

The Right to Information Bill

An Evolution of Sri Lanka's
Right to Know

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INTRODUCTION

Information is the lifeblood of any modern democracy. When citizens have access to publicly held information, they are equipped to actively participate in government and influence decisions that affect their day-to-day lives. Creating channels to access information held by public authorities results in a ‘culture of openness’, which ultimately builds public trust in institutions, reduces corruption, and prevents the wastage of scarce resources.

This Brief is presented in three parts. First, it will identify global trends in the enactment of RTI. Second, it will examine the history of the Sri Lankan RTI Campaign that culminated in the present RTI Bill. Third, it will propose strategies for reform on the basis of established international principles on RTI.



“PEOPLE WHO MEAN TO BE THEIR OWN GOVERNORS, MUST ARM THEMSELVES WITH THE POWER KNOWLEDGE GIVES.

— LETTER FROM JAMES MADISON TO W. T. BARRY (4 AUGUST 1822)

GLOBAL TRENDS

OPENING ACCESS TO PUBLIC INFORMATION: GLOBAL TRENDS

As of September 2013, at least 95 countries had laws establishing the right of the public to request and receive government-held information.¹

The first RTI law was enacted in Sweden in 1766, largely motivated by the public's interest in accessing information held by the King. Finland was the next country to adopt an RTI law in 1951, followed by the United States in 1966. By 1990, the number of countries incorporating a right to information in their legal system had risen to 14.²

The fall of the Berlin wall and an increase in the number of civil society groups advocating for access to information in the late 1990s and early 2000s resulted in a leap forward for global RTI laws. During this period, open access to government-held information was demanded on the basis of the public's right to be informed about (1) the effects of government sponsored projects on

the environment (2) the impacts of accidents and government policies on public health and (3) maladministration and corruption.

India was one of the main proponents of RTI in South Asia. During the 1990s, villagers from the state of Rajasthan advocated for the right to know about development projects mandated by the government on the suspicion of large-scale corruption.³ This public demand resulted in a grassroots campaign for RTI, which eventually culminated in a national RTI Act in 2005.

THE RIGHT TO KNOW: CONSTITUTIONAL GUARANTEES

The Sri Lankan Constitution implicitly recognises the Right to Information. Article 10 guarantees to every person the 'freedom of thought, conscience, and religion'.⁴ However, in order to be free to think, a person must be free to know. Therefore, implicit in the exercise of Article 10 is the public's right to access information on which they can form

opinions about an elected government.

This position was recognised in the case of *Fernando v. the Sri Lankan Broadcasting Corporation*.⁵ The court held that 'information is the staple food of thought, and the right to information...is a corollary of the freedom of thought guaranteed by Article 10'.⁶

Similarly, the freedom of expression in Article 14 of the Constitution requires 'access to information' in order to be meaningful. In *Viswalingam v Liyanage*,⁷ the Supreme Court held:

Public discussion is not a one-sided affair. Public discussion needs for its full realisation the recognition, respect and advancement, by all organs of government, of the right of the person who is the recipient of information as well. Otherwise, the freedom of speech and expression will lose much of its value.⁸



AS OF SEPTEMBER 2013, AT LEAST 95 COUNTRIES HAD LAWS ESTABLISHING THE RIGHT OF THE PUBLIC TO REQUEST AND RECEIVE GOVERNMENT-HELD INFORMATION.

THE SRI LANKAN CAMPAIGN

RTI IN CONTEXT: THE HISTORY OF THE CAMPAIGN

In order to examine the RTI Bill presently in circulation and due to be tabled before Parliament, it is important to understand the process responsible for its creation.

In May 1995, the Government appointed a Committee to Advise on the Reform of Laws Affecting Media Freedom and Freedom of Expression. The Committee was mandated to 'study all existing legislation and regulation affecting media freedom, freedom of expression, and the public's right to information' and make recommendations.⁹

In its final report published in 1996, the Committee recommended that there should be a Freedom of Information Act in order to ensure commitment to the general principle of open government.

