency and accountability in the working of public authorities, and to constitute a Central Information Commission and State Information Commissions.

The Amendment Bill only intends to empower the Central government to decide the tenures, salaries and allowances of the Chief Information Commissioner (CIC) and Information Commissioners (IC) of the Central Information Commission and State Information Commissions through delegated legislation. It neither takes away nor weakens the powers of the CIC or ICs.

The Bill was deemed necessary because the existing provisions of the Act do not have an express provision regarding the salaries, allowances and other terms and conditions of service of the CIC and ICs. Section 13(5) of the Act equates the salaries, allowances and other terms and conditions of service of the CIC and ICs to that of the Chief Election Commissioner (CEC) and Election Commissioners (ECs), respectively.

Similarly, Section 16(5) equates the salaries, allowances and other terms and conditions of service of the State CIC to that of the EC.

The salaries, allowances and other terms and conditions of service of the CEC and ECs are in turn equal to a judge of the Supreme Court. Therefore, the CIC, ICs, and State CIC become equivalent to a judge of the Supreme Court in terms of their salaries, allowances and other terms and conditions of service.

The functions being carried out by the Election Commission of India and the Central and State Information Commissions are very different. The Election Commission is a constitutional body established under Article 324 of the Constitution and is responsible for the conduct of all elections to Parliament, State legislatures and to the posts of President and Vice-President. On the other hand, the Central Information Commission and State Information Commissions are statutory bodies established under the RTI Act.

Since the mandate of the Election Commission of India and the Central and State Information Commissions are different, their status and service conditions need to be rationalised accordingly. The proposed amendment to the RTI Act is limited to this extent. Further, the proposed amendment will not have any adverse effect on the salaries, allowances and other conditions of service of the present incumbents appointed before the commencement of the proposed amendment. The proposed amendment will not make the office of the CIC and ICs less attractive as the salaries and allowances will not be lowered.

The Bill does not intend to make any fundamental changes to the RTI; instead, it will make the RTI Act more transparent by way of providing express provision for salaries, allowances and other conditions of service of the CIC and ICs.

Bhupender Yadav is a BJP Member of the Rajya Sabha

I respect the views of all the stakeholders in the RTI ecosystem. However, there is a need to distinguish between populism and realism. Instead of resorting to the populist discourse surrounding the issue of likely amendments to the RTI Act, there is a need to ponder over the pragmatic issues confronting its implementation.

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It has been observed that there is a paradigm shift in understanding the meaning of 'information' as contained in Section 2(f) and (j) of the Act. The applicants are increasingly seeking redress of their personal grievances and adjudication of disputes beyond the jurisdiction of the Commission. The Supreme Court in *CBSE v. Aditya Bandopadhyay* (2011) decided that the RTI Act could only provide information that was available. In *Union of India v. Namit Sharma* (2013), the court held that "the Information Commission does not decide a dispute between two or more parties concerning their legal rights other than their right to get information in possession of a public authority". Time and again several courts have defined the jurisdictional powers of the Commission in this respect. Nonetheless, the Commission encounters adjudication of several personal issues related to service disputes, fixing of pay and pension, grant of promotion, settlement of matrimonial disputes, requests for time-bound completions of tax evasion petitions, accident-related claims and compensation, and so on. Whether the mandate of the Commission should include such matters is an issue for public discourse. Another aspect for consideration revolves around the power and procedure for deciding cases of non-compliance of the Commission's orders and associated penal provisions. There is also a need to reassess the understanding of the term public good or public interest in the broader context of the ever-evolving nature of the RTI mechanism.

The Commission has an established institutionalised mechanism for examining and analysing various aspects of the RTI Act and its implementation through weekly meetings, conventions, seminars, and so on. The proposed amendments never featured in the discussions of the Commission, and I am confident that the Commission will take a balanced and considered view in this regard.

