

SAFEGUARDING THE RIGHT TO INFORMATION IN INDIA



SHOULD A PATIENT ASK?

DR. SIMON. "Now don't be alarmed; this instrument is quite harmless. I merely want to sound you."

INDIAN PATIENT. "Well, why can't I have one of those ear-pieces and listen-in too?"

Report of the People's RTI Assessment

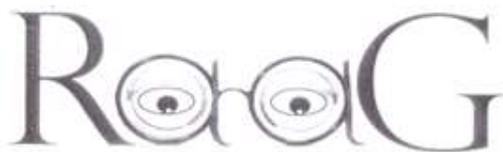
2009

The cartoon on the cover is from *Mr Punch's Cavalcade: The New Punch Library*, Vol. 1, p 214. Not dated, but popularly believed to be published in 1930. The cartoon itself is dated November 23, 1927. It is perhaps the earliest recorded demand of the people of India for a right to information, albeit from the colonial government in power then, the British Government.

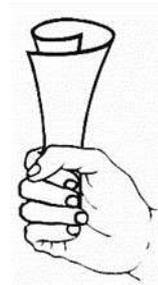
***SAFEGUARDING THE RIGHT TO
INFORMATION IN INDIA***
Report of the People's RTI Assessment

*RTI Assessment & Analysis Group (RaAG)
and*

*National Campaign for People's Right to
Information (NCPRI)*



Right-to-information Assessment and Advocacy Group



National Campaign for People's Right to Information

2009

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PREFACE AND ACKNOWLEDGEMENTS

This report records the findings and other details of the people's assessment of the right to information act, carried out three years after the enactment of the Indian Right to Information Act 2005. It is, as far as we are aware, the only national level assessment of the RTI Act that was carried out by people's organisations in India.

Ideally, we should have carried out the assessment sooner, perhaps a year after the act came into effect, but most of us were too busy trying to facilitate the proper implementation of the RTI regime, trying to raise public awareness and participation, and attempting to iron out the inevitable initial wrinkles. Fortunately for us, the Government of India announced that they were going to conduct a national study, which they finally commissioned a private international consultancy group, Price Water House, to carry out. This spurred us to quickly organise our own, bigger and hopefully better, study. We were also fortunate that Google.org came forward with an offer to financially support this study.

We desperately looked at countries across the world that had older transparency laws, to see if they had conducted similar studies and assessments so that we could borrow their methodology. Unfortunately, nothing suitable emerged and so we decided to develop our own methodology, which we have detailed in this report so that other people in India or elsewhere, intending to do a similar study, could build on our efforts.

Our first thanks must go to Google.org, without whose generous support this study might not have been possible, especially with the current scale and scope.

Many people in India and across the world helped us, in one way or another, in the design and conduct of this study. Foremost among them are Aruna Roy and Nikhil Dey, who were supportive right through and also went through earlier drafts of this report and gave us many useful suggestions.

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Premila Nazareth, Shekhar Singh, Vishaish Uppal, Yamini Aiyar
Study Coordinators

2009

PROJECT TEAM

STUDY CO-ORDINATORS

*Premila Nazareth
Shekhar Singh
Vishvaish Uppal
Yamini Aiyar*

The cost of this assessment was substantially defrayed by a grant made by Google.org to Shekhar Singh. Contact: shekhasingh@gmail.com

COLLABORATING INSTITUTIONS

*ASHA, Varanasi
Association for Democratic Reforms, Bangalore
Centre of Action Research and Documentation (CARD),
Bhubaneswar
Centre for the Study of Developing Societies (CSDS), Delhi
JANPATH, Ahmedabad
Meghalaya RTI Movement, Shillong
Nehru Memorial Museum and Library, New Delhi
North Eastern Network, Guwahati
School for Democracy, Jaipur
Tata Institute of Social Sciences (TISS), Mumbai
United Forum for RTI Campaign, Hyderabad*

TEAM LEADERS

*Ankita Anand - Case Studies
Bincy Thomas - Filing and Tracking of RTIs
Chandni Luthra - Case Studies
Malika Malhotra - Filing and Tracking RTIs, Information
Commissions
Misha Singh- Competent Authorities
Prashant Sharma- Urban Survey
Premila Nazareth - Media, International Organisations,
Section 4*

Ruby Singh- Filing and Tracking RTIs, Information Commissions
Raman Mehta - Data Management
Salim Ahmed - Administration
Soham Sen - Information Commissions, Database
Suchi Pande - Competent Authorities
Vishaish Uppal - Rural Survey
Yamini Aiyar - Urban Survey, International Experience, Data Management

STATE CO-ORDINATORS

Andhra Pradesh: Sowmya Kidambi, Rakesh Reddy Dubbudu, B. Ramakrishna Raju
Assam: Partha Ganguli, Monisha Behl, Samhita Barhooah, Luke Rongphar
Delhi: Anjali Bhardawaj
Gujarat: Pankti Jog, Sadhna Pandya
Karnataka: Anil Bairwal, N. Vikram Simha, Sandeep Shastri, Sridhar Pabisetty, Aradhana Janga
Maharashtra: Priyanka Varma, Vandana Bhatia
Meghalaya: Angela Rangad, S. Shanlang Kharbuli
Orissa: Manju Prava Dhal, Jimuta Prasad Mishra
Rajasthan: Nikhil Dey, Kamal Tank
Uttar Pradesh: Jayshankar Pandey, Vallabhacharya Pandey, Naveen Tiwari
West Bengal: Kallol Chakrabarty

RESEARCH TEAM

The following people worked in one capacity or another in providing and collecting data, and analyzing it, as a part of this assessment:

Aarti Anand
Abha Agarwal
Abhay
Abhishek Jha
Aditya Prasad
Aheli Chowdhury
Amrita Johri
Anannya Baruah
Apurva Tripathi
Archana Nigam

Asha Joshi
Ashwin Shah
B.H. Veereln
Bhanwar Megwanshi
Brahmchari
Daniel Mathew
Deepak Kumar
Dharmraj Jain
Diksha
Frederick Noronha

Garima Pant
Gautam Bastian
Girija Bahety
Guneet Kaur
Gunjan Saini
Jagdeep Chokkar
Jagdish Singh
Jai Krishna
Jai Kumar Gaurav
Jatindra Dash

Jayati Sethi
Kamal Chauhan
Kabyashree Chaharia
Gajraj Singh
Gulab Singh
Kanchi Kohli
Kasturi Kaushik
Khimia Ram
Kriti Mittal
Kumar Raghavendra
Lal Singh
Liban George
Madhumitra D. Mitra
Mahima Sukheja
Makarand Bakore
Manie Mehrotra
Manju Menon
Mayuri Chaturvedi
Mayuri Mahesh Kadam
Mini Gupta
Mitalee Dey
Mohini Narain
Monika Srivastava
Mrudula Kulkarni
N. Kheleshwari

Narayan Singh
Neha Deepak
Nikhil Bhushan Dutta
Nithila Baskaran
Pawan Preet Kaur
Pooja Rasalee
Prasanna D.
Puja Sen
Rachana Kumari
Rajesh Pawar
Raghav Dutt
Rahul Kumar
Rekha Koli
Rinkal Bagadia
Rishabh Kumar Dhir
Rudrakshina Banerjee
S. Vijay Dave
Saiema Salahuddin
Saleena P
Sandeep Bhandari
Sangeeta Kanera
Sanjay Kumar
Saurabh Sharma
Shankar Singh
Shikha Shukla

Shivani Bali
Shobha SV
Shruti Jain
Sifti Riat
Sneh Wadhwaney
Sneha Banerjee
Sneha Elizabeth Joseph
Sudeshna Sen
Suksham Chauhan
Sunita Thakur
Sunny Singh
Surbhi Dua
Suroor Mander
Surabhi Chopra
Swati Chawla
Swati Tyagi
T. Ranu
Theodore Baskaran
Tushar Mehra
Uma Bordoloi
Veena Ramanna
Vikal Samdariya
Vimla Patil

INTERNATIONAL REFERENCE GROUP

The International Reference Group helped the assessment process by bringing in the global perspective and by sharing experiences of other countries with the research team

Tom Blanton
Director, National Security Archive
The Gelman Library GWU,
2130 H Street NW, Suite 701
Washington D.C., USA 20037
tblanton@gwu.edu

Richard Calland
Program Director
Economic Governance Program
Institute for Democracy in South Africa
6 Spin Street, Church Square
Capetown 8000, South Africa
rcalland@idasa.org.za

Jie Cheng
Associate Professor of Law
School of Law, Tsinghua University
Beijing 10084, P.R. China
lawjc@mail.tsinghua.edu.cn

Helen Darbishire
Executive Director, Access Info Europe
Calle Doña Juana I de Castilla 60, bajo B
Madrid, Spain 28027
helen@access-info.org
helen.darbishire@gmail.com

Kevin Dunion
Information Commissioner
Information Commissioner Scotland
Kinburn Castle, Doubledykes Road
St. Andrews KY169S, Scotland
sic@itspublicknowledge.info

Linda Ehrichs
Office for Democratic Governance Policy
Canadian International Development
Agency
200 Promenade du Portage,
Gatineau Quebec, Canada, K1A 0G4
LINDA_EHRICHS@acdi-cida.gc.ca

Prof Ann Florini,
Director, Centre on Asia and
Globalisation.
Lee Kuan Yew School of Public Policy.
National University of Singapore.
aflorini@nus.edu.sg

Nathaniel Heller
Co-Founder, Managing Director
Global Integrity
910 17th Street, NW, Suite 1040
Washington D.C., USA 20006
Nathaniel.Heller@globalintegrity
.org

Jamie Horsley
Deputy Director
China Law Center - Yale University
Yale Law , P.O. Box 208215
New Haven, CT, USA 06520
Jamie.horsley@yale.edu

Rob Jenkins
Professor , Graduate Center, Ralph Bunche
Institute
for International Studies
prof.jenkins@btopenworld.com

Gergana Jouleva
Executive Director
Access to Information Programme -
Bulgaria
76, Vassil Levski Blvd., Floor 3
Sofia 1142, Bulgaria
gergana@aip-bg.org
gergana.jouleva@gmail.com

Toby Mendel
Law & Asia Programmes Director
Article 19
Canada
A19law@hfx.eastlink.ca

Laura Neuman
Access to Information Manager
Assistant Director of the Americas Program
The Carter Center
453 Freedom Parkway
Atlanta, GA, USA 30307
lneuman@emory.edu

Tavinder Nijhawan
Program Management Officer-
Programs Branco
International Development Research
Officer
Ottawa, Canada K1G 3H9
tnijhawan@idrc.ca

Deunden Nikomborirak
Research Director
Thai Development Research Institute
565 Ramkamhaeng 39
Bangkok 10310, Thailand
deunden@tdri.or.th

Ayo Obe
Former President,
Civil Liberties Organization of Nigeria
P.O. Box 6923
Marina,
Lagos, NIGERIA
Amoo@alpha.linkserve.com
Ayo_obe@yahoo.com

Suzanne Piotrowski
Associate Professor
School of Public Affairs and
Administration,
Rutgers University-Newark
718 Hill Hall, 360 Martin Luther King
Blvd.
Newark, NJ, USA 07102-1895
spiotrow@andromeda.rutgers.edu

Prof. Madhu Suri Prakash
Professor of Education
310 C Rackley Building
Pennsylvania State University
University Park, Pa 16802
msp1@psu.edu

Issa Luna Pla
Profesora
Universidad Nacional Autónoma de
México
issa.luna@centrotransparencia.org
ilunapla@servidor.unam.mx

Rakesh Rajani
Founder Members of Board of Directors
HakiElimu
739 Mathuradas/UN Road
P.O. Box 79401
Dar es Sala., Tanzania
rrajani@post.harvard.edu

Alasdair Roberts
Rappaport Professor of Law and Public
Policy
Suffolk University Law School
120 Tremont Street, 210C
Boston, MA 02108-4977
Email alasdair.roberts@gmail.com

Ivan Szekely
Councillor, Open Society Archives
Central European University
PO Box 1082, H-1245 Budapest
HUNGARY
Szekelyi@ceu.hu

Rick Snell
Senior Lecturer , University of Tasmania
University of Tasmania, Private Box 89
GPO Hobart, Tasmania, Australia
r.snell@utas.edu.au

Antonio Tujan
Research Director
IBON Foundation
3/F SCC Bldg
4427 Int. Old Sta. Mesa
Manila, PHILIPPINES 1016
atujan@info.com.ph,

1. STRUGGLE FOR THE RIGHT TO INFORMATION

1.1 Background to the RTI Movement in India

Perhaps more than any other law in India, with the possible exception of the National Rural Employment Guarantee Act of 2006, the Right to Information Act of 2005 invokes in the people of India a strong sense of ownership. For, unlike most other laws in India, this is a legislation that has come into existence because of the efforts of tens of thousands of citizens of India (and some distinguished non-citizens) who not only campaigned tirelessly but also provided the intellectual leadership for drafting the law and the rules, and for steering it through the corridors of power, resolutely defending every effort, of which there were many, to scuttle the Act or, at the very least, to hobble it so that it could have no real impact.

Though the story of the RTI Act needs to be told, this is not the right place to tell it¹. For the moment, a bare description of the genesis of the momentum that finally led to the enactment of what is universally recognized as among the most powerful RTI Acts in the World, should suffice to give the required background and set the context for the remaining part of the report.

There were sporadic demands for governmental transparency right from independence, and even before, however no sustained national campaign emerged till the middle 1990s.

Meanwhile, in 1975, the Supreme Court, in *State of UP vs Raj Narain*, ruled that: "In a government of responsibility like ours where the agents of the public must be responsible for their conduct there can be but a few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings."

¹ For a fuller description of the process of formulating and advocating the RTI Act in India, see Shekhar Singh, "India: Grassroots Initiatives" , in Ann Florini (Ed.) *The Right to Know: Transparency for an Open World*, Columbia University Press, New York, 2007. Also accesible from <http://shekharsinghcollections.com/content/RTI/Social-Mobilization-and-Transparency-The-Indian-Experience.pdf>

Subsequently, in 1982 the Supreme Court of India, hearing a matter relating to the transfer of judges, held that the right to information was a fundamental right under the Indian Constitution. The judges stated that: "The concept of an open Government is the direct emanation from the right to know which seems implicit in the right of free speech and expression guaranteed under Article 19(1)(a). Therefore, disclosures of information in regard to the functioning of Government must be the rule, and secrecy an exception justified only where the strictest requirement of public interest so demands. The approach of the Court must be to attenuate the area of secrecy as much as possible consistently with the requirement of public interest, bearing in mind all the time that disclosure also serves an important aspect of public interest. (SP Gupta & others vs The President of India and others, 1982, AIR (SC) 149, p. 234)". However, despite these progressive orders of the Supreme Court of India, the government was unmoved and no serious effort was made to enact a transparency law.

In 1984, spurred on by the disastrous gas leak in the Union Carbide plant in Bhopal, there were renewed demands from environmentalists for transparency in environmental matters. Though at least two court cases were filed and some progressive orders procured, again not much else happened.

In 1989, there was a change of government at the national level, the ruling Congress party losing the elections. There were promises by the new ruling coalition to quickly bring in a right to information law, but the early collapse of this government and reported resistance by the bureaucracy resulted in status quo.

Interestingly, in the late 1990s and the early 2000s, it was the Congress party which took the lead in enacting right to information laws in the states that they ruled and today it is seen as the champion of the right to information in the country, having rightly got credit for enacting a powerful national law. In fact, starting from the mid 1990s with Tamil Nadu, various states in India enacted transparency laws of varying description and often dubious efficacy. The exceptions were Maharashtra, Delhi and Karnataka, and to some extent Rajasthan. However, even in these states, much was missing from the transparency laws and implementation was by and large poor. The other states with transparency laws of one form or another were Assam, Goa, Andhra Pradesh and Madhya Pradesh.