Following the publication of the report by the Committee, three major attempts to introduce RTI legislation in Sri Lanka were seen.

1) The Sri Lanka Law Commission Draft

In 1996, The Sri Lanka Law Commission prepared a draft Freedom of Information Bill. Commentators have argued that the draft was conservative and did not meet international best practices underpinning the right to information.¹⁰ The draft, although circulated, was never presented in Parliament.

2) Constitutional Reform

From 1995 to 2000 there were a number of attempts to introduce constitutional reform. In 2000, a Draft Constitutional Bill, in addition to making improvements to the existing framework on fundamental rights, gave the right to information the status of constitutional protection. However, the Bill was never introduced in Parliament.¹¹

3) 2002-2004 Campaign

In 2002, there was a bipartisan effort to introduce a freedom of information law. Media and civil society

representatives, led by organisations such as the Editor's Guild, held discussions with representatives in government in an attempt to introduce a Freedom of Information Law.¹²

This process culminated in a draft Bill, which was prepared by the Legal Draftsman and eventually approved by the Cabinet in 2004.¹³

The Bill was an improvement on the Law Commission draft, but retained certain weaknesses. The prevailing context at the time is critical to understanding some of these shortcomings. For instance, the Prime Minister's office was keen to exempt cabinet memoranda and legal opinions from the Attorney-General's department.¹⁴ During the drafting stage, the government was engaged in fragile peace talks with the Liberation of Tamil Tigers Eelam (LTTE). This context resulted in concerns surrounding sensitive information and its consequent impact on national security – concerns that limited the scope of how far the government was willing to



THE COMMITTEE TO ADVISE ON THE REFORM OF LAWS AFFECTING MEDIA FREEDOM AND FREEDOM OF EXPRESSION RECOMMENDED THAT THERE SHOULD BE A FREEDOM OF INFORMATION ACT IN ORDER TO ENSURE COMMITMENT TO THE GENERAL PRINCIPLE OF OPEN GOVERNMENT.

go to protect the public's right to know.

However, with the collapse of the United National Party (UNP) government soon after finalisation, the Draft Bill was never presented in Parliament, and the campaign came to an abrupt end.

In 2011, opposition MP Karu Jayasuriya attempted to pass the 2004 RTI Draft Bill in Parliament as a Private Member's Bill.¹⁵ Notwithstanding the government's promises to introduce legislation to promote Freedom of Information, the Bill was defeated in parliament.¹⁶

PUTTING INFORMATION BACK ON THE MAP: GIVING RTI THE POLITICAL MANDATE

Lessons Learnt and Reconciliation Commission

In 2011, the report published by the Government commissioned Lessons Learnt and Reconciliation

Commission (LLRC) recommended that RTI legislation be enacted.¹⁷ This resulted in RTI being debated in public fora as part of a wider discussion surrounding the implementation of the LLRC recommendations.

Further, the National Action Plan to implement the LLRC's recommendations released in July 2013 included the recommendation on RTI and mentioned that Cabinet would decide on a suitable timeframe for drafting legislation.¹⁸ However, no progress was made on an RTI enactment following the release of the Plan.

Electoral Change and the 100-Day Plan

After the election of President Maithripala Sirisena on 8 January 2015, the government rolled out a 100-day programme.¹⁹ The mandate of the programme was to pass reform that would usher in an era of good governance and facilitate a culture

of openness in Sri Lanka. Accordingly, the programme states that an RTI Act will be tabled and ratified within the first 100 days of the Sirisena presidency.²⁰

Draft of the 19th Amendment

Demonstrating a recent governmental commitment to increased transparency, the draft 19th Amendment to the Constitution, tabled in Parliament by the Prime Minister on 24 March 2015, proposes to provide constitutional protection to the citizen's right of access to information (that is required for the exercise or protection of the citizen's rights) held by:²¹

- The State, a Ministry or any Government Department²²
- Any Ministry of a Province or any Department or statutory body established by a Provincial Council²³
- Any local authority²⁴
- Any other person²⁵



THE MANDATE OF THE PROGRAMME WAS TO PASS REFORM THAT WOULD USHER IN AN ERA OF GOOD GOVERNANCE AND FACILITATE A CULTURE OF OPENNESS IN SRI LANKA.

