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EDITORIAL ANALYSIS

Law That Cannot Be Found: The Case for Open Legal Publishing

 THE HINDU

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POLITY ·

GS2

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INTERVIEW ANGLE

"If a citizen cannot reliably find the current text of a rule that binds her, is the maxim that ignorance of law is no excuse still defensible?"

✓ Every fact web-verified against primary sources

THE LIFT LINE

A law that citizens cannot reliably find is a law that governs by surprise. India tells every citizen that ignorance of the law is no excuse, yet it publishes that law as scanned PDFs, dated gazette notifications and departmental circulars scattered across hundreds of websites, with no authoritative consolidated text. The gap between the legal fiction of universal knowledge and the practical reality of unfindable rules is not a technology inconvenience; it is a rule-of-law deficit. Open legal publishing belongs in the same category as roads and courts: basic governance infrastructure, not an information technology project.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

This theme sits precisely where GS Paper 2 examiners like to probe, because it converts an abstract constitutional value, the rule of law, into a concrete administrative failure that has an identifiable owner and a costed remedy. It also lets you write about **delegated legislation** and **parliamentary oversight** without falling back on textbook definitions, which is the single most common weakness in answers on executive accountability.

GS Paper 2: Separation of powers, and the structure, organisation and functioning of the Executive; delegated legislation and its parliamentary scrutiny.

GS Paper 2: Government policies and interventions for development, and issues arising out of their design and implementation; transparency, accountability and e-governance.

GS Paper 2: Important aspects of governance, citizens' charters, and institutional and other measures for ensuring transparency.

For **Prelims**, hold these anchors: the **India Code** portal is maintained by the **Legislative Department, Ministry of Law and Justice**, and describes itself as a repository of Central, State and Union Territory enactments and their subordinate legislation; the **e-Gazette** carries official notifications; the **Committee on Subordinate Legislation** exists in both Houses of Parliament to scrutinise rules made under delegated power; the **Pre-Legislative Consultation Policy, 2014** requires draft legislation to be placed in the public domain before introduction; and **Section 4(1)(b) of the Right to Information Act, 2005** obliges every public authority to publish, on its own motion, the rules, regulations, instructions and manuals it uses to discharge its functions.

For **Mains**, the transferable claim is that legal publishing is a public good whose under-provision silently transfers cost from the state to the citizen, and that the remedy is structural rather than *cosmetic*.

BACKGROUND AND CONTEXT

Indian courts settled the underlying principle long ago. In **Harla v. State of Rajasthan (1951)**, the Supreme Court held that a law does not bind until it is promulgated and made known, because *natural justice* requires that those governed have a reasonable opportunity to learn what governs them. In **B.K. Srinivasan v. State of Karnataka (1987)**, the Court applied the same logic to subordinate legislation, holding that rules and regulations must be published in a manner that makes them accessible to those affected by them. The maxim that ignorance of law is no excuse is therefore not a free-standing rule but one half of a bargain: the state may presume knowledge of the law only because it has undertaken to make the law knowable.

That bargain has a constitutional dimension as well. The non-arbitrariness reading of **Article 14** presupposes that the standard being applied to a citizen is ascertainable in advance. A rule whose operative text cannot be established for a given date is, in practical effect, a rule administered at the discretion of whoever holds the file.

The publishing architecture that grew around this principle, however, was designed for print. Statutes appear in the Gazette of India, are compiled into the India Code, and are then amended by later Acts whose text must be manually read back into the parent statute. Subordinate legislation, which is where most citizens actually meet the state, sits in ministry notifications, regulator circulars and departmental orders that are often uploaded as image-only PDFs, with no version history and no permanent address.

LAYER OF LAW	WHERE IT IS PUBLISHED	PRACTICAL PROBLEM FOR A CITIZEN
Central Acts	India Code portal, Legislative Department	Consolidation lags amendments; commencement dates unclear
Amendments	Gazette of India, e-Gazette	Reader must merge amending text into the parent Act
Rules and regulations	Ministry and regulator websites, e-Gazette	Scattered, unversioned, frequently scanned images
Notifications and circulars	Departmental sites, often without archives	No permanent citation; links break silently
State legislation	State gazettes and portals of varying quality	Coverage and currency differ sharply across states

THE CORE ARGUMENT / ISSUE

The problem is authoritativeness, not availability

There is no shortage of legal text online. What is missing is a single source whose currency can be trusted. A litigant, a compliance officer and a district official may each be working from a different vintage of the same rule, and none of them can prove which version is operative on a given date. The consequence is not merely inconvenience: it shifts the burden of establishing the law from the state that made it onto the citizen who must obey it. Commercial databases fill the gap by charging for what the state should supply, which quietly converts access to law into a paid service and makes the quality of a person's legal knowledge a function of her ability to pay for it.

Machine-readability is the practical test

A PDF is readable by a human and opaque to a machine. Structured formats let a rule be cited at the level of an individual clause, compared across versions, and read automatically by compliance systems, translation tools and screen readers. The **Akoma Ntoso** standard, an open XML vocabulary for parliamentary and legal documents adopted through the OASIS standards body, exists precisely for this purpose. **legislation.gov.uk**, run by the United Kingdom's National Archives, demonstrates the working model: point-in-time versions that show the law as it stood on any chosen date, stable citations that survive site redesigns, and an open application programming interface over the whole statute book. None of this is experimental. It is a solved problem that India has not yet chosen to solve.