1.2 Towards a National RTI Legislation

From the early 1990s, the Mazdoor Kisan Shakti Sangathan (MKSS) had started a grassroots movement in the villages of Rajasthan, demanding access to government information on behalf of the wage workers and small farmers who were often deprived of their rightful wages or their just benefits under government schemes. The MKSS transformed what was till then mainly an urban idea pushed by a few activists and academics, into a mass movement that quickly spread not only across the state of Rajasthan but also to other parts of the country. It was mainly as a result of this rapid spread of the demand for transparency that the need to have a national body that coordinated and oversaw the formulation of a national RTI legislation began to be felt.

Such a need was the focus of discussion in a meeting held in October 1995, at the Lal Bahadur Shastri National Academy for Administration, Mussoorie. This meeting, attended by activists and administrators alike, took forward the agenda of setting up an appropriate national body.

In August, 1996, a meeting was convened at the Gandhi Peace Foundation in New Delhi where the National Campaign for People's Right to Information (NCPRI) was formed. It had, among its founding members, activists, journalists, lawyers, retired civil servants and academics². One of the first tasks that the NCPRI addressed itself to was to draft a right to information law that could form the basis of the proposed national act.

The NCPRI and the Press Council of India formulated the initial draft, under the guidance of Justice P.B. Sawant, retired judge of the Supreme Court of India and Chairman of the Council. This draft was discussed at a meeting, in 1996, attended by many concerned people, including representatives of the major political parties. The draft was then presented to the Government of India which set up another committee. This committee came up with a somewhat watered down version of the act in 1997. This draft was further amended and introduced in Parliament, in 2000, as the Freedom of Information Bill.

² The founding members of the NCPRI were journalists Ajit Bhattacharjea, Prabhash Joshi, and Bharat Dogra; advocate Prashant Bhushan; retired civil servants S.R Sankaran and Harsh Mander; social activists Nikhil Dey, K.G. Kannabiran, Renuka Mishra, M.P. Parmeswaram, and Aruna Roy; and academic Shekhar Singh.

Essentially, the five indicators of a strong transparency law can be seen to be *minimum exclusions, mandatory and reasonable timelines, independent appeals, stringent penalties and universal accessibility*. The 2002 Act failed on most of these counts. It excluded a large number of intelligence and security agencies from the ambit of the act, it had no mechanism for independent appeals, it prescribed no penalties for violation of the act and it restricted the access only to “citizens” and did not put a cap on the fees chargeable under the act.

Soon after the Freedom of Information Bill was introduced in Parliament, in 2000, it was referred to a select committee of the Parliament, which invited comments from the public. The Bill was passed by Parliament, with almost no amendments or changes, in December 2002. The process took nearly six years from the submission of the NCPRI/Press Council draft bill in 1996. Also, it is possible that the passing of the Bill was finally more because of prodding by the Supreme Court of India, rather than any desire on the part of the government itself. Interestingly, till the elections and the advent of a new government, in May 2004, even this weak act had not been notified and made operative.

1.3 Amending the RTI Act of 2002

In May, 2004, the United Progressive Alliance (UPA), led by the Congress Party, came to power at the national level, displacing the BJP led National Democratic Alliance government. The UPA government brought out a Common Minimum Programme (CMP) which promised, among other things, “to provide a government that is corruption-free, transparent and accountable at all times..” and to make the Right to Information Act “more progressive, participatory and meaningful”. The UPA government also set up a National Advisory Council (NAC)³, to monitor the implementation of the CMP. This council had leaders of various people’s movements, including the right to information movement, as members.

In August 2004, the National Campaign for People’s Right to Information (NCPRI), formulated a set of suggested amendments to the 2002 Freedom of Information Act, These amendments, designed to strengthen and make more effective the 2002 Act, were based on extensive discussions with

³ The NAC was chaired by Mrs. Sonia Gandhi, President of the Congress Party and Chairperson of the UPA.

civil society groups working on transparency and other related issues. These suggested amendments were forwarded to the NAC, which endorsed most of them and forwarded them to the Prime Minister of India for further action.

Based on these recommendations of the NAC, the Government of India introduced a revised Right to Information Bill in Parliament on 22 December 2004. Unfortunately, though this RTI Bill was a vast improvement over the 2002 Act, some of the critical clauses recommended by the NCPRI and endorsed by the NAC had been deleted or amended. Most significantly, the 2004 Bill was applicable only to the central (federal) government, and not to the states. This was particularly significant as most of the information that was of relevance to the common person, especially the rural and urban poor, was with state governments and not with the Government of India.

Consequently, there was a sharp reaction from civil society groups and the government was forced to set up a group of ministers to review these changes, and to refer the RTI Bill to the concerned standing committee of the Parliament. Meanwhile, the NAC met and expressed, in a letter to the Prime Minister, their unanimous support to their original recommendations. Representatives of the NCPRI and of various other civil society groups, and other concerned citizens, sent in written submissions to the Parliamentary Committee and were invited to give oral evidence.

Fortunately, these efforts were mostly successful and the Parliamentary Committee and Group of Ministers recommended the restitution of most of the provisions that had been deleted, including applicability to states. The Right to Information Bill, as amended, was passed by both houses of the Indian Parliament in May 2005, got Presidential assent on 15 June 2005, and became effective from October 2005.

However, those who had thought that the main battle to get a strong legislation was over and that the focus could now shift to implementation issues, were in for a rude shock. In 2006 the government made a concerted effort to amend the Act and to weaken it. Though this move was finally defeated, the danger has not yet abated, as will be described later.

2. BACKGROUND TO THE ASSESSMENT

The Indian right to information (RTI) Act came into effect on 12/13 October 2005. Since then, there has been much speculation about the functioning of the act and its effectiveness. All sorts of rumours have abounded and, based on anecdotal information, some people have declared the act to be a failure. Others have declared that only urban, educated, well-to-do people are using it, or that mostly government servants are using it to access information about their own postings and promotions.

There have also been rumours about the misuse of the act, for harassing or blackmailing officials. Unfortunately, no objective data exist. When challenged, these rumours turn out to be generalisations from a few isolated cases, or unsubstantiated general impressions.

At the same time there were numerous stories about the use of RTI by poor people, both in the villages and in urban areas. Newspapers often carried inspirational stories about poor, illiterate, people using the RTI Act to get their basic rights. There were stories about large-scale scams and big-time corruption being exposed through the use of the RTI Act. But these were also based on anecdotes, with little or no reliable data to determine the efficacy of the RTI Act. Therefore, there was a growing recognition among many of the stakeholders that there was a need to objectively record and analyse the RTI experience across India.

Considering the sense of ownership the people of India have towards this Act, it was but natural that there was a strong feeling that such an assessment should be done by people's organizations, in a participatory and transparent manner.

It was also thought that the monitoring and assessment of the RTI act and related activities should become an ongoing process. This would not only keep people's movements alert and aware of what was happening around the country, especially at the grass roots, but also be a means of putting pressure on the government, on information commissions, and on other stakeholders to work collectively at strengthening the act and its implementation. Therefore, it was decided to create a group dedicated to the ongoing assessment and analysis of the RTI regime in India. And the right to information assessment and analysis group thereby came into existence and is conducting this assessment in collaboration with the National Campaign for People's Right to

Information and various other national, state, and local institutions, NGOs and groups.

As an added incentive, in 2006 a concerted effort was made by the Government of India to amend the RTI Act and make it weaker by, among other things, removing "file notings" (essentially a record of the deliberative process in the government) from the purview of the RTI Act. Amendments were approved by the Union Cabinet and listed for introduction in the Parliament. In response to this move, activist groups across the country mobilised and, with the support of the media and elements within various political parties, managed to block this amendment. The stand that people's organisations took was that it was too early to amend the Act and, in any case, if it was to be amended it needed to be strengthened rather than weakened.

Though the government was forced, in this instance, to refrain from introducing in Parliament the proposed amendments, it was clear that they had not abandoned the idea. This was confirmed when an RTI application asking for the Cabinet papers relating to the proposed amendment was rejected even by the Central Information Commission on the plea that cabinet papers can only be accessed under the RTI Act when the matter is complete or over. The CIC, in its order of 12 November 2007, stated that:

"...it is accepted that a decision on a Cabinet note cannot be treated as complete unless the matter of the decision has been completed, which in this case would mean moving an amendment to the RTI Act, 2005 as per the Cabinet decision. Till such amendment is actually moved, therefore, or a decision taken that no such amendment will be moved, the matter cannot be treated as complete or over. The decision of the First Appellate Authority, Dy. Secretary to Govt. of India DoPT rejecting the appeal petition by his order dated 13th Oct., 2006, under proviso to Clause (i) of sub-sec. (1) to Sec. 8 of the Right to Information Act, 2005 is, therefore, upheld".⁴

From the above it was clear that as the amendment had not been moved, there was also no decision that no such amendment will be moved.

⁴ Appeal No. CIC/WB/A/2006/01022, Aruna Roy and Shekhar Singh vs the Department of Personnel, Government of India.

Given this background, when in early 2008 the Government of India declared its intention to launch an assessment of the implementation of the RTI Act, and soon after engaged a private firm⁵ to conduct this assessment, there was concern among many of the stakeholders. There was an understandable worry that such an assessment might be used to buttress the case for amending the RTI Act. Also, such an assessment seemed premature, considering the act was then just a little over two years old and very few, if any, laws had been assessed so soon after their enactment.

One view among the people was that we should jointly condemn this assessment and refuse to have anything to do with it. Another view was that as the government had already decided to go ahead with this assessment, perhaps we should also participate in the exercise and try and ensure that it was fair, participatory and scientific. The consensus among the RTI activists was that little purpose would be served by either opposing and condemning the government-sponsored assessment, or participating in it. It was thought that people's organisations should do their own assessment in a manner that is participatory and transparent, using a methodology that is scientific, so that of the findings of the government-sponsored assessment could be compared with those of the People's assessment. Hence this assessment.

Fortunately, Google.org very kindly agreed to provide a grant to one of the co-directors⁶ of this assessment and their generosity went a long way in ensuring that the proposed assessment does not suffer because of a lack of financial resources.

⁵ PricewaterHouse Coopers

⁶ A total grant of US\$ 250,000 was made available to Shekhar Singh to facilitate this assessment.

3. GOAL AND OBJECTIVES

The goal of this assessment is to ascertain how India's nascent right to information regime might be further strengthened. The specific objectives of the assessment are:

- To assess the use and implementation of the RTI act in India, especially regarding:
 - Public awareness about the act and its relevance and use
 - Governmental and other efforts to promote such an awareness and facilitate public use of the act
 - The willingness and preparation of the government, and other public authorities⁷, to promote access to information
 - The challenges and constraints, if any, that the public faces in accessing information under this act.
 - The challenges and constraints, if any, that the government and other public authorities face in promoting access to information under this act.
 - Performance of the various public authorities in implementing the Act, especially in terms of voluntary (pro active) disclosure of information
 - The role of the appellate authorities⁸ in ensuring timely access to information
- To assess the role played by various stakeholders in establishing and strengthening the RTI regime⁹.
- To determine priority future action in order to make the RTI regime stronger in India.
- To develop a replicable assessment methodology and a sustainable process for participatory and transparent assessments.

⁷ The RTI act defines all government departments, all organisations controlled by the government, and all organisations receiving substantial government support (directly or indirectly) as public authorities. Public authorities come directly under the purview of the RTI Act (see section 2(h) of the RTI Act)

⁸ The RTI Act envisages two levels of appeals. The first is within the public authority from which information is being sought, to a functionary senior to the public information offices who is responsible for dealing with the original application. The second appeal, against the order of the first appellate, lies with an information commissions, which is a statutory independent body set up under the RTI Act (see sections 15 to 20 of the RTI Act).

⁹ We are purposely using the term "RTI regime", as this assessment goes beyond the direct scope of the RTI Act and also assesses the role of the media, the NGOs, etc. who are not given a role in the RTI Act.

4. STRUCTURE

This report presents a national level synthesis of the state level findings emanating from this assessment. It also presents a synthesis of the findings related to various information commissions and to the media, international organizations, and NGOs. The report also contains recommendations relevant at the national level.

It is proposed, as a continuation of this exercise, to later develop state level and information commission level reports that would be more detailed and provide disaggregated information and recommendations relevant to specific states and commissions. It is also hoped that the scope of the assessment could be expanded and the database updated.

This report itself deals separately with each of the three major stakeholders in the RTI regime: the people of India, the primary stakeholders in the RTI regime, the government, the primary repository of public information, and information commissions, the “umpires” of the process. Subsequent chapters also talk about two other important stakeholders, the media and NGOs.

As one purpose of this assessment was to develop a replicable methodology, earlier chapters give details of the methodology used and the scope and coverage of the assessment. However, it is proposed to prepare separate process documentation for those who might want to replicate a similar type of assessment in India or elsewhere.

One important component of the assessment was to compile case studies related to the RTI from various sources. Some of these case studies have been interspersed with the narrative of the report, wherever relevant. However, it is also proposed to bring out an anthology of case studies separately.

Finally, the report contains a set of recommendations directed at specific stakeholders and, for the most part, directly emanating from the findings of this assessment.

5. METHODOLOGY

5.1 Primary data collection through individual interviews

As a part of the People's RTI assessment 2008, 18,918 persons were individually interviewed across ten states and the National Capital Region of Delhi. These include randomly selected citizens in the ten state headquarters and in Delhi, applicants, appellants, PIOs and heads of departments in rural and urban areas. In addition, representatives of international organizations, journalists, and editors of various publications, were also individually interviewed.

5.2 Primary data collection through inspections

Across the country, 1027 public authorities and their PIO¹⁰ offices were inspected as a part of this assessment, both in the rural and the urban areas. The inspections were aimed at determining the ease with which an applicant could file an RTI application, availability of records that were to be displayed and made available pro-actively, under section 4 of the RTI Act, and the signs and other display of information, as required under the law.

Inspections were also done of information commission premises in the 10 sample states and in Delhi to assess the facilities available to appellants, and the compliance with *suo moto* (pro active) requirements.

5.3 Primary data collection through focus group discussions (FGDs)

In addition, a total of 630 focus group discussions were also organised. Of these, 487 were organised in the 240 sample villages in 30 districts of the ten sample states. One focus group discussion per village was with the entire village community, while additional focus group discussions were organised with special groups, like with women, members of scheduled castes or scheduled tribes, etc. residing in each village. Similarly, 143 focus group discussions were organised in four municipal wards in each of the 30 district headquarters in the 10 sample states, a total of 120

¹⁰ Each public authority is required to designate one or more of its existing staff as a public information officer (PIO) in each of its offices. The PIO receives the RTI application and has the responsibility of either providing you the asked for information or informing you that the information asked for is exempt under the RTI Act and therefore cannot be provided. A time limit is specified for the provision of information or for the response - and in most cases it is 30 days (see sections 5,6 and 7 of the RTI Act).

municipal wards. 18,786 people attended these focal discussion groups (FGDs).

The FGDs were designed to ascertain whether the participating public considered access to information important and, if so, why. Also assessed was their familiarity with, and use of, the Right to Information Act. In rural areas, FGDs were also used to identify RTI applicants and appellants, who were subsequently interviewed for their experiences.

5.4 Primary data collection through filing RTI applications

RTI applications were filed and followed up¹¹ with 625 PIOs to get basic information from various public authorities across the country. Applications were filed by post with 359 public authorities in district headquarters, state headquarters, and at the central government, asking for the number of RTI applications received and responded to, the number in which full and part information was provided, how many were disposed of in time, and how many were late, how many first appeals were allowed and rejected. Also asked for were copies of the application register, applications, first appeals and first appellate orders.