ANALYSIS OF RTI BILL

RTI BILL: AN OVERVIEW

The RTI Bill that is currently in its consultative stage is a revised version of the 2004 RTI Bill as discussed above.²⁶ The Bill proposes to give individuals and organisations the right to request information held by public authorities.²⁷ In this context, information includes a wide range of items, ranging from e-mails to drawings that are in the possession of the relevant public authority.²⁸ Information is requested from an Information Officer that is stationed at every public authority and refusals are only permitted on certain identified grounds – grounds that can be overridden in the event that there is an overwhelming public interest in the disclosure.²⁹ In the event a request for information is denied, the individual or the organisation has the right to appeal to the Information Commission, and failing which, to the Supreme Court.³⁰

In addition to providing for the submission of information requests, the Bill identifies certain mandatory proactive disclosures that have to be made by identified public

authorities in order for them to be deemed RTI compliant.³¹

MEETING THE THRESHOLD: THE RTI BILL AND INTERNATIONAL BEST PRACTICES

Using established international principles on RTI as a benchmark, this section analyses and suggests recommendations to the current RTI Bill.

The following key principles relating to RTI will be discussed:

- Proactive disclosure
- Limited room for exceptions
- Protection for whistleblowers
- Efficient processes to facilitate access
- Disclosure takes precedence

Proactive Disclosure

The goal of an RTI Act is to 'recede into the background'. This would require an increase in proactive disclosures made by public authorities that would ultimately render the value of information requests less relevant. In this context, proactive

information includes operational information relating to the functionality of public authorities (i.e. budgets, circulars, and accounts).

The burden, therefore, should gradually shift from a requester justifying why information is needed to the government having to justify the grounds on which public information is denied.

Proactive disclosures under the RTI Bill are captured under two provisions:

- The duty of Ministers to publish an annual report under Section 8³²
- The duty of the President and Ministers to inform the public about the initiation of projects under Section 9³³

The burden of publication and reporting under Section 8 falls exclusively on Ministries. However, the definition of 'public authorities' under the Bill is not restricted to ministries and includes bodies such as government departments and public corporations.³⁴ Therefore, in conjunction with the principle of 'proactive disclosure' the burden



THE BILL PROPOSES TO GIVE INDIVIDUALS AND ORGANISATIONS THE RIGHT TO REQUEST INFORMATION HELD BY PUBLIC AUTHORITIES.

of annual reporting should be widened to include *all* public authorities under the Bill.

Furthermore, the absence of definitional clarity of what constitutes a 'project' under Section 9 could result in a climate of uncertainty that prevents timely proactive disclosure in relation to government activity that involves a significant use of public funds.³⁵

Limited Room for Exceptions

International best practices on RTI mandate that all requests made to public institutions should be met, unless they fall under a list of specific and narrowly defined exceptions. This serves to prevent the right to know from being eroded for arbitrary and indiscriminate reasons.

In this context, incorporating grounds for information denial under RTI legislation should pass a two-part test:³⁶

- Denying the request should be justifiable on the basis of a legitimate aim (e.g. national security and defence)
- Permitting the request would cause substantial harm within the scope of the identified aim (e.g. expose the state to an imminent attack)

Moreover, even in the event the

two-part test has been met, the principle of 'limited exceptions' warrants that the request should be granted if there is an overriding public interest in disclosure. This involves a balancing exercise – where the harm caused by disclosure is weighed against the value in disclosing the information to the general public.³⁷

Under Section 5(1)(d) of the RTI Bill, an information request can be denied if it would reveal 'any trade secrets or harm the commercial interests of any person'.³⁸ This provision seems to fail the two-part test as set out above.