At the centre of the discussion is the need to focus on reassessing the efficacy of the RTI on the substantive issues of providing information and enforcing the provisions of the Act, and the awareness of applicants and respondents through periodic seminars, workshops, etc. Experience indicates that the stakeholders remain oblivious to their rights and obligations under the RTI Act. On several occasions, it has been found that the Public Information Officers pass non-reasoned orders, do not adhere to the timelines prescribed under the Act, or provide vague, incomplete and misleading information. The Commission also encounters cases of numerous applications filed by a single applicant on the same subject matter. This causes disproportionate diversion of resources of the public authorities.

For an informed citizenry, all stakeholders, including public-spirited individuals, youth organisations and NGOs should create awareness about the provisions of the Act so that the RTI mechanism can be strengthened to usher in a new era of transparency, accountability and good governance.

Bimal Julka is an Information Commissioner. Views are personal

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NRC update, or a dance of data

Data-driven exercise:Villagers get their papers verified by NRC officials in Morigaon district of Assam.Ritu Raj KonwarRitu Raj Konwar

The strategy against illegal migration in Assam, specifically from Bangladesh, was planned in run-down hostels of Gauhati University in mid-1979. It did not quite end in success, but gave the State the Assam Accord of August 1985 and a cut-off date — midnight of March 24, 1971 — for detecting and deporting infiltrators.

A quarter century later, the Centre accepted an Assam Assembly resolution to revise the National Register of Citizens (NRC) of 1951, with the 1971 electoral rolls as the basis. But the actual action began only three years later when the NRC Secretariat, on the western bank of the stream-turned-sewer Bharalu, decided to set up a digital army.

“I had two options when I was given the responsibility to steer an unprecedented updating exercise in September 2013: to start from scratch to build a digitised system and improve upon it, or to give up,” Prateek Hajela, Assam’s Principal Secretary, Home, and NRC State Coordinator, told *The Hindu* .

If 2013 was spent in conceptualising the system, the next year was spent on digitised legacy data development (DLDD). Major software system developers in the country did not respond to a tender for the DLDD, but a local firm, Bohniman Systems, took up the challenge with inputs from Mr. Hajela, an M.Tech. in Electronics from IIT, Delhi.

The legacy data are a combination of the 1951 NRC and electoral rolls of Assam from that year till March 24, 1971.

Digital mapping

“The legacy data of the handwritten 1951 NRC and the electoral rolls till 1971, both printed and handwritten, were in lockers at the offices of deputy commissioners and superintendents of police in the districts. In 1951, Assam had only eight districts and included present-day Meghalaya, Mizoram and Nagaland. By 2014, the number of districts had increased to 27 [now 33],” Mr. Hajela said.

Because of migration over the years, it would have been difficult for people to search for certified copies of their legacy data in their places of origin. Even if they knew their places of origin, it would have been impossible to map the original eight districts to the 27 in 2014.

But the legacy data were mapped zone-wise and search-enabled with multiple filtering options. Bohniman digitised all 27,000 village boundaries of Assam and plotted the data in layers for monitoring graphically with an integrated view on Google maps.

The mapping led to 27,000 booklets — one for each village and a page for each family.

The second challenge was to develop a technology to transliterate the legacy data, mostly in Assamese and Bengali fonts, to English (since most people use English keyboards today) and make the entire database available in Assamese, Bengali and English.

The third step was to design a phonetic-based search engine to locate legacy records that would display all similar sounding names, as most people were not sure how their forefathers’ names

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were spelt.

The fourth challenge was to scan all legacy documents, many of which were worn out and faded. Photo scanners were used and every image was linked with the data through special authentication tools that Bohniman developed.

About 95% of Assam's population, or about 30 million people belonging to 6.5 million families, used the legacy data while applying for NRC. Each legacy data set was given a unique code that became the base for a family tree.

Hiring a warehouse

The next challenge was to transfer the data to 5,000 laptops — two per Nagarik Seva Kendra. "This entailed transferring 340 GB of data comprising 7,00,000 images and 20 million legacy data to each laptop simultaneously," Bohniman's Abhijit Bhuyan explained. In paper form, this would have translated into 600 truckloads of data.