Also, RTI applications were filed with all the information commissions asking them to send statistics on how many appeals and complaints had been received, how many disposed off, how many pending; how many penalties had been imposed, how much compensation had been awarded, and how many of the orders had been uploaded to the website. They were also requested, in a separate application, to send copies of all the affidavits, orders, replies etc. pertaining to cases filed in any High Court or in the Supreme Court, relating to orders of the commission. In a third application, some of the commissions who had not uploaded all their orders to the web site, were asked for copies of their orders.

RTI applications were also filed with the RTI nodal departments of each state and union territory, and in the central government, asking for copies of rules and circulars issued, and various other information relating to the RTI Act. Applications were also filed with those legislative assemblies that had not put their rules on the web, asking for copies of their rules.

¹¹ Some of the applications filed were forwarded by the original PIO to two or more PIOs. Consequently, what started as 359 applications became 625 by the end of it.

Another 197 applications were filed as a part of the rural survey in many of the sample villages by a local villager, who agreed to file an application in order to field-test the ease with which an application can be filed in a village PA. Where the field team was not able to persuade a local villager to file such an application, mainly because of a threat perception among the villagers, a member of the team filed an RTI application and documented the experience.

These RTI applications also generated meta-data, for not only was the information that was procured through these applications used in the assessment, even the manner in which these applications were themselves handled became an input into the assessment. The progress of these applications was monitored and an interesting analysis emerged on how long it takes for different public authorities to respond, how many of them respond at all, how many refuse information, and how effective is the appellate mechanism.

This is perhaps the first national level study being done where the RTI applications are themselves being used as an important method of getting information that is required for assessing the implementation of the RTI Act.

It was fascinating to see how an identical application, which went to over 600 PIOs, was treated in such a variety of ways, with all the asked for information being provided without hesitation by one set of PIOs and, at the other extreme, all the information asked for being denied even by the information commission. Equally interesting was the fact that though the information asked for from all the PIOs was identical, it was denied by different PIOs for different reasons. By the end of it, almost all the different exemptions in the RTI Act, and some that were not even in the Act, had been quoted by some PIO or the other to deny us information! Clearly there is no uniformity in the understanding and the application of the RTI Act.

5.5 Primary Data Collection Through a Postal Questionnaire

A detailed questionnaire was also mailed to all the chief information commissioners, asking for their views and experiences on a wide-ranging set of issues. Primarily they were asked about the adequacy and appropriateness of their budget, staff and infrastructure, the facilities they provided to the appellants, about their independence from the government, their use of various powers provided under the RTI Act, and

whether the government was cooperating with them and responding appropriately to their directions. The chief information commissioners were also asked to share their views on the RTI Act and its implementation.

5.6 Analysis of Replies Received to RTI Applications

Copies of over 7000 RTI applications have been received so far in response to the earlier mentioned RTI application filed with various public authorities. These reveal interesting details about the types of information being asked for, and the sorts of people using RTI. These are being analysed.

Additionally, data regarding the disposal of 25,505 applications was also received from public authorities across the country, in response to RTI applications filed. This data has been used to analyse how often applicants get the requested information, all of it, and in time. The findings are presented later in this report.

Data was received from 20 of the 28 information commissions regarding the numbers of appeals and complaints received, the disposal rate and other relevant information. This has been used for analyzing the functioning of information commissions.

Legislative assemblies, high courts and nodal departments for the RTI Act in state governments also sent us, in response to RTI applications, copies of rules relating to the RTI and also of circulars and other documents of relevance. These have also being analysed as a part of the study.

5.7 Analysis of Orders of information commissions

Nearly 10,000 orders of information commissions have been analysed to determine various types of information, including the time frame of disposing off second appeals, the proportion of appeals allowed, the basis on which appeals are being rejected, and the incidence of imposition of penalty.

5.8 Analysis of newspaper & magazine items, and of material on the web

Over 60 papers and magazines, in English, Hindi and six regional languages, were analysed (from 2005 to the present), in nine states and at the national level, to assess the role of the print media in reporting, promoting and using the RTI. An indeterminate number of news papers, and websites, mainly in English and Hindi, were scanned and over 5000

case studies were extracted, depicting successes, failures and peculiarities of the RTI regime.

5.9 Analysis of published material

Relevant papers, articles, studies and assessments on India and about other countries were identified and assessed for possible inputs into the design of methodology and process for this assessment. These have also been used to develop national and international contexts in which the findings of this assessment can be located.

5.10 Stakeholders

Specifically, the People's RTI Assessment 2008 sought to survey and otherwise access information from the following key RTI stakeholders:

- a. *Citizens: To understand and assess whether citizens (independent of the RTI Act) consider access to information an important right in itself, and also as being important for resolving some of their problems. Further, to assess their level of awareness regarding the RTI Act and to capture their perception of the act, especially in terms of its value and their experience in trying to use it.*
- b. *Applicants and appellants: To assess the ease of accessing information by using the RTI Act and to capture their perceptions on the constraints and challenges faced in accessing information. Also, to gather their views on the effectiveness of the Act and on the infrastructure available to facilitate the use of the Act.*
- c. *Public Information Officers and Heads of Departments: To capture the views of officials regarding the RTI. The objective was to understand and assess constraints and challenges faced by government officials and other PIOs in responding to the RTI and facilitating the effective implementation of the Act.*
- d. *Public Authorities: To understand and assess whether public authorities have set up the required processes and infrastructure to service RTI requests. To also determine whether their functioning, especially methods of record keeping, have been influenced by the RTI. Also, to determine whether they have begun to 'pro-actively' report the detailed operational, financial, and service-related information the Act requires them to¹². The objective was to study*

¹² See section 4 of the RTI Act.

the extent to which public authorities had adapted their infrastructure to comply with the RTI.

- e. *Information Commissions:* Information Commission decisions for 2007-2008, from a sample of commissions, were collated and analysed to assess the quality of the second appeal process. A database has been created which will later be expanded to cover all decisions of all commissions. An analysis was done on the time lines, the proportion of appeals being allowed and refused (wholly or partly), the details of the appeals process, the frequency of penalties¹³ and compensation¹⁴. For a sample of the information commissions, a report has been prepared, detailing the quality of their interventions in the RTI process, and the resources and facilities available to them for carrying out their work.
- f. *The Media:* RTI press coverage was analysed across a selection of states, to understand the manner in which the media is approaching, promoting, and using the Act.
- g. *International Donors:* International donor's public disclosure policies were vetted in the context of the Right to Information Act, especially to assess the accessibility to Indian citizens to information held by the donor institution, in keeping with the letter and spirit of the Indian RTI Act.
- h. *Non-Governmental Organisations:* Similarly, the disclosure policies and practice of non-governmental organisations were assessed. Of special interest were NGOs that are public authorities¹⁵ and others who are propagating the RTI - to assess how far they practice what they preach.

5.11 Other sources of quantitative and qualitative data

- a. *Analysis of State RTI rules and regulations:* In addition, the assessment process also involved such an analysis. The RTI rules notified by various states and by the various competent authorities (i.e. the Supreme Court, the Parliament, high courts and state

¹³ The RTI Act provides for the imposition of penalty on the errant official who delays the supply of information beyond the time prescribed, or otherwise violates the Act (see section 20 of the RTI Act)

¹⁴ Section 19(8)(b) of the RTI Act provides for compensating the complainant for any loss or detriment suffered

¹⁵ NGOs come under the purview of the RTI Act if they receive "substantial" funds, directly or indirectly, from the government.

legislative assemblies) were assessed to determine their conformity with the letter and spirit of the RTI Act.

- b. Case studies: RTI related case studies from across the country were collated and analysed to determine the various ways in which the Act is being used, and to what effect. Of particular interest were cases representing innovative or extremely effective use of the Act, amusing or human interest stories, use of the Act by weaker segments of society/ special groups or by social movements, and government efforts to promote the Act. Selected case studies will be published separately.*
- c. Website survey of Section 4¹⁶ compliance: The departmental websites of the 240 state and district level public authorities covered in the urban survey were evaluated for Section 4 compliance. This was done in order to ascertain whether public authorities were 'pro-actively' reporting the detailed operational, financial, and service-related information the Act required them to do.*

¹⁶ Section 4 of the RTI Act specifies various items of information that have to be made public pro-actively.

6. SCOPE AND SAMPLING

6.1 States

The assessment covered 10 states across the country, and the National Capital Region of Delhi. In each state, the state capital and 3 districts were surveyed. In each district, 8 villages were surveyed.

The 10 states¹⁷ and their sample Districts are:

- a) Assam - Dibrugarh, Karbi Anglong, Nalbari
- b) Andhra Pradesh - Ananthapur, Nalgonda, Visakhapatnam
- c) Gujarat - Kutch, Narmada, Mahesaha
- d) Karnataka - Bijapur, Dakshin Kannada, Haveri
- e) Maharashtra - Aurangabad, Yavatmal, Raigad
- f) Meghalaya - South Garo Hills, West Khasi Hills, Ri Bhoi
- g) Orissa - Kalahandi, Deogarh, Kendrapara
- h) Rajasthan - Dungarpur, Jhunjhunu, Karauli
- i) Uttar Pradesh - Azamgarh, Bijnor, Jhansi
- j) West Bengal - Burdwan, Cooch Behar, Uttar Dinajpur

In addition, the National Capital Region of Delhi was also surveyed.

Box 6.1. How were sample States, Districts and Villages chosen?

States - Five states (Andhra Pradesh, Assam, Maharashtra, Orissa, and Uttar Pradesh) were deliberately chosen to overlap with the sample of states in which the Department of Personnel is conducting its own evaluation of the RTI. In this way, both sets of data can be compared to provide a balanced and holistic picture of the working of the RTI in these states. The other five states (Gujarat, Karnataka, Meghalaya, Rajasthan, and West Bengal) were chosen so as to ensure that all corners of the country were represented, that there was a mix of states with varying levels of RTI intensity and different political regimes.

¹⁷ India has 28 states and the National Capital Region of Delhi. It also has six union territories, which are centrally administered territories, though these are not covered in this assessment. Each state has its own legislature and its own information commission. Each state is divided into districts, which are administrative units, and each district is further sub-divided into sub-divisions, which are smaller administrative units. The number of districts and sub divisions vary from state to state.

Delhi was also included in the sample, given its national importance and the fact that it has received a very high number of applications.

***Districts** - Districts were stratified on the basis of literacy, SC and ST population, and geographical spread within the State, and then randomly sampled. The stratification was done using 2001 Census data.*

***Villages** - Within the districts, two blocks were selected such that they were not bunched together and were geographically dispersed. On the basis of the latest census data available, a list of all the villages in the selected block was generated, out of which four villages in each block were randomly picked.*

6.2 Public Authorities

A total of 365 public authorities (PAs) were surveyed across the country, 10 from the Central Government, five each from the 10 sample state governments, and Delhi, five each from each of the 30 district headquarters, and five each at the village level in each of the 30 districts.

Three separate sets of PAs were surveyed at the district and village level; state headquarters and the central government level. The actual number of offices surveyed were over 1000, as each public authority had a separate office at the village, block or sub-division level.

Rural PAs included:

- 1. Pradhan's¹⁸ office*
- 2. Patwari's¹⁹ office*
- 3. Village school*
- 4. Ration shop²⁰*
- 5. Sub-health centre, or village health worker, or Primary Health Centre²¹*

¹⁸ Head of the village panchayat - which is a local self government body.

¹⁹ Lowest level of revenue official, usually in charge of a group of villages. The Patwari is the keeper of the revenue records, specifically details of rural land ownership.

²⁰ India has a public distribution system under which poorer segments of the population are given a monthly quota of grains, sugar and kerosene oil at subsidies rates. These "rations" are distributed through the ration shop in each village or cluster of villages.

²¹ The rural health care system is implemented through primary health centres, catering to a sub-division, having under them sub-health centres catering to a cluster of villages, and populated by village health workers who visit all the villages.

At the District level, the district-level equivalents of these agencies were surveyed:

- 1. District Collector's Office²²*
- 2. District Education Department*
- 3. District Civil Supplies Department²³*
- 4. District Medical Officer or Hospital*
- 5. Zila Parishad²⁴/ District Council where there is no panchayat system*

Thus, across the 10 States, 30 Districts and 240 villages, all rural field teams collected data on and conducted interviews in all these Departments.

At the State headquarters the PAs studied were:

- 1. Police Department*
- 2. Department of Land and Revenue*
- 3. Public Works Department*
- 4. Department of Rural Development and Panchayati Raj*
- 5. Department of Women and Child Development*

Ten Central Government public authorities that the urban survey covered at the national level were:

- 1. Ministry of Home Affairs*
- 2. Directorate-General of Foreign Trade*
- 3. Ministry of External Affairs*
- 4. Ministry of Environment and Forests*
- 5. Ministry of Culture*
- 6. Department of Disinvestment*
- 7. Ministry of Agriculture*

²² The Collector (also variously known as the district magistrate or the deputy commissioner), is the administrative head of the district.

²³ This department oversees the functioning of the earlier described ration shops.

²⁴ The Zila Parishad is the district level authority overseeing the earlier described panchayats.

8. Ministry of Railways
9. National Commission on Backward Classes
10. Department of Personnel and Training

Box 6.2: How State and Central Government 'Public Authorities' were chosen

The common set of public authorities was randomly sampled by choosing a representative set of 'high RTI applications-receiving intensity', 'medium RTI applications-receiving' and 'low RTI applications-intensity' government agencies.

Data on the 'RTI-intensity' of individual public authorities was culled from State Information Commission Annual Reports, providing a break-up of the number of RTI applications received by all the State-level Government agencies under their jurisdiction. All agencies were then categorised as high-, medium- and low- RTI intensity. A representative sample of ten public authorities were chosen across these three categories at the Central level, and five were chosen at the State level, as discussed above.

While, ideally, this sampling should have been based on data drawn from the Annual Reports of all the State Information Commissions in the 10 sample States, most of these were not available in May 2008 - when RAAG conducted this exercise. Of the 10 sample states, only 3 - that is, Orissa, Andhra Pradesh, and Maharashtra²⁵, and the Central Information Commission, had uploaded the annual reports for both 2005-2006 and 2006-2007. As of May 2008, one or two commissions had not yet published their 2006-2007 reports. In other cases, while the reports of some Information Commissions were ready, they could not be made available to us until they had been tabled in the state legislature.

6.3 Applicants

A total of 2013 applicants were interviewed as a part of this assessment. Of these, 163 were from rural areas and the remaining 1850 were from

²⁵ Since the Maharashtra SIC annual report was in Marathi language, we had to rely on press reports that detailed the number of applications that were received by individual authorities.

the urban areas. The rural applicants were identified by the rural field teams during their visits to the sample village, especially through the focus group discussions, and each of the applicants who was identified, available and willing to talk to the team, was interviewed, irrespective of whom they had applied to for information.

For urban areas, lists of applicants were requisitioned from the sample PAs by filing RTI applications. Initially it was thought that of the names received, a sample would be selected in a randomized manner. However, when the lists started arriving it became clear that the number of applicants who were resident within the state and district headquarters were relatively few and therefore it was decided to interview all those who were located in the sample area. Unfortunately, unlike in rural areas, the percentage of applicants who refused to talk to the interviewers was very high and therefore all those who were willing to be interviewed, were interviewed.

This could compromise the representativeness of the findings. The methodology described means that lists might well have been received from the more compliant and responsive of the PAs. Therefore, the sample could have been bias in favour of PAs. On the other hand, as many of the urban applicants declined to be interviewed, this might also distort the sample. Though we do not have the information to assess whether there was something common among those who refused to be interviewed, one cannot but help wonder whether the better off were more reluctant than the poor, or whether those who were happy with their experience, or angry with the PA, were more inclined to be interviewed.