First, it does not restrict denial to the pursuit of a legitimate aim – potentially preventing the exposure of illegal and unethical business practices on the basis that such practices further the 'commercial interests' of the entity. For example, if a tender award is suspected of being improper or based on bias, the disclosure of information pertaining to the award may be denied on the basis that it would harm the commercial interests of the entity benefiting from the award.³⁹

Second, the use of the term 'commercial interests' is vague and could include any activity that is transactional in nature. By casting the net so wide, this term fails to adequately meet the threshold required to fulfil the substantial harm

test as set out above.

In this context, the Indian position is illustrative of how the competitive edge of entities can be secured in a manner that does not violate the principle of denying requests on the basis of narrow and precise exceptions. Section 8(d) of the Indian RTI Act authorises the refusal of 'information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party'.⁴⁰

Protection of Whistleblowers

'Whistleblowers' are individuals who provide the public with early warning signals relating to corruption and mismanagement within government. More often than not, these individuals are employees of public authorities who have access to information and knowledge of wrongdoing within these bodies.⁴¹

There is a well-established principle that whistleblowers should be protected from legal, administrative, or employment related sanctions for revealing information that exposes wrongdoing (i.e. criminal offense, failure to comply with a legal requirement, miscarriage of justice etc.).⁴² In this context, evidence of wrongdoing can be either documentary or conduct-related. Furthermore, protection from sanction is contingent on the whistleblower



THE BURDEN, SHOULD GRADUALLY SHIFT FROM A REQUESTER JUSTIFYING WHY INFORMATION IS NEEDED TO THE GOVERNMENT HAVING TO JUSTIFY THE GROUNDS ON WHICH PUBLIC INFORMATION IS DENIED.

acting in good faith with the belief that the disclosed information was substantially true.⁴³

If the above conditions are met, protection is granted notwithstanding the fact that the disclosure breaches legal or employment-related requirements (i.e. a confidentiality clause in a contract or the Establishments Code).⁴⁴

At present, Section 38 of the Bill contemplates that public servants will be indemnified from punishment in the event that they disclose information that is permitted to be released under the Bill.⁴⁵ As such, it limits protection of whistleblowers to information that corresponds to a particular request. This could prevent public servants from voluntarily disclosing wrongdoing that is more systemic and widespread in nature. For example, South Africa's Protected Disclosures Act (2000) protects those who disclose unlawful or irregular conduct.⁴⁶

Therefore, strengthening the reach of the Bill's current whistleblower provision in line with best practices requires a departure from its current narrow framing. In this respect, the provision in the Model RTI Law devised by Article 19 is a useful starting point:

No one may be subject to any legal, administrative or employ-

ment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.⁴⁷

Efficient Processes to Facilitate Access

Section 7(1) of the Bill mandates that 'it shall be the duty of every public authority to maintain all its records in such a manner in such a form as is consistent with its operational requirements'.⁴⁸ However, introducing an obligation on public authorities to maintain records that are consistent with its own operational requirements may defeat the purpose of timely information supply. For example, in a study conducted in India, it was found that 38% of the delays in complying with information requests were due to inefficient record management by the public authority.⁴⁹

Therefore, to prevent excessive delays, rather than holding public authorities to the standards of their

own operational requirements, they must be motivated to curate, store, and process information in a manner that is RTI compliant. This would involve moving away from reliance on traditional filing systems to store data, and towards a greater acceptance of electronic data management and cloud computing.

This process could be further incentivised with a mechanism built into the Act to ensure that Information Officers had to account for delays in processing requests.

Under Section 25(1), Information Officers are bound to respond to a request within 14 days of an application.⁵⁰ However, practice in India has demonstrated that such timeframes are often treated as discretionary.⁵¹ Therefore, introducing an additional provision to state that 'all requests not processed within 14 days would deem to be denied' would:

- a. Significantly increase the motivation of the Information Officer to ensure that her public authority institutes RTI complaint mechanisms that reduce time lags between information collection and release; and
2. Provide the individual applicant recourse while the information requested is still relevant.



AN INFORMATION REQUEST CAN BE DENIED IF IT WOULD REVEAL 'ANY TRADE SECRETS OR HARM THE COMMERCIAL INTERESTS OF ANY PERSON'.