Mr. Hajela roped in Wipro to supply the laptops and provide 8,000 data entry operators. A warehouse was hired and special racks were built for the data to be transferred to the laptops.

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‘Draft e-commerce policy will be in line with Srikrishna panel proposals’

The draft e-commerce policy being formulated by the government will be in keeping with the recommendations of the Justice Srikrishna Committee report on data privacy, according to Commerce Secretary-Designate Anup Wadhawan. Mr. Wadhawan will take over as Commerce Secretary on August 1.

The draft personal data protection Bill 2018, submitted by the Justice B.N. Srikrishna-headed expert panel on Friday, proposed that critical personal data of Indian citizens be processed in centres located within the country.

“Most countries dealing with this issue have taken a nuanced approach,” Mr. Wadhawan said at a press briefing following the second meeting of the think tank created to deliberate on the e-commerce policy. “We will come up with a policy that will promote the free flow of business as well as address security and privacy concerns.

The policy will be in line with the Srikrishna Committee recommendations.”

Critical data

The draft law recommended by the Srikrishna Committee has left it to the Central government to notify categories of personal data that will be considered as critical, and hence necessarily be located in India. Other personal data can be transferred out of the country, but a copy must be retained in India.

“The working groups and think tanks made comprehensive recommendations on the draft e-commerce policy on issues ranging from data flow to protection, grievance redressal, and data localisation,” Mr. Wadhawan said. “The recommendations also included the regulatory arrangement that could emerge for the sector.”

While the Secretary-Designate did not specify a time-frame in which the e-commerce policy would be finalised, he said it would be in the “earlier possible time-frame, since we can’t afford to have a vacuum in e-commerce regulation.”

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A good beginning: on draft data protection bill

Given the vast amounts of personal data being collected by private companies and state agencies, and their flow across national jurisdictions, the absence of a data protection legal framework in India has been a cause for deep concern. This is even more so because in many cases individuals whose data have been used and processed by agencies, both private firms and state entities, are oblivious to the purpose for which they are being harnessed. The need for legislation was also underlined last year with the landmark judgment in *Justice K.S Puttaswamy v. Union of India* that held the right to privacy to be a fundamental right. Against this backdrop, the draft legislation on **data protection submitted by a committee of experts chaired by Justice B.N. Srikrishna** to the Ministry of Electronics and Information Technology after year-long public consultations provides a sound foundation on which to speedily build India's legal framework. It seeks to codify the relationship between individuals and firms/state institutions as one between "data principals" (whose information is collected) and "data fiduciaries" (those processing the data) so that privacy is safeguarded by design. This is akin to a contractual relationship that places obligations on the entities entrusted with data and who are obligated to seek the consent of the "principal" for the use of personal information. The draft legislation puts the onus on the "data fiduciary" to seek clear, informed, specific and free consent, with the possibility of withdrawal of data of the "principal" to allow for the use and processing of "sensitive personal data".

In many ways, the draft legislation mirrors the General Data Protection Regulation, the framework on data protection implemented in the European Union this May, in providing for "data principals" the rights to confirmation, correction of data, portability and "to be forgotten", subject to procedure. It envisages the creation of a regulatory Data Protection Authority of India to protect the interests of "principals" and to monitor the implementation of the provisions of the enabling data protection legislation. Taken together, the draft bill and the report mark a welcome step forward, but there are some grey areas. The exemptions granted to state institutions from acquiring informed consent from principals or processing personal data in many cases appear to be too blanket, such as those pertaining to the "security of the state". These are hold-all phrases, and checks are vital. The report recommends a law to provide for "parliamentary oversight and judicial approval of non-consensual access to personal data". Without such an enabling law, the exemptions provided in the bill will fall short of securing accountability from the state for activities such as dragnet surveillance. The grey areas must spark public and parliamentary debate before a final legislation comes to fruition.

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