7. VALUING THE RIGHT TO INFORMATION

SUMMARY OF KEY FINDINGS

- *Nearly 65% of the urban sample thought that access to government held information could be helpful in various ways.*
- *Similarly, 65% of the focus group discussions in rural and semi-rural areas also concluded that access to government held information would help in resolving some or all of their most pressing problems.*

7.1 BACKGROUND

Does access to information actually help, and if so, in what ways, and do the people of India recognize this. These were some of the general questions that this study sought to ask and answer.

An important question that the study attempts to answer is: do the people of India, especially the most disempowered among them, living in villages and urban slums, recognise that information is power? This question is important for at least three reasons.

First, though the right to information is recognized in India as a fundamental human right, the enacting of a facilitating law, and the resources for its implementation, are best justified when there is a felt need among the people of India for access to information.

Second, experience from other countries, and from some states in India, suggests that without widespread recognition of the value and utility of accessing information, and the consequent resolve to exercise the right to information, an RTI law would be little used.

Third, and perhaps most important, without a large constituency of those who value the RTI, it would be impossible to safeguard this right. Already the government has made two concerted efforts at diluting the RTI Act (2006 and 2009), and it was only because of the large and growing number Indian who have learned to value the RTI and therefore were willing to fight to protect it, that these efforts were defeated.

7.2 METHODOLOGY

Keeping all this in mind, information was collected from our rural and urban respondents not just on their familiarity with, or use of, the RTI Act (discussed in the next section) but also on whether access to information (independent of the Act) was seen by them as important for addressing the problems they or the society faced.

a. Focus Group Discussions

Nearly 19,000 participants of over 600 focus group discussions held in villages and in municipal wards of district headquarters, in the ten sample states, were asked to identify the five most important problems facing their village or ward. They were then asked whether access to some information would help resolve the problem. They were also asked to spell out how access to information would help resolve the problems²⁶. The field research teams that were organizing and facilitating the focus group discussions were also asked to assess whether the participants saw a link between their problems and access to information, and if so, how universal was this recognition²⁷.

b. Street Corner Interviews

Nearly 14,000 people were individually interviewed in the capitals of the ten sample states, and in Delhi. They were asked whether being able to access government held information can be helpful in any way, and if so, how²⁸.

7.3 DETAILED FINDINGS

a. How Many People Recognize The Importance Of RTI?

Across the country, approximately 65% of the people interviewed, either individually or in groups, thought that the ability to access (mainly government held) information was helpful in one way or another. Interestingly, though there was some variation in the overall percentage between villages, district headquarters, and state headquarters and metropolitan cities, there were significant variations between states and between cities.

b. Villages and District Headquarters: In response to our request to list out the five most important problems facing the village or municipal ward, by far the most pressing problem was unemployment, with over 45% of the FGDs listing it as the most important problem being faced by them (see table 7.1). The next most pressing problem appeared to be a lack of health facilities, with nearly 25% of the FGDs listing it as such (see table 7.2). Also listed were lack of irrigation facilities (overall 12% - MEG 0%, MAH

²⁶ See questions H1, H2 and H3 of questionnaire VIII, copy at annexure 8.

²⁷ See questions H14 and H15 of questionnaire VIII, copy at annexure 8.

²⁸ See questions B4 and B5 of questionnaire VII, copy at annexure 7.

2%, WB 28%); lack of electricity (6%), and lack of educational facilities (4%).

The various other problems that found mention as the most important problem included seeds and agricultural extension (2%), roads and connectivity (2%), and access to the public distribution system (1%), shortage of drinking water, indebtedness, access to credit, poor veterinary care, proposed land acquisitions, disbursement of pensions, NREGA related, availability of birth and death certificates (all under 1%).

Education, roads and electricity were very popular second priority problems. The functioning of the police, the availability of electoral cards, and upcoming projects were some of the problems listed among the second to fifth priority.

In this context, it was reassuring that overall 65% of the FGDs reported that the participants felt that access to information would help in resolving their main problems. In the villages the figure was 60% while in the municipal wards of district headquarters it was 75%. Only 25% of the FGDs in Gujarat thought so, though over 95% in Assam and about 90% in Meghalaya, Orissa, and West Bengal reiterated the value of access to information in resolving their problems.

- c. *State Headquarters and Delhi:* Nearly 65% of the randomly selected inhabitants of ten state headquarters, and Delhi, who were individually interviewed at street corners, thought that access to information was helpful. Interestingly, residents of Bangalore (Karnataka) and Gandhinagar (Gujarat) seemed to have the least value for access to information, while at the other end most the residents of Guwahati (Assam) and Jaipur (Rajasthan) thought so. Delhi and Bhubaneswar - Orissa were close runners up (see table 7.3).

- d. *Why Do They Think Access To Information Is of Value?*

Villages and District headquarters

People in villages and district headquarters mainly thought that the ability to access information could help them find out why a problem occurred (45%), who was supposed to deal with it (35%), what action was or is being taken to resolve the problem (10%), and what else can be done to resolve the problem (5%).

State Headquarters and Delhi

Over half the urban respondents interviewed thought that access to information held by the government could help in solving individual problems. Over 30% thought that it would help prevent corruption, help solve community problems and improve government efficiency. Over 20% thought it would contribute to solving national problems - and as respondents were allowed to chose more than one option, the total was well above 100%.

7.4 DISCUSSION

Perhaps one major challenge for the RTI regime is how to deal with the unrealistically high expectations people have from it. Though the RTI Act only promises access to information, many people expect the mere filing of an RTI application to remove grievances, solve problems, minimize corruption, and improve efficiency. Clearly, this is an unrealistic expectation.

At the very least, for any of this to happen, relevant information accessed through the RTI Act has to be fed back into the system in the form of a complaint or a follow-up request. It then gets dealt with in the usual manner with all the attendant delays and insensitivities. Yet, people's hopes and expectations continue to be high. Are they in for a huge disillusionment or is the mere access of information leading to some of these concrete results? Most likely, it is a bit of both. However, some further insights on this point can be got from looking at the data in chapter 10.1.

However, it must be mentioned here that, increasingly, evidence is emerging that the mere filing of an RTI application can also, sometime, achieve the intended results of the grievance being addressed. A heart warming case from Delhi illustrates how an elderly passport applicant in Delhi, tired of waiting to get her passport, finally went with an RTI application asking for the reasons of delay and the details of persons responsible. The person whom she handed the RTI application to, in the passport office, asked her to wait, went insidem and came back in a few minutes, with her passport!

Table 7.1: % of FGDs Listing Unemployment as the Primary Problem

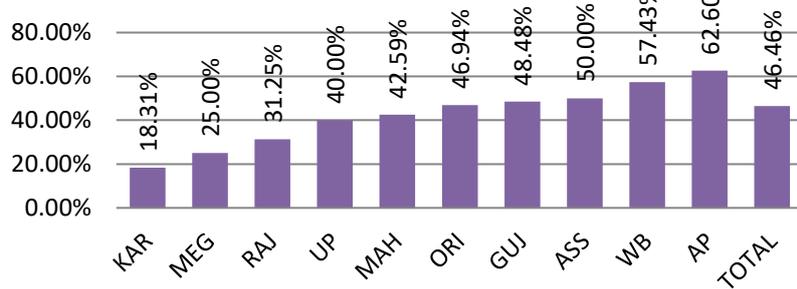


Table 7.2: % of FGDs Listing Lack of Health Care as the Primary Problem

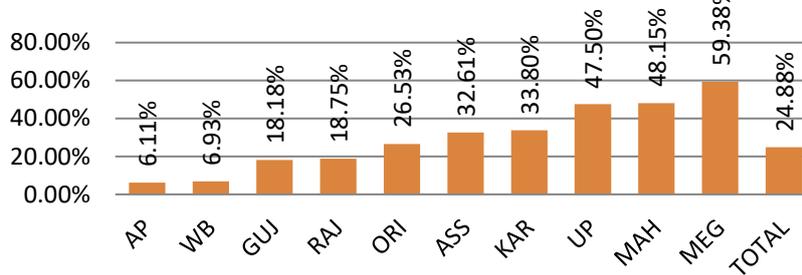
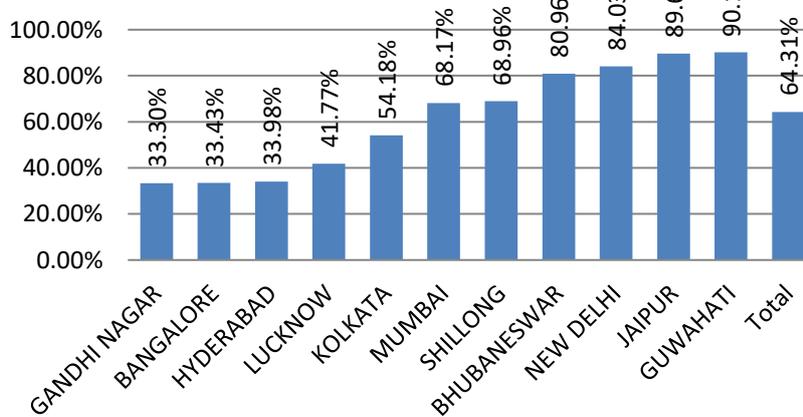


Table 7.3: % of Respondents who thought that Access to Information is Helpful



8. AWARENESS OF THE RTI ACT

- *45% of the respondents in the state headquarters (including Delhi) knew about the RTI Act. 40% of the respondents in district headquarters knew about it.*
- *However, in only 20% of the rural FGDs was there even one person who knew the RTI Act, or had even heard about it.*
- *Both in rural and in urban areas, newspapers were the most common source of information about the RTI Act. Television was the next, closely followed by NGOs.*

8.1 BACKGROUND AND CONTEXT

Perhaps the greatest challenge for emerging RTI regimes, like India, is to ensure that awareness about and an understanding of the RTI Act spreads quickly and widely among the people of India, especially the weaker segments and the rural populations. Along with awareness and understanding, there also has to be an appreciation of the relevance of the Act to their felt needs and perceived problems.

However, the disadvantages in India are many. Over a third of the country is illiterate, with over two thousand languages and dialects being spoken. Over a quarter of the country lives below the poverty line and in abject destitution; and it is these illiterate and destitute who most need the support of the RTI Act.

But the advantages and special opportunities are also many. There is a huge and growing viewership of television across the country, with viewership growing even among the weakest segments of the society. There are a large number of vibrant NGOs and people's movements who have internalized the RTI and adopted it as their own. Most important, we Indians are (literally) a curious people who have a long tradition of seeking and even ferreting out information about everybody and everything, and we are not easily deterred from satisfying our fundamental thirst for information even by considerations of privacy or propriety.

In recognition of both the critical need to disseminate awareness about the Act and the challenge that poses, the RTI Act itself lays upon the government an obligation to "...advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act" (S. 26. (1)).

8.2 METHODOLOGY

At the village and district headquarter level, participants of the focus group discussions were asked whether they knew about the RTI Act, and if so, how they heard about it. At state headquarters and Delhi, those interviewed at street corners were asked whether they had heard of the RTI Act. Additionally, applicants interviewed both in the rural and urban areas were also asked how they had heard about the RTI Act.

a. Focus Group Discussions

Nearly 19,000 participants of over 600 focus group discussions held in villages and in municipal wards of district headquarters, in the ten sample states, were asked whether they knew about the RTI Act²⁹. Where any of them admitted to knowing about the RTI Act, they were then asked how they heard about it³⁰.

b. Street Corner Interviews

Nearly 14,000 people were individually interviewed in the capitals of the ten sample states, and in Delhi. They were asked whether they had heard of the RTI Act³¹.

c. Interviews of Rural and Urban Applicants

Nearly 1900 urban and over 150 rural applicants were individually asked how they had learned about the RTI Act³²

8.3 DETAILED FINDINGS

a. How Many People Know About The RTI Act?

45% of our randomly selected *urban* respondents (from state capitals and the national capital) claimed that they knew about the RTI Act. In nearly 40% of the over 140 FGDs in *district headquarters*, at least one or more person knew about the RTI Act. However, in only 20% of the over 400 FGDs organized in *villages* was there even a single person who knew about the RTI Act.

Among state headquarters, nearly 65% of the residents of Bhubaneswar had heard of the RTI Act, followed by Guwahati and

²⁹ See question H6 of questionnaire VIII, copy at annexure 8.

³⁰ See question H8 of questionnaire VIII, copy at annexure 8.

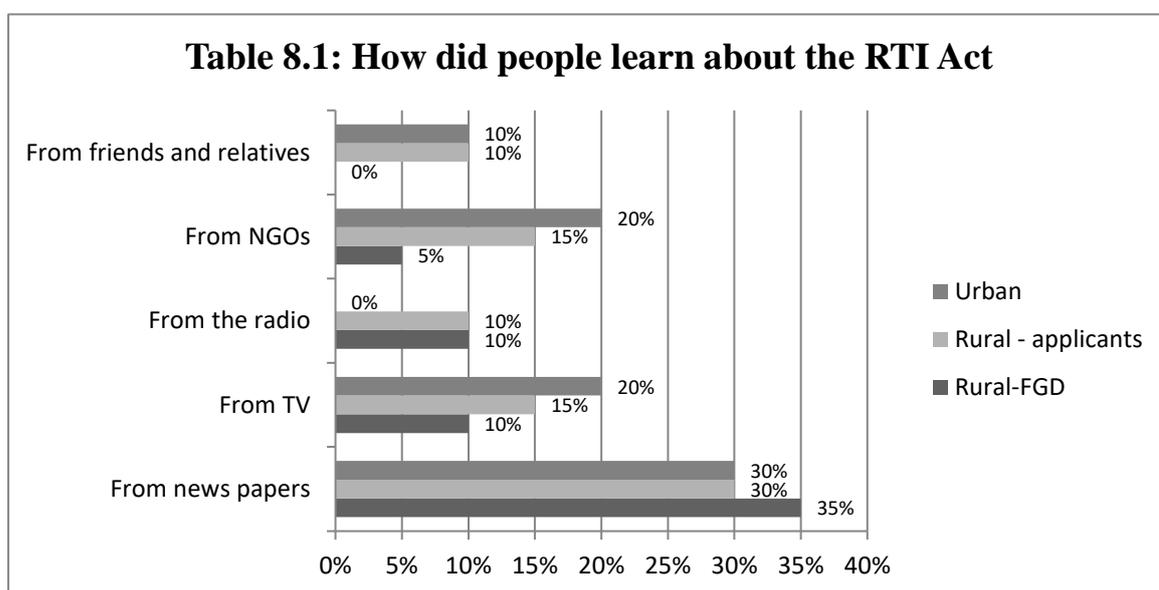
³¹ See question B6 of questionnaire VII, copy at annexure 7.

³² See question D1 of questionnaire I, copy at annexure 1.

Delhi (60%), and Jaipur (55%). The surprising stragglers were Hyderabad (15 %) and Gandhinagar (20%). However, in rural areas, both Andhra Pradesh and Maharashtra scored high, with over 50% of the FGDs having someone who knew about the RTI Act. Here Uttar Pradesh and Karnataka were the stragglers, with only 10%.

b. How Did They Learn About It?

The sources of information regarding the RTI Act, in terms of the percentage of people who learnt about the RTI Act through each, separately for urban, rural FGD and rural applicants, are depicted in Table 8.1 below.



Interestingly, there were different patterns in different states. In Maharashtra, nearly 60% of the respondents learnt about the Act from newspapers and another 10% from government officials. In Andhra Pradesh, on the other hand, over 60% of the respondents heard about the Act from NGOs and 35% read about it in news papers. In Gujarat, also, nearly 40% were informed by NGOs, and in Delhi it was mainly news papers (35%) and TV (30%).

Nearly 5% of the rural respondents stated that they had first heard about the RTI Act through their participation in this assessment!