Disclosure takes Precedence

A commonly found feature in RTI laws is the provision for all existing laws of the country to be interpreted in conjunction with the Act.

In this context, Section 3 of the RTI Bill states:

The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law, and accordingly in the event of any inconsistency or conflict between the provisions of this Act and such other written law, the provisions of this Act shall prevail.⁵²

According to the above, until the offending law is found inconsistent with the RTI Act, it remains in force. This is a finding that often rests on a point of interpretation – until which time caution is likely to prevail. Therefore, in the absence of overt legislative action to amend existing laws to be RTI compliant, public servants may be hesitant to comply with the Act for fear of legal or employment related reprisals.

L.D.O 24/2003	
AN ACT TO PROVIDE FOR THE RIGHT TO INFORMATION; SPECIFY GROUNDS ON WHICH ACCESS MAY BE DENIED; THE ESTABLISHMENT OF THE RIGHT TO INFORMATION COMMISSION; THE APPOINTMENT OF INFORMATION OFFICERS; SETTING OUT THE PROCEDURE FOR OBTAINING OFFICIAL INFORMATION AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.	
Preamble.	WHEREAS there exists a need to foster a culture of transparency and accountability in public authorities by giving effect to the right to official information and thereby promote a society in which the people of Sri Lanka would be able to more fully participate in good governance and actively participate in combating corruption in the country's public life
BE it therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-	
Short title.	1. This Act may be cited as the Right to Information Act, No. of 2015 and shall come into operation on the day immediately following the date of the expiration of a period of three months of the date of certification in terms of Article 80 of the Constitution. A notification regarding the date on which this Act is due to come into operation shall be published in the <i>Gazette</i> , not less than three months prior to such date.
Application of the Provisions of the Act	
Right of access to information.	2. Subject to the provisions of section 5 of this Act, every person shall have a right of access to official information which is in the possession, custody or control of a public authority.
Provisions of this Act to prevail over other written law.	3. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law, and accordingly in the event of any inconsistency or conflict between the provisions of this Act and such other written law, the provisions of this Act shall prevail.
Duty to disclose reasons for a decision.	4. Every officer in any public authority giving a decision which affects any person in any way, shall be required on request made in that behalf by the person concerned, to disclose to that person in writing the reasons for arriving at such decision.
Denial of Access to Official Information	
When right of access may be	5. (1) Subject to the provisions of subsections (2) and (3) of this

Draft RTI Bill

CONCLUSION: TRANSFORMING THE CULTURE OF SECRECY

Enacting an RTI Act should not be viewed as an automatic solution that will guarantee public access to information. The Act will face the challenge of transforming a culture of secrecy that has become entrenched in Sri Lanka over several decades. There are numerous Sri Lankan laws that prevent the public's right to know. These laws may impede the proper enforcement of an RTI Act, both as formal barriers (e.g. the secrecy provisions in the Declaration of Assets and Liabilities Law, No. 1 of 1975) and cultural barriers (i.e. public officials erring on the side of caution due to the continued application of these laws). The following laws require brief discussion:

- The Official Secrets Act, No. 32 of 1955
- Sri Lanka Press Council Law, No. 5 of 1978
- The Establishments Code of Sri Lanka, 1971
- Declaration of Assets and Liabilities Law, No. 1 of 1975

The Official Secrets Act, No. 32 of 1955

This Act makes it an offence for any person entrusted with or in possession of an official secret or secret document to seek, obtain, deliver or communicate such secret or document.⁵³ This could restrict the willingness of whistleblowers to expose wrongful conduct and mismanagement within public authorities – limiting the reach of Section 38 of the RTI Bill.⁵⁴

Sri Lanka Press Council Law, No. 5 of 1973

This Act makes it an offence to publish or cause the publication of official secrets and information which may 'adversely affect the economy' in any newspaper without prior Ministerial approval.⁵⁵

Under this Act, it is also an offence to publish in any newspaper matters which are part of the (a) proceedings of the meeting of the Cabinet of Ministers, (b) internal ministerial documents, and (c) decisions of the Cabinet unless prior approval has

been sought by the Secretary to the Cabinet.⁵⁶

This could create a situation where after an Information Officer decides that the request in question does not fall under the exceptions defined in Section 5, she feels compelled to refer the request to a Ministry or the Secretary of Cabinet for further approval.⁵⁷ This practice, if followed, could limit the timely delivery of information that is in the public interest.