Delegated legislation is the weakest link

Parliament passes a limited number of Acts each year; the executive issues a far larger volume of rules, regulations, notifications and circulars under the authority those Acts confer. This is where the citizen's actual obligations live: licensing conditions, filing formats, eligibility thresholds, penalty schedules. The **Committee**

on **Subordinate Legislation** in each House is the designed check, examining whether rules exceed the powers granted by the parent statute, whether they were laid before Parliament as required, and whether they impose burdens the enabling Act never contemplated. That scrutiny is only as good as the corpus it can see. If the rules themselves are unindexed, unversioned and dispersed across ministry websites, oversight degrades from supervision into sampling, and the laying requirement becomes a formality rather than a control.

The strongest counter-argument, taken seriously

The honest objection is that this is expensive, that consolidation creates legal risk, and that an official consolidated text could be mistaken for the enacted text, exposing the government to liability when the two diverge. This is a real concern, and it is why several jurisdictions publish consolidations with explicit disclaimers about their legal status. A second objection is capacity: the Legislative Department is a small body, and marking up decades of statute in structured form is a substantial undertaking that competes directly with drafting work.

Both objections argue for careful design and phased funding, not for inaction. The United Kingdom's model resolves the liability problem by marking precisely which amendments have been applied to a given text and which are still pending, so the reader knows the state of the text rather than guessing at it. The capacity problem is answered by sequencing: begin with the Acts currently in force and the subordinate legislation of the highest-traffic regulators, rather than attempting the entire historical corpus at once. Legal risk that is managed transparently is preferable to legal uncertainty that is distributed silently to every citizen and then priced by every consultant.

HOW TO THINK ABOUT THIS (ANALYTICAL FRAME)

Use the **Four A's of Legal Access**:

- ① **Availability:** Is the text online at all, including subordinate legislation, state rules and regulator circulars?
- ② **Authoritativeness:** Can a reader establish that this is the operative text on a specified date, with amendments applied, repeals recorded and commencement notified?
- ③ **Actionability:** Is it structured and machine-readable, citable at clause level, and available through an open interface rather than only as a document to download?
- ④ **Accessibility:** Is it usable by those it binds, which in India means multiple languages, screen-reader compatibility and low-bandwidth delivery?

Most Indian legal publishing clears the first test and fails the remaining three. That single sentence is an answer opening, and each of the four legs gives you a paragraph.

THE DIAGRAM IN WORDS

Picture the statute book as a river system. At the source is Parliament, releasing a modest and well-documented flow of Acts. Downstream, each Act opens tributaries of rules, regulations, notifications and circulars issued by ministries and regulators, and these tributaries carry far more water than the source ever did. Along both the main channel and the tributaries stand the users: the citizen, the small business, the district officer, the judge. The problem is that the river is not mapped. There is no gauge showing the level on a given date, no marker showing where an amending stream joined the flow, and the tributaries disappear underground into departmental websites that are redesigned without warning. Open legal publishing is the mapping and gauging of that system, so that anyone standing anywhere on the bank can read the water and know what it will do next.

WAY FORWARD

- **Legislate a duty to publish in structured form.** Amend the framework governing official publication so that every Act, rule and notification must be issued in an open, machine-readable format alongside the gazette version, with the electronic text carrying legal recognition rather than being treated as a convenience copy.
- **Build point-in-time consolidation into India Code.** Fund the Legislative Department to maintain amended-as-of-date texts with visible amendment trails, so that a reader can retrieve the law exactly as it stood on any chosen day, with commencement and repeal recorded against each provision.
- **Adopt an open standard and stable citation.** Use **Akoma Ntoso** or an equivalent open XML vocabulary, and assign every provision a permanent identifier so that citations in judgments, contracts and textbooks survive website redesigns and departmental reorganisation.
- **Bring subordinate legislation into the same system.** Require every ministry and **statutory** regulator to publish rules, regulations and circulars into a single indexed repository, and give the **Committee on Subordinate Legislation** a machine-readable corpus to scrutinise rather than a scatter of departmental uploads.
- **Open the data, do not sell it.** Publish through a free application programming interface, consistent with the proactive disclosure obligation in **Section 4 of the Right to Information Act, 2005**, so that researchers, legal-technology developers, translators and civil society can build on the corpus instead of re-keying it.
- **Extend to languages and states.** Fund authoritative translations beyond English and Hindi, and offer a shared technical platform to state governments, so that the quality of a citizen's access to law does not depend on which state she happens to live in.

PYQ LINKAGE AND PRACTICE

UPSC has repeatedly examined the adjacent ground. It has asked candidates to discuss the growth of delegated legislation in India and the mechanisms available to control it, to evaluate the role of **parliamentary committees** in ensuring executive accountability, and to assess whether e-governance has genuinely improved the citizen's interface with the state. Questions on the Right to Information Act, on proactive disclosure, and on transparency as an instrument of accountability recur in GS Paper 2 with some regularity. This editorial gives you a fresh, specific and dated illustration for all three families of question, which is exactly what lifts an answer above the generic recitation of committee names.

Practice question: “A law that cannot be reliably found is a law that governs by surprise. Examine the adequacy of India's legal publishing architecture, with particular reference to subordinate legislation, and suggest reforms to make the statute book authoritative and machine-readable.” (250 words)

Interview angle: If a citizen cannot reliably find the current text of a rule that binds her, is the maxim that ignorance of law is no excuse still defensible?

Sources: The Hindu, India Code, Legislative Department

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