8.4 DISCUSSION

It is difficult to properly understand the implication of the figures relating to levels of awareness about the RTI Act, unless one can compare

them to figures relating to level of awareness about other laws in India. However, such figures about other laws are hard to come by³³. Perhaps, given the fact that the RTI Act was only a little over three years old when this assessment was done, the levels of awareness emerging from this survey should not dishearten.

The surprise was the relatively poor showing of the electronic media versus the print media, given the extensive TV viewership in India, especially of Hindi and regional language channels (see Table 8.1).

A worrying aspect of this was that as the printed media was by and large accessible only to the literate, the preeminence of the printed media also suggested that awareness about the RTI was growing much faster among the literate classes than among the illiterate and semi literate, who could perhaps benefit more from the use of RTI Act. A more detailed discussion on the role of the printed media in relation to RTI is in chapter 19.

Another unfortunate finding was that the government was not a major force in raising public awareness about the RTI Act. Of course, the most extensively watched TV channel in India is the government's *Doordarshan*, which does carry at least one weekly programme, in Hindi, on RTI.

³³ The study done by PriceWater House Coopers for the DoPT, Government of India, seeks to collect information regarding the awareness of various laws. However, their final report does not appear to give their findings.

9. USE OF THE RTI ACT

9.1 SUMMARY OF KEY FINDINGS

- *An estimated 4 lakh (400,000) RTI applications were filed from the villages of India in the first two and a half years of the RTI Act.*
- *In the same period, an estimated 16 lakh (1.6 million) applications were filed in the urban areas, making a total of 20 lakh (2 million) applications in this period.*
- *The bulk of applications were filed by applicants in the age group of 25 to 54 years. However, in the urban areas 20% of the applicants were over 55, while the number was only 10% in the rural areas.*
- *90% of the rural applicants and 85% of the urban applicants were males.*
- *30% of the rural applicants were agriculturists and only 6% were government employees.*
- *20% of the urban applicants were in business, 15% employed by the private sector and another 15% were government employees.*
- *60% of the rural and 40% of the urban applicants were not even graduates.*
- *The proportion of scheduled caste or scheduled tribe applicants was similar to the proportion of their population in the country.*
- *30% of the rural applicants and 15% of the urban applicants were from below the poverty line/came from antyodaya families.*

9.2 BACKGROUND AND CONTEXT

In the ultimate analysis, being aware of the RTI Act and valuing the RTI do not amount to much unless the people actually exercise their right to information by using the Act. It is also important that the right sorts of people use it for the right sorts of things.

Not long after the RTI Act became operative, rumours started spreading that the Act was being mainly used by disgruntled officials to sort out service issues like postings, transfers, promotions and even disciplinary action. There was also a belief that the RTI was mainly being used in urban areas, and that also by well to do and educated people. Well known examples of mass mobilization of the poorest of the poor, around the RTI Act, as done by groups like MKSS, SNS and Parivartan, were seen as isolated happenings not representative of the national reality.

It, therefore, became important to try and scientifically determine the number of applications being filed, the profile of those filing the applications and the types of information being sought.

9.3 METHODOLOGY

Unfortunately, it was not possible to use a common methodology to assess the number of applicants in both rural and urban areas. Whereas, in the sample villages it was possible to track down almost all, if not all, of the applicants and interview them, given that their number per village would be very small, this was not possible in the urban areas, especially in state headquarters and in Delhi, where the numbers were very large and it was difficult not only to identify the applicants, but even after identification, to interview them all. Therefore, different methods, as described later, were used to estimate the number of rural and urban applicants.

Ordinarily it should have been easy to at least get the number of total applicants in a state each year, as this information is required, vide section 25(3)(a) of the RTI Act, to be submitted to the state information commission each year, for inclusion in the annual report to be submitted to the state assembly each year. However, most of the states in our sample had not submitted this information, and most of the ICs did not have up to date annual reports.

a. Rural Areas

The rural teams identified in each village the individuals who had filed one or more RTI applications, and they were enumerated and interviewed. As the villages were randomly selected, the number of applicants identified in the village sample could legitimately be used as a base figure for extrapolating the estimated total number of rural applicants. 240 randomly selected villages from 30 districts in 10 states formed the rural sample

b. Urban Areas

As enumeration of all applicants in the sample urban areas was not feasible, there being too many, therefore a ratio was developed between the number of second appeals filed (of which there was an accurate figure for most commissions) and the number of applications. This ratio was used to estimate the total number of

RTI applications (as a conservative estimate) filed across the country.

DETAILED FINDINGS

9.4 HOW MANY RTI APPLICATIONS HAVE BEEN FILED?

a. Rural users of the act

The rural research teams sought out and interviewed each of the individuals identified to have filed an RTI application in each of the 240 randomly selected villages. A total of 163 RTI applicants from these villages were found and interviewed, giving a density of .68 applicant per village. By extrapolation, given that there are 600,000 villages in India, there would be an estimated 407,500 applicants from the villages of India who filed RTI applications in the first two and a half years of the RTI Act. And it must be remembered that the 163 applicants interviewed were the minimum number, for there must have been others that the rural research teams could not identify or contact.

There were, not surprisingly, huge variations among states, with Assam and West Bengal recording only one applicant from their 24 villages. However, other indicators confirmed that the RTI Act had not really caught on in these two states.

Meghalaya recorded seven, and though the RTI movement seemed strong there, it is a small state in terms of population.

However, the surprising statistics were from Maharashtra and Gujarat, which recorded eight and three applicants respectively. Unlike Assam and Gujarat, these two states otherwise threw up evidence of intensive use of the RTI. This was especially true of Maharashtra, which is certainly the state with by far the largest number of second appeals and therefore, presumably, among the largest number of applications. Therefore, it is likely that there was serious underreporting for both Maharashtra and Gujarat. All the other sample states were between 21 (Uttar Pradesh) and 34 (Orissa and Andhra Pradesh).

b. Urban users of the act

Unfortunately, a methodology similar to the one used for rural areas (described above) could not be applied to estimate the

number of urban applicants. This was because, whereas in rural areas the field teams made an effort to interview all those whom they could identify as having filed an RTI application, this was not feasible in urban areas as the numbers were just too large. Besides, whereas in a village it was relatively easy to ask around and identify a large proportion, if not all, of the applicants, this was not the case in a large town or city.

Therefore, alternate, and perhaps less reliable, methods were used to estimate the total number of RTI applications filed in India, covering both the rural and urban areas, during the first two and a half years of the national RTI Act being in operation (October 13 2005 to March 31 2008).

Fortunately, by filing RTI applications and accessing other possible sources, we were able to get the figures of second appeals and complaints filed in the period for 20 of the 28 information commissions. Further, we were able to calculate for a few of the states and for the central government that appeals and complaints were roughly about five percent of the applications initially filed.

The 20 commissions for which we had data reported a total of 83,887 appeals and complaints. As among the missing commissions were at least six³⁴ which we knew had received a large number of complaints and appeals (though we did not know the exact number), we could safely take 100,000 as the figure of complaints and appeals for the period across the country. Using such back-of-the-envelope calculations we were able to estimate that the total number of RTI applications likely to have been filed in India were in the region of 2 million, give or take 10%. If of these 400,000 were from rural areas (as estimated earlier), then the total urban applications could be about 1.6 million.

Of course, all this is very rough and at best a reasoned guesstimate. For, not only can the ratio of applications to second appeals vary drastically from state to state, especially for those states for which information was not available, but it is possible that many more urban applicants take their application right up to second appeal,

³⁴ UP, Bihar, Tamil Nadu, Kerala, Orissa and Madhya Pradesh. Also missing were Sikkim and Jharkand.

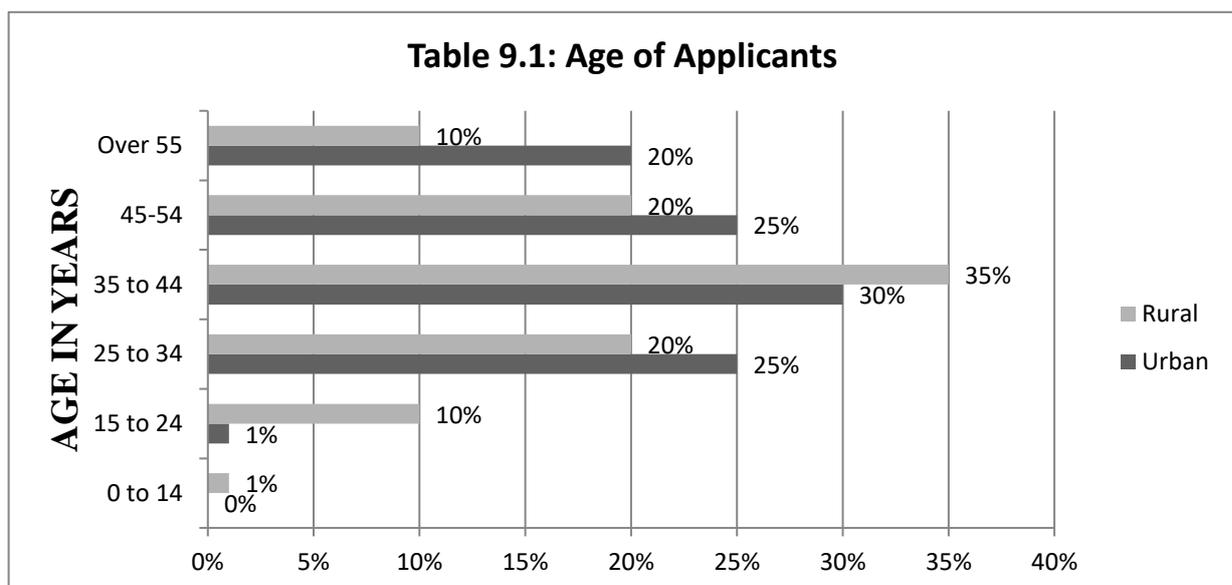
and that very few rural applicants do so. Therefore, these figures must be taken as very tentative and are being mentioned here partly to give some broad idea of the order of magnitude involved and partly to highlight the gaps in authentic information about the use of the RTI Act in India.

9.5 WHO IS FILING THESE APPLICATIONS?

a. Age of Applicants

35% of the rural applicants were in the age group of 35-44 years, with about 20% being between 25 to 34 years old, and 45 to 54 years old. One percent were below 14 years and about ten percent between 15 and 24 years and above 55 years.

Nearly 30% of the urban applicants were in the age group of 35-44 years, with about 25% being between 25 to 34 years old, and 45 to 54 years old. Over 20% were above 55 years and only one percent was between 15 and 24 years of age.



Clearly, urban applicants were by and large older than the rural ones, with there being many who were over 55 years of age - an age at which there were very few applicants in the rural areas. Perhaps this is partly a reflection of the rapid growth in literacy and education, especially in rural areas, so that the proportion of literates among the rural population who are over 55 is much smaller. This might also reflect the different levels of longevity in urban and rural areas.

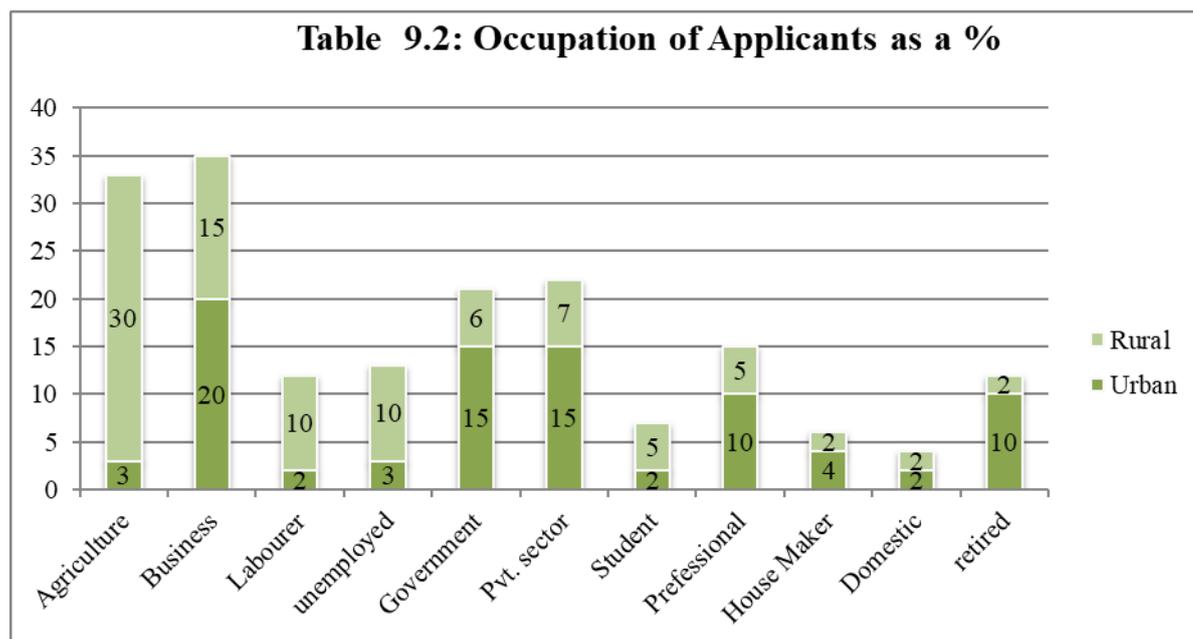
b. Gender

Disturbingly, over 90% of the *rural* applicants were males, Andhra Pradesh and Karnataka averaging 80% and Rajasthan a hundred percent!

Gender distribution in *urban* areas was almost as skewed as in the rural areas, with nearly 85% of the applicants being males. Delhi, Karnataka, Assam and Gujarat averaged 80%, Meghalaya 85%, and the rest 90% and more!

c. Occupation

Over 30% of the *rural* applicants worked in agricultural-related activities. About 15% owned their own business. Wage labourers and the unemployed were each 10% of the total. Government employees, private salaried workers, students, and professionals, each formed five percent of the total, and home makers, domestic workers and retired persons were each two percent of the total.



Nearly 20% of the *urban* applicants owned their own business or enterprise, another 15% were salaried workers in the private sector. Another nearly 15% worked with the government. 10% were professionals and another 10% were retired. Other categories included homemakers (4%), agriculture related work (3%), unemployed (3%), students (2%), domestic workers (2%), and wage labourers (1%).

As mentioned earlier, these statistics clearly disprove the myth that has been doing the rounds that most of the users of the RTI were government servants seeking information about their transfers and promotions. Only 6% of the rural applicants and 15% of the urban ones were government servants. And even among these it was not obvious that all of them, or even a large proportion of them, sought information about their service matters. Many of these government servants could well have been asking for information about mundane matters like water or electricity supply, or why the roads near their homes were not being repaired.