The Establishments Code of Sri Lanka, 1971

The Establishments Code governs the conduct of public officials. It includes provisions related to promotions, discipline and financial disclosure. The Code states that:

No information even when confined to a statement of fact should be given where its publication may embarrass the government as a whole or any government department, or officer. In cases of doubt the Minister concerned should be consulted.⁵⁸



IF TRANSPARENCY AND ACCOUNTABILITY ARE TO BECOME VALUES UNDER WHICH PUBLIC AUTHORITIES FUNCTION, INTERVENTIONS THAT ARE WIDER THAN THE MERE ENACTMENT OF AN RTI ACT ARE NEEDED.

The prevention of disclosure on the ground that it could cause 'embarrassment' to a public authority or individual has contributed heavily towards a culture of secrecy within the public sector. This culture may continue to prompt public authorities to exercise undue caution when complying with the requirements of an RTI Act.

Declaration of Assets and Liabilities Law, No. 1 of 1975

This law permits individuals, on the payment of a fee, to access the asset declarations of certain public officials who are required to declare their assets (i.e. Members of Parliament, judges, chairmen of public corporations etc.).⁵⁹

However, the law prohibits the requesting individual from publish-

ing the asset declarations once obtained. It states 'a person shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person to whom this law applies.'⁶⁰ As discussed above, this prohibition could prevent the public from gaining access to information that is in their interest in a timely matter – frustrating the purpose of an RTI Act.

Therefore, under the RTI principle 'disclosure takes precedence', public authorities must move from operating under a 'culture of secrecy' towards a 'culture of openness'. This transformation involves a significant attitudinal shift amongst public servants – a majority of whom have been operating in a climate where government resources were

deployed to minimise the potential harms from information rather than to encourage better uses of it.

As such, if transparency and accountability are to become values under which public authorities function, interventions that are wider than the mere enactment of an RTI Act are needed. In this context, it is crucial that resources are invested into training public officials on the implementation of the RTI Act, including the interpretation of RTI requests. Moreover, it may be necessary to amend some of the abovementioned restrictive laws to be RTI compliant. Such interventions will send a strong signal to both public officials and the general public about the government's commitment to transform the present culture of secrecy into a culture of openness.

END NOTES

¹ Access to Information Laws: Overview and Statutory Goals <http://www.right2info.org/access-to-information-laws> [January 2012] (accessed on 19 March 2015).

² *Ibid.*

³ Gehan Gunatilleke, *Right to Information: A Guide for Advocates* (Sri Lanka Press Institute, 2014), at p.16.

⁴ Article 10

⁵ [1996] 1 SLR 157.

⁶ *Ibid.*

⁷ [1984] 2 SLR 123.

⁸ *Ibid.*

⁹ R.K.W Goonesekera Report: The Genesis of Media Reform Initiatives in Sri Lanka, at <http://srilankabrief.org/2014/11/r-k-w-goonesekera-report-genesis-media-reform-initiatives-sri-lanka/> [November 2014](accessed on 20 March 2015).

¹⁰ Kishali Pinto-Jayawardena & Gehan Gunatilleke, 'One Step Forward, Many Steps Back: Media Law Reform Examined' in *Embattled Media: Democracy, Governance and Reform in Sri Lanka* (Institute of Commonwealth Studies: February 2015).

¹¹ Gehan Gunatilleke, *op. cit.* at p.60.

¹² *Ibid.* at pp.60-61.

¹³ *Ibid.* at p.62.

¹⁴ *Ibid.* at p.61.

¹⁵ Government Rejects Our Right to Know <http://www.sundaytimes.lk/110626/Columns/political.html> [June 2011] (accessed on 29 March 2015).

¹⁶ *Ibid.* at p.63.

¹⁷ Report of the Commission of Inquiry on Lessons Learnt and Reconciliation (November 2011), at para.9.115.

¹⁸ See Verité Research, *Sri Lanka: LLRC Implementation Monitor – Statistical and Analytical Report No. 3* (December 2014).

¹⁹ See Maithrimeter, Scoring 100 days out of a 100 <http://www.manthri.lk/en/maithrimeter> (accessed on 29 March 2015).

²⁰ *Ibid.*

²¹ Article 14A (1).

²² Article 14A (1)(a).

²³ Article 14A (1)(b).

²⁴ Article 14A (1)(c).

²⁵ Article 14A (1)(d).

²⁶ We note that an unofficial revised version of the Draft Bill was in circulation and public consultations were held on this revised Bill. However, having consulted the Drafting Committee appointed to draft the RTI Bill, we later learnt that the revised Bill to be tabled in Parliament is yet to be finalised (as at 31 March 2015). Thus our analysis is limited to the original Bill that was released to the public for observations.

²⁷ Section 2 RTI Bill.

²⁸ Section 40 RTI Bill.

²⁹ Section 5 RTI Bill.

³⁰ Section 33 RTI Bill; Section 34 RTI Bill.

³¹ Section 8 RTI Bill; Section 9 RTI Bill.

³² Section 8 RTI Bill; the report includes particulars such as rules, regulations, assignment of duties, and details of the appointed Information Officer.

³³ Section 9 RTI Bill.

³⁴ Section 40 RTI Bill.

³⁵ Section 9(1) RTI Bill mandates that any project exceeding one million USD in the case of foreign funded projects and five million Rupees in the case of locally funded projects must be disclosed to the public three months prior to the commencement of any work or activity relating to the project.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ Section 5(1)(d) RTI Bill.

³⁹ Verité Research, *Right to Information (RTI) Bill 2015, Observations on the RTI Bill*, at <http://www.manthri.lk/en/blog/posts/right-to-information-rti-bill-2015-observations-on-the-bill> [February 2015] (accessed on 29 March 2015).

⁴⁰ Section 8(d), Right to Information Act 2005.

⁴¹ Gehan Gunatilleke, *op. cit.* at. 37.

⁴² *Ibid.*

⁴³ *Ibid.* at 38.

⁴⁴ *Ibid.* For example, the Sri Lankan Establishment Codes provides: 'No information even when confined to statement of fact should be given where its publication may embarrass the government, as a whole or any government department, or officer. In cases of doubt the Minister concerned should be consulted.'

⁴⁵ Section 38 RTI Bill.

⁴⁶ See Preamble, Protected Disclosures Act No. 26 of 2000.

⁴⁷ Section 47(1) A Model Freedom of Information Law <http://www.article19.org/data/files/pdfs/standards/model-foilaw.pdf> (accessed on 29 March 2015)

⁴⁸ Section 7(1) RTI Bill.

⁴⁹ PricewaterhouseCoopers, *Key Issues and Constraints in Implementing the RTI Act*, at http://righttoinformation.gov.in/rcticorner/studybypwc/key_issues.pdf (accessed on 29 March 2015).

⁵⁰ Section 25(1) RTI Bill.

⁵¹ Key Issues and Constraints in Implementing the RTI Act, *op. cit.*

⁵² Section 3 RTI Bill.

⁵³ Section 7(1) Official Secrets Act No. 32 of 1955.

⁵⁴ Section 38 RTI Bill.

⁵⁵ Section 16(3) Sri Lanka Press Council Law No. 5 of 1973.

⁵⁶ Section 16(1) Sri Lanka Press Council Law No. 5 of 1973.

⁵⁷ Section 5 RTI Bill.

⁵⁸ Section 3 of Chapter XXXI (Volume 1); Section 6 of Chapter XLVII (Volume 2).

⁵⁹ Section 5(3) Declaration of Assets and Liabilities Law No. 1 of 1975

⁶⁰ Section 8(1) Declaration of Assets and Liabilities Law No. 1 of 1975