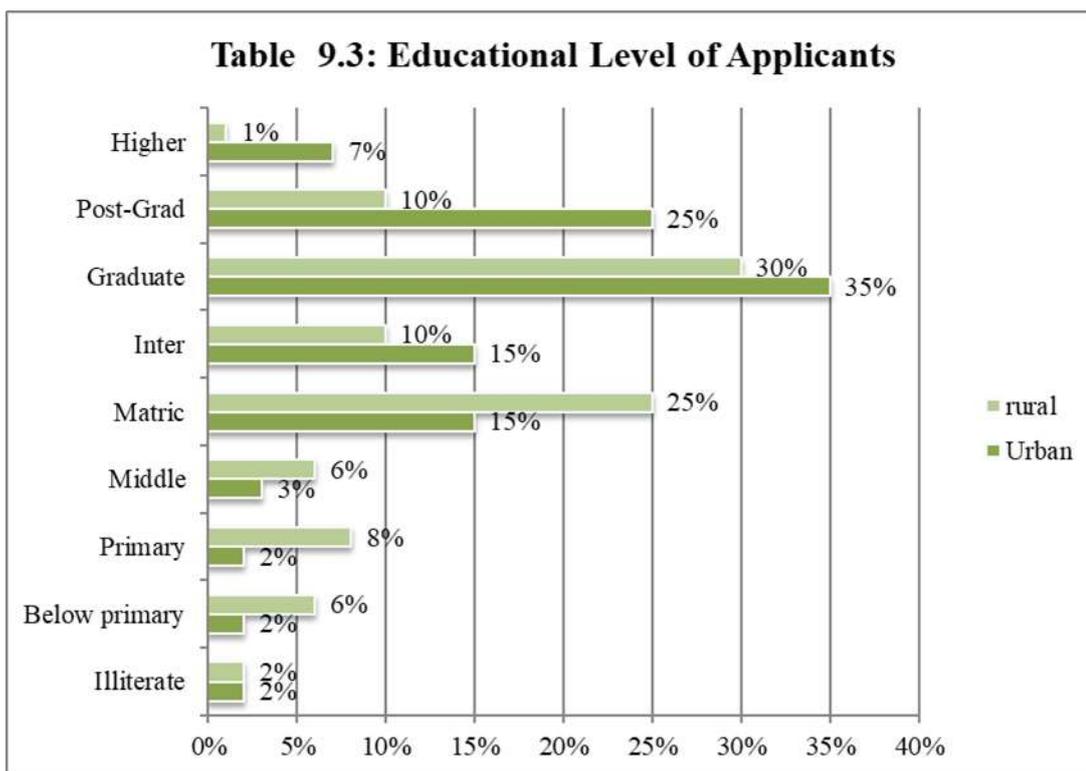
The other interesting bit of data concerned student applicants. A surprisingly small number of applicants were students. Even more surprising, the proportion of student applicants was higher in rural areas than in urban areas. Clearly much more has to be done to make our very large student community, especially in colleges and universities, more involved with the RTI regime.

d. Educational Qualifications

Two percent of the rural applicants were illiterate, one percent had studied beyond post graduation. Of the remaining, 30% were graduates, 25% were matriculates, those with post graduate degree, primary schooling and who had passed intermediate, were each 10% of the total. Five percent had only below primary school education.

35% were graduates or equivalent, nearly 25% were post graduates, nearly 15% were either intermediate pass without a college degree, or matriculates.

Two percent of the urban applicants also were illiterate, two percent having studied below primary school, two percent primary pass but "middle fail", and three percent middle pass but "matric fail. Over 5% had post professional degrees or higher research degrees.

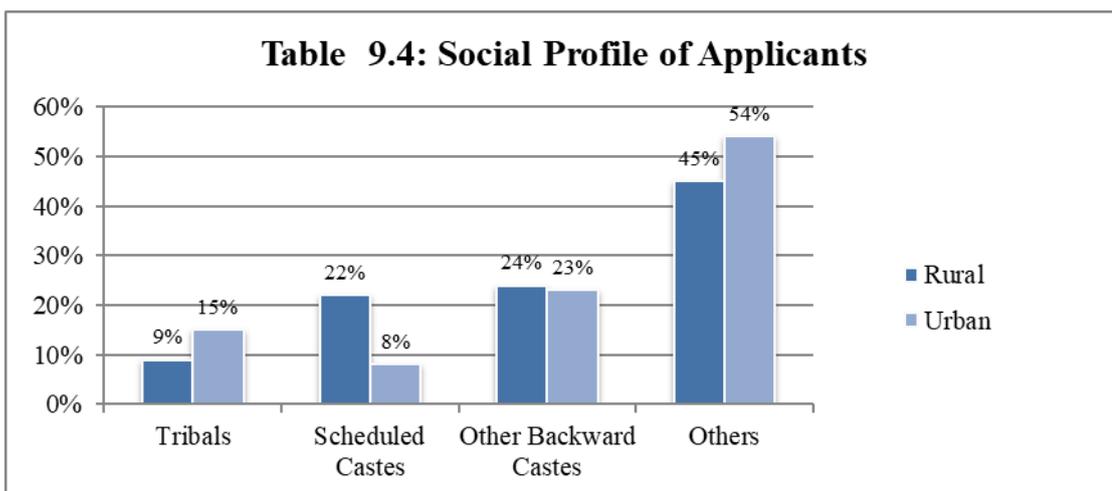


It is not surprising that educational levels had a direct correlation to the use of the RTI Act. The fact that the concentration, both in the rural and urban areas was around graduates is also understandable. However, clearly the effort should be to ensure that the process of filing RTI applications becomes easy enough for even the semi literate and the illiterate to successfully use it.

The earlier issue about levels of awareness and the fact that the printed media was the main source of awareness about the RTI also becomes relevant here, for it is not unreasonable to suppose that the better educated are more extensively using the RTI Act as they are more likely to be aware of it.

e. Social Profile

A little over 20% of the rural applicants in the sample were members of a scheduled caste (scheduled castes were 16.2% of the national population as per 2001 census). 8.5% of the applicants were members of a scheduled tribe (scheduled tribes were 8.2% of the national population as per 2001 census). Nearly 25% of the applicants were members of other backward classes, and the remaining nearly 45% were from the general category.



Nearly 10% of the *urban* applicants in the sample were members of a scheduled caste. 15% of the applicants were members of a scheduled tribe - perhaps because in Meghalaya nearly 90% of the applicants were tribals and in AP nearly 65%. Nearly 25% of the applicants were members of other backward classes, and the remaining over 50% were from the general category.

These statistics once again reiterate the point that the RTI Act is being used by people from all strata of society. However, as we have seen in 9.3 above, the one problem is that even among the weaker segments of the society it is the more educated who are using the Act. Also, as we saw in 9.5b above, most of those using it are men.

f. Economic Profile

Among the *rural* applicants, about 30% of the sample applicants belonged to the economic weaker class of society, having a below-poverty-line (BPL) or Antyodaya³⁵ ration card. Nearly 65% had above-poverty-line (APL) cards.

Over 20% of the applicants lived in *kuchha* dwellings (thatched huts without brick walls or permanent roofs). Another 20% lived in houses which were semi-permanent, where either the roof or the walls, not both, were made of permanent material and not thatch, grass, leaves and mud. The remaining 60% lived in *pucca* houses where both the roof and the walls were of permanent material (brick, mortar, cement, tile, tin, wood, ply, board, etc.).

³⁵ Poorest of the poor, or destitute.

Among the *urban* applicants, nearly 15% of the sample applicants belonged to the economic weaker class of society, having a below-poverty-line (BPL) or Antyodaya ration card. Nearly 85% had above-poverty-line (APL) cards.

About 25% of the applicants lived in a house/flat/bungalow with two bedrooms, kitchen and bathroom. Another 20% each lived in house/flat/bungalow with three or four rooms, or a house/flat with two *pukka* (permanent, solid) rooms with kitchen. Over 10% lived in house/flat/bungalow with four or more rooms. Nearly 10% lived in house/flat with two *pucca* rooms (without kitchen) and another 10% with one *pucca* room and a kitchen. Nearly 5% lived in one *pucca* room without a kitchen and two percent each in slums/*jhuggi jhopris*³⁶ or a mainly *kuchha* house³⁷.

All in all, users of the RTI Act were spread from the very poor, the illiterate, and the socially marginalized, to the rich, the highly educated and the dominant classes in society. In terms of proportions, the two regrettable imbalances were in terms of educational levels, where the minority of matriculates and above in India became a majority among applicants, and in terms of gender, where nearly 50% women had only a little over 10% presence among the applicants.

³⁶ Urban shanties, basic shelter

³⁷ House made of mud or other non-permanent material

10. RATE OF SUCCESS IN ACCESSING INFORMATION

- *Between 55% and 70% of the information asked for was provided to the applicant, the government claiming 70% and our experience being 55%*
- *Between 40% and 90% of the information provided was provided on time - our experience versus government data.*
- *In terms of providing the asked for information, the state of Meghalaya was the best, followed by the Central Government. Assam was the worst, followed by Karnataka.*
- *Only 9% of the first appeals filed were successful. Almost 80% were not even responded to.*

10.1 HOW OFTEN DO THE APPLICANTS GET INFORMATION?

This is perhaps the most critical question of all those sought to be answered through this assessment. For what really matters at the end of the day is how many of the applicants actually received the information they asked for.

*To determine the probability of receiving information through a request under the RTI Act, three independent methodologies and data sets were used. **First**, over 2000 applicants were interviewed and asked whether they had received the asked for information, and received it in full, and in time. This gave us the applicant's experience. **Second**, data regarding the disposal of over 25,000 RTI applications was accessed from nearly 500 PIOs across the country, using the RTI Act. This gave us the public authority's official version of how many applications were successful, and to what extent. **Third**, we tracked and monitored the nearly 500 identical RTI applications that we had filed as a part of this study, and this gave us our own statistics of how many applications are successful, to what extent, and how quickly. The added advantage of this method was that as we knew what information had been asked for and the 500 or so applications were identical, we were for the first time also able to judge which type of PA or state was performing better and which worse. This was not possible with the other methods as unless one knew all the details of what had been asked for, were all the procedures correctly followed, what reason had been given for rejection, etc., it was not possible to determine which of the rejections were justified or unjustified.*

a. The Applicants Experience: as Reported by Urban and Rural Applicants

Of the over 2000 applicants interviewed, 40% said they got full information, 35% said that they got part of the information, while 25% did not get any information. The break up among the urban and rural applicants showed variation in favour of urban applicants, with 45% of the urban applicants receiving full information as opposed to only 35% of the rural ones, and 30% of the urban applicants getting part information as opposed to only 25% of the rural ones.

If we consider the receipt of full information a full percent point and the receipt of part information as half a percent point, nationally we could say that from this data set it appears that there was a 57.5% success rate as far as receipt of information went. For urban applicants this was 60% while for rural ones it was 50%.

For urban applicants, using this method of weighting, Andhra Pradesh scored the highest with nearly 85% success rate, followed by Meghalaya, Orissa and Maharashtra with more than 75% success rate. Assam and Gujarat with a 45% success rate in the urban areas were at the bottom of the pile. The data with us was not robust enough to give a comparative state wise picture for rural applicants.

As far as whether the information was supplied in time (usually within 30 days), interestingly the record was far better in the rural areas than in the urban ones. While only 45% of those applicants who received information in the urban areas received it on time, the figure was 65% in the rural areas.

It must here be clarified that from the fact that an application was rejected, it does not follow that the information was wrongly denied for, in many cases, the information asked for could have been such that it was legitimately denied. However, among those applicants who did not receive information were those whose applications were not actually denied but who got no response at all and, therefore, they were victims of what the RTI Act describes as a "deemed refusal" (Section 7(2)). In all these cases the denial was prima facie illegitimate as no reasons were given for the denial, as no response

was sent. Actually 30% of the rural applicants and 20% of the urban applicants received no response to their application.

<i>Urban</i>			<i>Rural</i>		
<i>Activity</i>	<i>Number</i>	<i>Balance pending</i>	<i>Activity</i>	<i>Number</i>	<i>Balance pending</i>
<i>Filed</i>	100	100	<i>Filed</i>	100	100
<i>Received no response</i>	20	80	<i>Received no response</i>	30	70
<i>Received a response but denied information</i>	5	75	<i>Received a response but denied information</i>	10	60
<i>Receive some information</i>	30	45	<i>Receive some information</i>	25	35
<i>Received all the information</i>	45	0	<i>Received all the information</i>	35	0

To summarise the experience of the 2000 odd applicants who were interviewed, for every 100 applications filed:

Government's Experience: Success Rate of Applications as Reported by Public Information Officers (PIOs)

According to the information received from PIOs regarding the earlier mentioned 25,000 odd applications, they claimed that full information was furnished for 70% of the applications received and part information for 2 %, the remaining 28% either being refused or not responded to. By using the earlier method of weighting, for the country as a whole, public authorities claimed a success rate of 71%.

According to the PAs, only 1% of the applications were not responded to, though this low figure might be explained by the fact that most of those applications that were not responded might not find a mention in the official records. Thos would also affect the success rate figures.

As far as delays are concerned, the claim was that less than 10% of the applications for which information was sent were delayed beyond the prescribed time limit.

Though it was not possible to demarcate how many of these applications were filed in rural areas and how many in urban areas, the public authorities who were asked to provide this information (see chapter 6.2 for the list) were only at the national state and district headquarters level and, therefore, a large proportion of these applications would most likely have been filed in urban PAs.

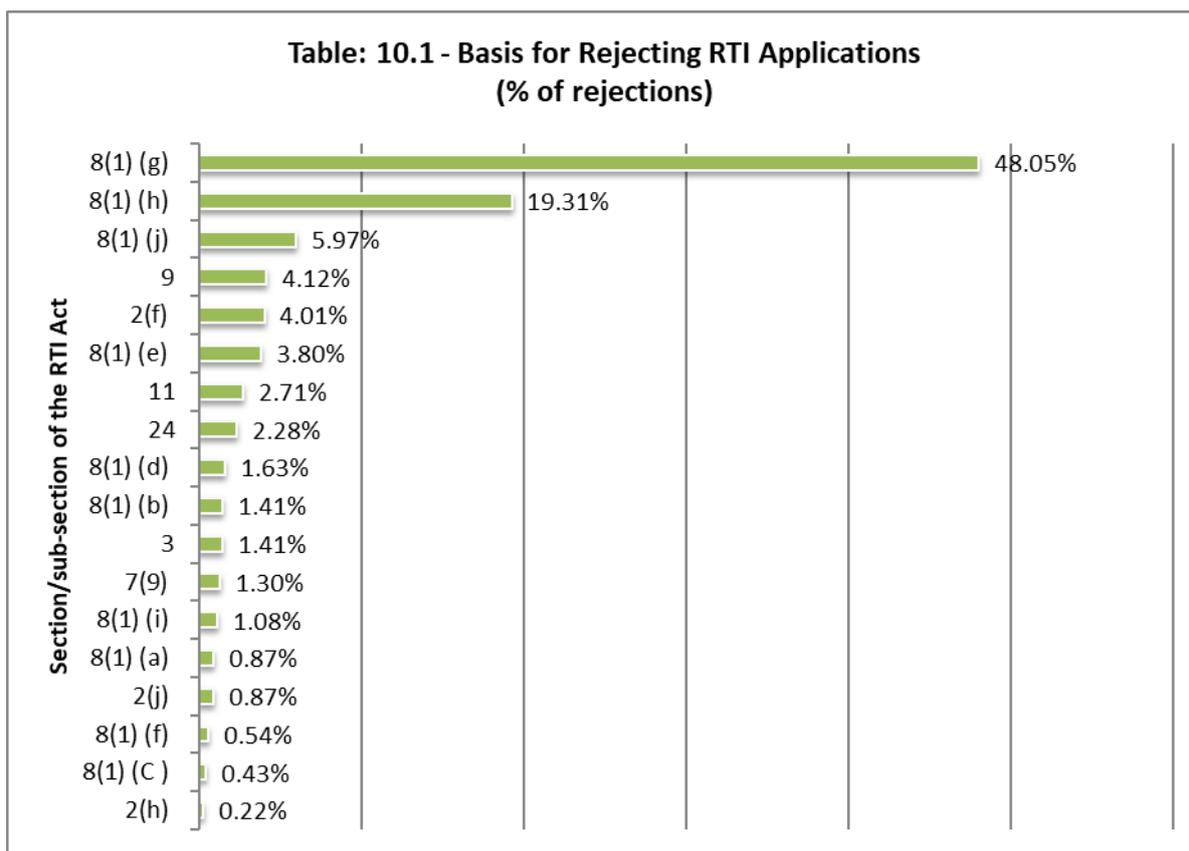
The sections and subsections of the RTI Act invoked to refuse information were reported for a little over 900 applications. As can be seen from Table 7.8b below, some sub-sections were clear favourites.

On the face of it, it might seem surprising that subsection 1g and 1h of section 8 of the RTI Act are the most quoted while denying information. However, it becomes more understandable when we see that an overwhelming majority (about 70%) of the RTI applications being reported about were filed with the police in various states. The two relevant sections are quoted below:

8(1)(g) "information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;"

8(1)(h) "information which would impede the process of investigation or apprehension or prosecution of offenders;"

In general, these two provisions have been used very liberally by public authorities. Despite the fact that the RTI Act squarely puts the onus of proof on the refuser of the information and there are many IC orders saying that it is not enough to just quote an exclusion, reasons must be given on why that exclusion is applicable to the information asked for, most often no such details are provided.



Specifically for 8(1)(g), often no arguments are given on how the disclosure a certain bit of information could endanger the life or physical safety of a person, nor is it kept in mind that only that information is excluded that is, first of all, given in confidence, and secondly, given for law enforcement or security purposes.

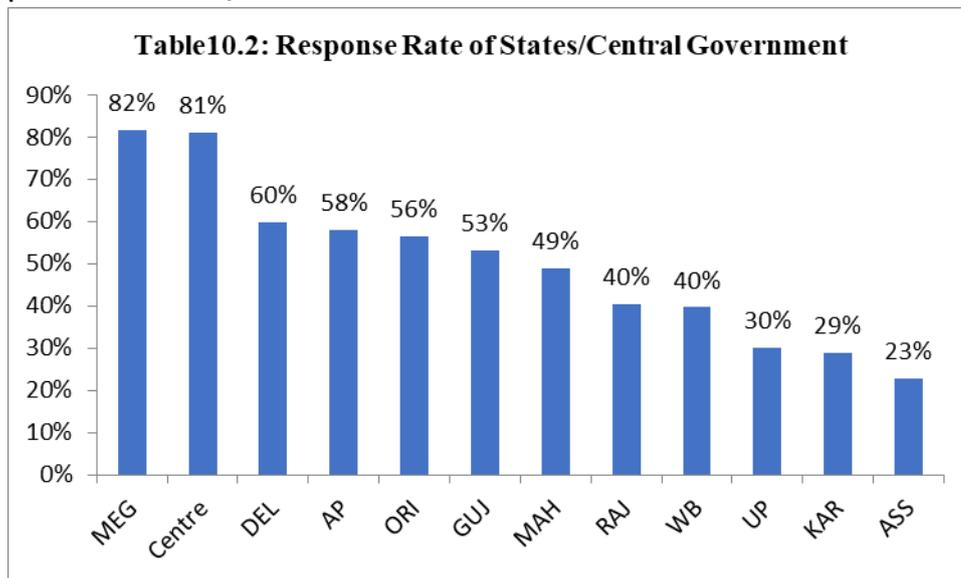
Section 8(1)(h) is even more liberally interpreted, with mostly all information relating to any investigation being denied. Even extra-legal grounds like it being sub-judice is given under this broad exception.

Another often misused clause is section 8(1)(j). This allows exclusion of:

“information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual....”.

There is a constant endeavour on the part of many public authorities to expand the definition of personal information to include all information concerning any civil servant. Also, any

information about any individual, whether it related to matter of public activity or interest, or not, is often denied under this clause.



b. Our Own Experience: Success Rate of RTI Applications Filed and Tracked as part of the Assessment

Our own 500 odd RTI applications filed as a part of this assessment, all to PAs in national, state or district headquarters, gave us full information 50% of the time and part information 10% of the time, giving a success rate of 55% by the formula described earlier. For 20% of our applications we received no response.

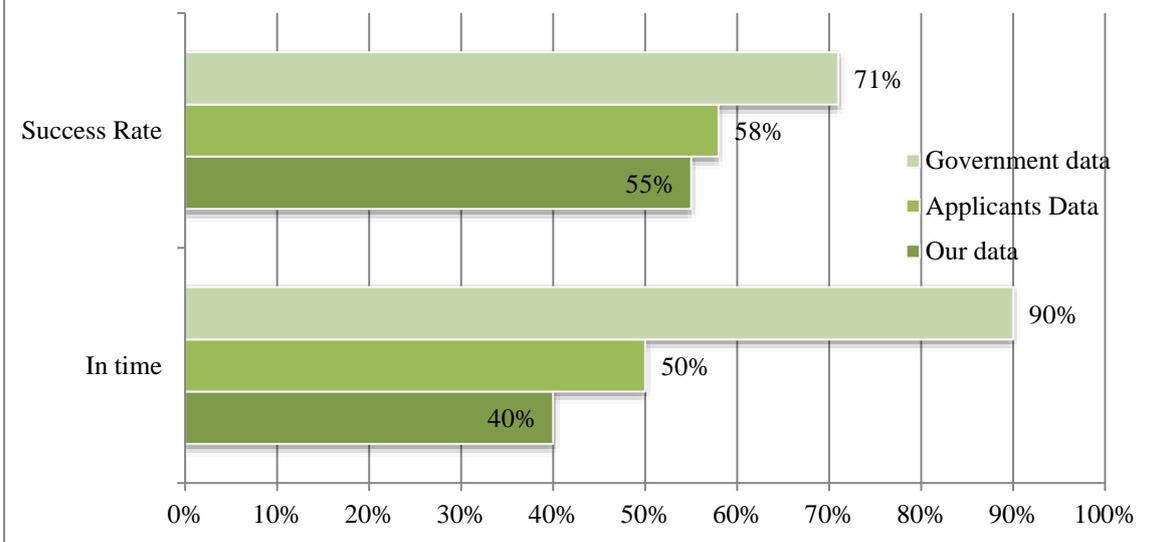
In 40% of the cases where information was provided, it was provided in time, and in the remaining 60% of the cases it was provided after the prescribed time limit.

State wise, Meghalaya was the best in providing information with a response rate of 82% (full point for complete information and half point for part information).

c. State and Public Authority Comparisons

If we put all these three sets of findings together, the picture that emerges is something like this.

Table 10.3: Success Rate of RTI Applications According to Different Sources



One advantage of our own data base was that we already knew what information had been asked for and were certain that none of it was exempt, as was proved again and again by various information commissions upholding our second appeals. Therefore, for the first time we could demonstrate both the extent to which legitimate applications were rejected (20%), not responded to (another 20%), or not fully answered (10%). We could also demonstrate the variety of approaches being adopted by different states, and within a state by different public authorities, and sometime within a public authority by the different PIOs.

Box 10.1

In its response rates to RTI applications, India does relatively well when compared with South Africa. In 2004, the Open Democracy Advice Center (ODAC) conducted a survey to monitor the functioning of the South Africa PIAIA. The survey was carried out over a six month period where 140 information requests were submitted to 18 public institutions. The response rate was dismal. For only 13% of the submitted requests for information resulted in information being furnished within the stipulated 30 day period. 63% of the requests were ignored or ‘deemed refusals’. Only 1% of the requests culminated in written refusals and 2% met with oral refusals.

We could also, with greater legitimacy, compare the performance of the various states and public authorities without having to worry about whether their performance was somehow being affected by the legitimacy or illegitimacy of the applications they were getting rather than their own willingness to abide by the law. Besides, we reckoned that our own questionnaire was of not a very easy one to answer, as it asked for data and photocopies of documents and so would have required some effort, but was not a very difficult one as it did not ask for any "sensitive" information which could expose vulnerabilities in the public authorities or be considered a prime candidate for one of the exemptions. Besides, the compiled data we had asked for was, in any case, mostly required to be compiled in any case by each public authority under section 25(3) of the RTI Act.

10.2 HOW USEFUL IS IT TO FILE A FIRST APPEAL?

The RTI Act provides for a first appeal to be filed with an officer superior to the PIO within the same public authority. The first appeal has to be filed within 30 days of either receiving a response from the PIO, or from the last day that the response should have been received, in case there was no response. The first appellate is given 45 days to respond to the first appeal.

Unfortunately, the RTI Act is somewhat weak as far as the first appellate goes and, apart from specifying that the PIO should invariably list in all replies the name and address of the PIO (something that most PIOs do not do), does not go on prescribe any penalties for the first appellate if he does not respond to the appeal, or does not respond in time. Perhaps this is the reason why there is such a low response rate from the first appellate.

Our experience was that for over 80% of the 213 first appeals we filed, there was no response from the first appellate and we either had to go for second appeal or abandon the case. Another 11% were rejected, and only 9% were allowed partly or wholly.

Considering the first appeal process needs at least two months, and you cannot file a second appeal till you have gone through the first appeal process, it is doubtful whether it is worth having a mandatory first appeal, or whether an applicant should have the option of going straight to the information commissioner, if he or she so chooses.

11. NATURE OF INFORMATION SOUGHT

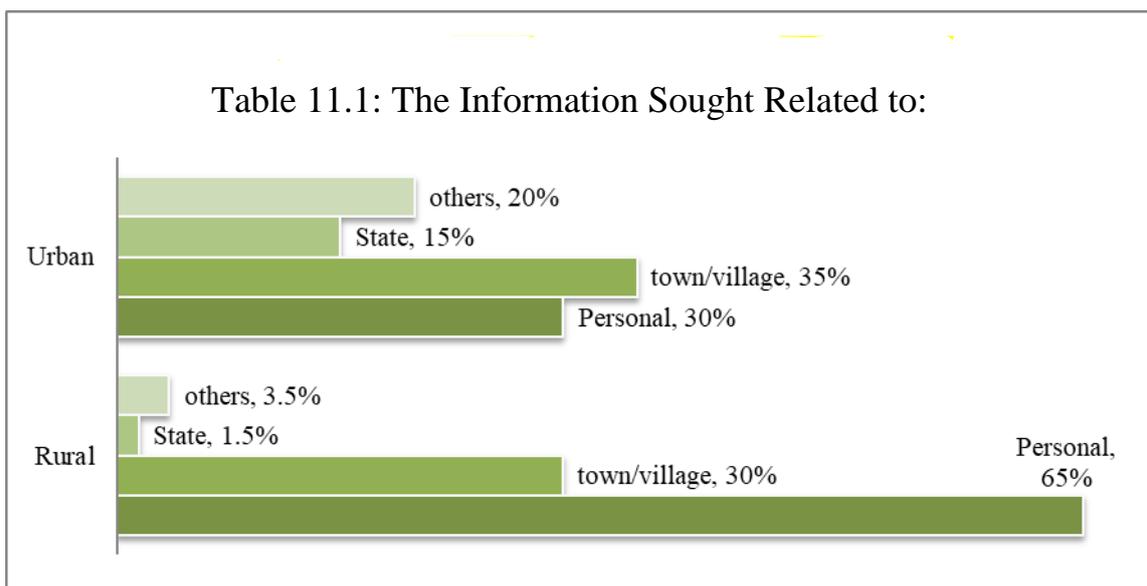
SUMMARY OF KEY FINDINGS

- 65% of the rural and 30% of the urban applications asked for information pertaining to the applicant and her family. The remaining was about the village, town, state, etc.
- 15% of the rural and 20% of the urban applicants stated that the objective of asking for information was fully met by just filing the RTI application.
- 40% of the rural and 60% of the urban applicants said that the objectives were fully met once they received the asked for information.
- 20% of the rural and 45% of the urban PIOs stated that changes had been made by them/their public authority in the RTI related office management systems.

DETAILED FINDINGS

11.1 WHAT IS THE NATURE OF THE INFORMATION BEING SOUGHT?

Among the rural applicants, over 20% of the applications were addressed to the Block Development Officer, another 10% were to the Tehsildar and the Gram Panchayat, and about 5% each to the education department, the forest department, the Collector, the health department and the public works department. In the urban areas, 15% of the applications were filed with the collector's office and the municipal authorities. 7% each were to the police and the panchayat departments, 6% to panchayat



and rural development department and 5% each to food and civil supplies, land and revenue, and social, women and child welfare departments.

When asked, over 65% of the rural applicants admitted that their RTI query related to information relevant to themselves or their families. In contrast, such queries were just over 30% of the urban sample. 35% of the urban queries related to the town and another 15% to the state and beyond. Another 20% dealt with a host of other issues. In rural areas, an additional 30% of the information was about the village and only 5% about other issues, including the state.

11.2 WHAT IMPACT IS THE RTI HAVING ON THE LIVES OF THE APPLICANTS?

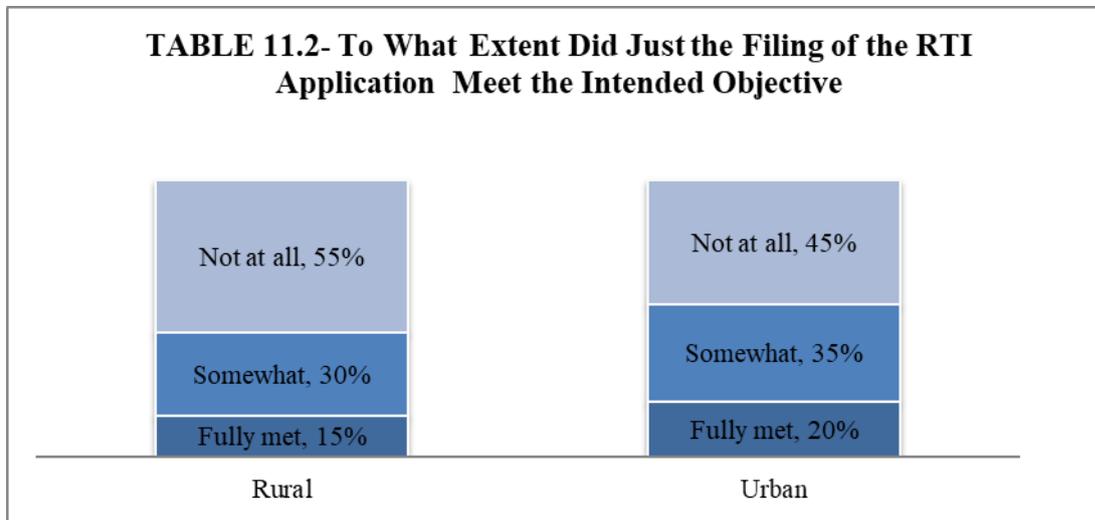
Given the fact that stories abound on how sometime the mere filing of an RTI application galvanizes the government into acting even before the information is supplied, we asked applicants to what extent did the filing of the RTI application itself cause something to happen. More than 15% of the rural applicants and nearly 20% of the urban applicants thought that just the filing of the RTI application had resulted in their purpose for filing the application being fully met. 30% of the rural and 35% of the urban applicants felt that the act of filing resulted somewhat in the purpose being met.

Given the complexity of the question and the fact that it was asked across the country in various languages, it is possible that at least some of those who answered in the affirmative might not have distinguished between the purpose being met just by filing the application, and it being met by their actually getting the information.

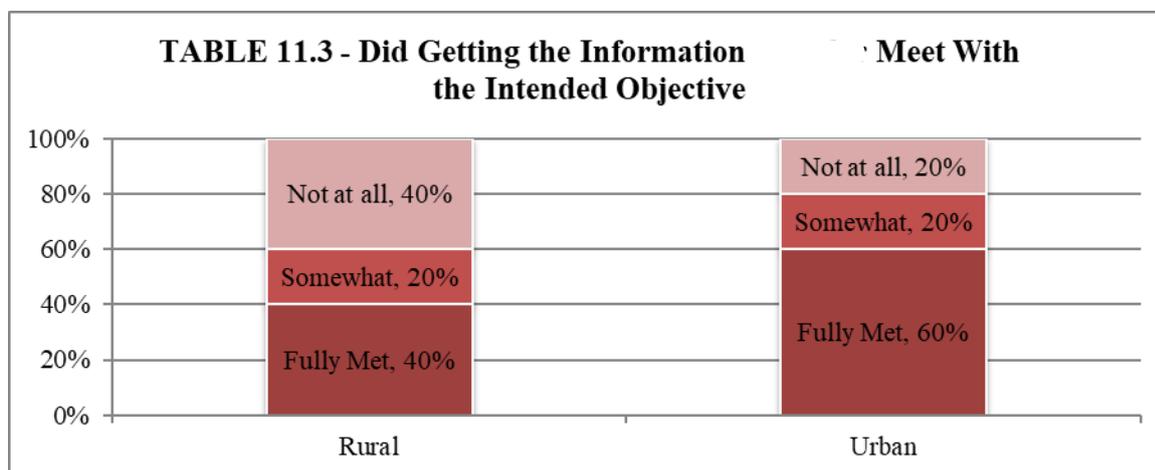
In a separate question, both urban and rural applicants were asked whether the getting of information had fulfilled the purpose for which they had asked the information. 40% of the rural and 60% of the urban applicants reported that the purpose was fully met. Another 20% each of the rural and urban applicants stated that the purpose was somewhat met, while the remaining rural and urban applicants felt that it was not met at all.

In response to another question - what are the positives about the RTI process, urban applicants who were interviewed as a part of this assessment prioritized as follows: results in greater transparency and accountability (35%), allows access to information (25%), exposes and reduces corruption (15%), empowers citizens (10%). Other positives that

were listed included getting legal/documentary evidence, greater awareness about government functioning/schemes, grievance redressal, improves administration/development, helps develop knowledge of rights, facilitates action against illegal activities.



To the same question, rural applicants put empowerment of the people on top of the list (45%). Another nearly 40% claimed that it exposed corruption and thereby made corrupt officials afraid. Nearly 10% of the applicants thought that it would bring greater transparency in governance and another 10% of the respondents thought that it would help the development process to speed up.



11.3 WHAT IMPACT IS THE RTI HAVING ON THE FUNCTIONING OF PUBLIC AUTHORITIES?

Incidentally, the impact of the RTI Act was not felt by individual applicants alone. The filing of RTI applications and the access of government information by the public has also had an impact on government functioning.

In a survey of PIOs across the country , they were asked whether their office had made any changes in the RTI related office management systems. Over 20% of the rural and 45% of the urban PIOs claimed that changes had been made in their offices. Over 60% of these changes pertained to improving record maintenance, but interestingly in 10% of the rural PAs and 25% of the urban PAs what had resulted were changes in procedures of functioning and decision making for maintaining records for RTI.

11.4 DISCUSSION

It must be kept in mind that many applicants have exaggerated and unrealistic expectations from the RTI Act. As can be seen from their responses, there is an expectation that the asking of information by itself would solve the problem, rather than just give the information that could be used to try and solve the problem. Sometimes these expectations are met, because the very filing of an application alerts the concerned officials to the possibility of the matter becoming public. On other occasions the RTI process brings matters to the notice of higher officials who might not have been aware of the problem. However, this is not usually the case and therefore the impact of the RTI Act should not be measured with such romantic standards.

Clearly, the real test for the efficacy (and even the desirability) of the RTI regime is its ability to finally make a difference. Towards this end, applicants and officials across the country were asked a series of questions to determine whether the use of the RTI Act had made a positive difference to their lives, or to the lives of those they were trying to help, or to the system of governance.

12. USE AND IMPACT OF THE RTI ACT

Case studies are another source of information regarding the impact that the filing of an RTI application has and the use that information can be put to. As a part of this assessment, hundreds of case studies have been compiled after sifting through thousands. The types of impacts they illustrate can be classified into at least ten types:

1. *Ensuring open information is actually open.*
2. *Preventing corruption.*
3. *Exposing corruption.*
4. *Curtailing wasteful public expenditure.*
5. *Exposing misuse of power and influence*
6. *Accessing justice.*
7. *Accessing entitlements.*
8. *Redressing grievances.*
9. *Supporting good officials.*
10. *Public empowerment.*

Among the 13,000 people interviewed in ten state headquarters and in Delhi, there was a lot of variation in responses. For Delhi-ites getting copies of official documents and certificates was by far the most important purpose (60%), while for the residents of Shillong it was among the least important (15%).

In Jaipur and Bangalore, removal of grievances was the response from over 30%, while Hyderabad straggled behind at a little over 5%.

In exposing corruption, Lucknow took the lead with nearly 40%, followed closely by Kolkata with over 35%. The straggler here was Delhi (less than 10%).

Mumbai led the pack in seeking information in order to question delay and inaction, with nearly 25%, while Kolkata, with a little over 5% did not evince much interest in this.

Shillong and Kolkata were the clear leaders in seeking information in order to fix accountability and responsibility for wrongdoing, with about 20% each, while Gandhinagar was clearly disinterested, with under 5% of the respondents mentioning this.

13. ACCESSING INFORMATION: ISSUES AND CONSTRAINTS

SUMMARY OF KEY FINDINGS

- *30% of the urban and rural applicants had to visit a PA more than once to file their applications. 10% of the rural and 4% of the urban applicants had to visit the PA four times or more.*
- *60% of the rural and 85% of the urban applicants had to pay the fee at a location other than where they deposited the application.*
- *40% of the rural and 15% of the urban applicants reported that they were harassed when they tried to file an RTI application.*
- *There are at least 88 sets of RTI rules in India and no one place where one can access all or even most of these. A majority are not available of the web.*
- *Different states and competent authorities prescribe different amounts of fee, different procedures and different requirements for filing an RTI.*
- *For non-web based proactive disclosures, rural PAs were better than urban ones. However, both were very poor. For web-based disclosures only urban PAs were assessed and their average compliance was well under 30%.*

BACKGROUND

The RTI Act prescribes very elaborate and comprehensive provisions to ensure that every citizen is able, if they so wish, to file an RTI application without too much cost or effort. Section 4 obliges every public authority to maintain, catalogue and index records in a manner that facilitates RTI; to *suo moto* publish many types of information (discussed in detail in Chapter 8.3), specifically to make public “the particulars of facilities available to citizens for obtaining information...” (Section 4(1)(b)(xv) of the RTI Act).

Section 5 requires the designation of public information officers (PIOs), who interface with the public and receive and process information requests and provide information, in each unit or office. It also requires that each public authority appoint an assistant public information officer (APIO) at each sub-divisional or other sub-district level, to receive applications and appeals and forward them to the PIO and the appellate authority. Section 6 lays down that if the information applied for is held, in part or whole, by another public authority, then the receiving PIO is obliged to transfer it to the concerned public authority. It also specifies

that the PIO is obliged to help people who cannot submit an application in writing, to reduce the oral request in writing. Section 6 also forbids any applicant from being asked for reasons for seeking the information or any other personal details except those required to contact the applicant.

Section 7 obliges the PIO to provide all appropriate assistance to the sensorily disabled applicants so that they can access information and even carry out inspections. This section also requires that the prescribed application fee be reasonable and that no fee be charged from those below the poverty line. It also specifies that if information is delayed then it has to be provided free of cost. Section 7 also prescribes that the PIO, while accepting, partly accepting, or rejecting an application will provide details relating to the possible appeal and contact of the appellate authority.

Section 20 prescribes penalties for wrongly refusing to accept an application.

DETAILED FINDINGS

13.1 HOW EASY IS IT TO FILE AN RTI APPLICATION?

a. Filing RTI Applications in Person

Around 2000 applicants were asked about their experience in filing RTI applications to assess how easy or difficult it was to draft an application and file it.

About 30% of the urban applicants were helped in drafting and/or in filing their applications, mostly in drafting. The figure for rural areas was 35%, again mostly in drafting. Over 35% of the rural applicants and nearly 40% of the urban applicants who were helped, were helped by NGOs. A close second, at over 30%, were private companies for urban applicants, but only 15% for rural applicants. These presumably were the service centres set up in some states to assist RTI applicants.

In rural areas friends and relatives (15%), government servants (10%) and local council members (10%) were the other significant helpers. Though friends and family, and council members, were important for urban applicants too (10% each), government servants were insignificant, with only 2% of the urban applicants acknowledging their assistance.

6% of the urban and nearly 15% of the rural applicants had made oral requests which were reduced to writing by PIOs in 60% of the rural and 70% of the urban cases. Interestingly, Karnataka had the highest number of oral requests, both in the rural and the urban areas, followed by Delhi in the urban areas and Andhra Pradesh in the rural areas.

Nearly 65% of the urban applicants and nearly 75% of the rural applicants went in person to file their RTI applications to the public authority. In urban Uttar Pradesh, only 25% went personally, while in Meghalaya over 90% went personally.

While 70% of both the urban and rural applicants had to visit the public authority only once to file their application, more than 10% of the rural and over 4% of the urban applicants had to go four times or more! Karnataka, at 2% of the applicants having to visit the PA four or more times, was the worst for urban areas, while Maharashtra, with 25% was the worst for rural areas.

Over 60% of the rural and 85% of the urban applicants had to go to pay the fees to an official or location other than the one that accepted the application. Nearly 20% of the rural and over 10% of the urban applicants responding stated that they had got a fee waiver because they were below the poverty line.

Box 13a: Threatening Applicants

Wokha district administration, in Nagaland, has reportedly ordered protection for a citizen from Pangti village in Wokha district who was reportedly threatened by Pangti village council for seeking information about the implementation of the National Rural Employment Guarantee Scheme (NREGS).

Earlier, newspapers had reported that the Nagaland Information Commission has directed the government to provide adequate security to the threatened applicant. The press had quoted the applicant as saying that the Pangti village council had grossly misused the scheme meant for the rural people. When he sought information about the status of the scheme, the council had reportedly threatened him and asked him to withdraw his application or face dire consequences.

CIC P Talitemjen Ao was also quoted as saying that the commission was taking serious view of the illegal obstruction by a legally constituted body (Pangti village council) in threatening information

Nearly 55% of the rural respondents and 50% of the urban respondents paid their fee in cash. The next most popular mode was postal orders, with over 20% of the rural and nearly 35% of the urban respondents opting for this. Nearly 10% of the rural and 5% of the urban applicants used judicial stamps, and nearly 15% of the rural and 5% of the urban applicants used treasury challans.

Over 40% of the rural respondents stated that the most important constraint they faced in exercising their right to information was harassment and threats from officials. This was, to a lesser extent, echoed by their urban compatriots, nearly 15% of who also quoted harassment from officials and uncooperative officials as the most important constraint. Andhra Pradesh, Assam and Orissa, with about 20%, reported the highest incidence of harassment in urban areas. Uttar Pradesh with nearly 60% reporting incidence was the worst for rural areas.

One consistent theme confronting our rural research teams was that in many of the villages across the country there was a threat perception among the villagers and they were hesitant to file RTI applications even when requested to by the research team. The issue of harassment and threat, even violence, was reported by our rural teams to be present just below the surface in most places.

Despite efforts, we were not able to pick up authentic information about how many people wanted to file applications but were unable to because of fear or the refusal of PIOs to accept the information. All we did manage to get was some feed-back from about a hundred of the local villagers who filed applications with village PIOs at our behest. Nearly 30% of them reported that they were discouraged by the PIO from filing the application. UP was the worst state in this regards, with over 60% reporting this, closely followed by Assam.

A major problem in implementing section 20(1) of the RTI Act which prescribes penalties for refusal to accept an RTI application is that such a charge is very difficult to prove. Short of launching a "sting" operation where the PIO is caught on camera refusing the application, it usually boils down to the PIOs word against the applicants. In many cases this problem can be got around by sending the application by speed post or registered post with an

“acknowledgement due” (AD) card. However, our experience has been that less than 60% of the AD cards actually come back. Besides, this involves delay and additional expense. Also, where only cash or treasury challans are accepted as modes of payment for application fee, this becomes a complicated process, as discussed later. Besides, there is nothing to stop PIOs from accepting the envelope and then claiming that it contained no application or no fee. We have had some experience of this also.

Where complaints are filed with information commissions about the refusal of PIOs to accept applications, the information commissions usually do not have the staff and the wherewithal to get the matter investigated if the PIO denies the charge. Therefore, the issue rarely gets resolved satisfactorily.

b. Filing RTI Applications through the Post

Over 25% of the rural and 35% of the urban applicants did not file their applications in person by visiting the public authority. They used other means, with 85% of both the rural and the urban applicants using the post, nearly 15% of both sending through a third party, and nearly 2% of the urban applicants sending it by email.

There could be many reasons why applicants cannot or do not want to personally deliver their application to the PA. It could be a shortage of time or the fact that the applicant lives far away, perhaps even in a different town or state, from where the PA is located. Some field teams also reported that in some states the applicants interviewed stated that they preferred not to go personally to deliver their RTI application as they were apprehensive of harassment and even violence at the hands of officials and other vested interests!

To check out how easy or difficult it was to apply for information by post, considering such a significant percent of the public use this method to file their applications, over 600 RTI applications were filed by post, as a part of this study, with PIOs and public authorities across the country. It was also necessary to send RTI applications by post because the study involved seeking information from PAs located outside Delhi, sometimes in very far off places. Described

below are some of the trials and tribulations of filing applications and pursuing them through the post, and across the country.

The RTI law provides equal rights to a citizen of India to access information from any public authority in India, irrespective of where the citizen resides and where the public authority is located. However, our rules and procedures are not designed to make this easy. Mercifully, most of the RTI applications filed in the country, especially at the state, district and sub-district level, are from within the state and so might not face the difficulties that an applicant from out of state faces.

c. Addresses of PIOs

*The first challenge was to find the name, designation and address of the PIOs, especially at the district level. Despite searching the web, looking up available documents, ringing up state governments and even visiting the state houses in Delhi of each of the sample states, we were by and large not able to get the addresses of most of the district level PAs. In one of these state houses, or *bhawans*, as they are known, an exasperated "Liaison Officer" suggested to us that we send the applications for the district public authorities care of the collector (DM/DC) of each district, and the collector's office can forward them to the respective PIOs. As we had no other option, we adopted this strategy with reasonable levels of success.*

In most states a large proportion of our applications were delivered to the district level PIOs by the collector's office, sometimes with a copy to us so that we, for the first time, got the contact details of the PIO.

Unfortunately, this did not work in West Bengal, where the postal department tenaciously returned each one of our RTI applications, clearly marked to the Public Information Officer, c/o The Collector, District such and such, with the notation that no such officer existed on his/her beat! Finally, we had to send the applications for the West Bengal district PAs to the relevant department heads in the state government and request them to forward these to the relevant PIOs. How many of them actually reached the PIOs is not clear for we received less than 50% response from district level PIOs in West Bengal.

d. Differing Rules

But even before this, we had to tackle the problem of determining what was the application fee in different states, in what way could this fee be paid, and whether any of the states prescribed a form and special documents for submitting applications. One of the less laudable sections in the RTI Act is the one which gives each state, and within each state the High Court and the Legislative Assembly, the freedom to formulate their own rules and prescribe their own fees and their own procedures and requirements.

As there are 27 states where the RTI Act applies, each of which have a Legislative Assembly, and most of which have an exclusive High Court, plus there is the High Court of Delhi, the Supreme Court, the two houses of Parliament, and the Central Government, each of which are entitled to formulate their own rules, any person who needs to apply for information across the country has to acquire copies of at least 88 sets of rules. There is no one site where even a small proportion of these are available together and, in fact, many of them are not in the public domain at all.

As we also had to analyse, as a part of our assessment, the RTI rules of different governments and competent authorities (for the analysis please see section 8.3), we had no option but to try and get copies of all these rules. We then got into a very interesting catch 22 situation where the only practical way of getting these rules was by filing RTI applications asking for these rules. But as we did not know the rules and did not have a copy, we did not know what was required, in terms of fee and procedures, to file such an application!

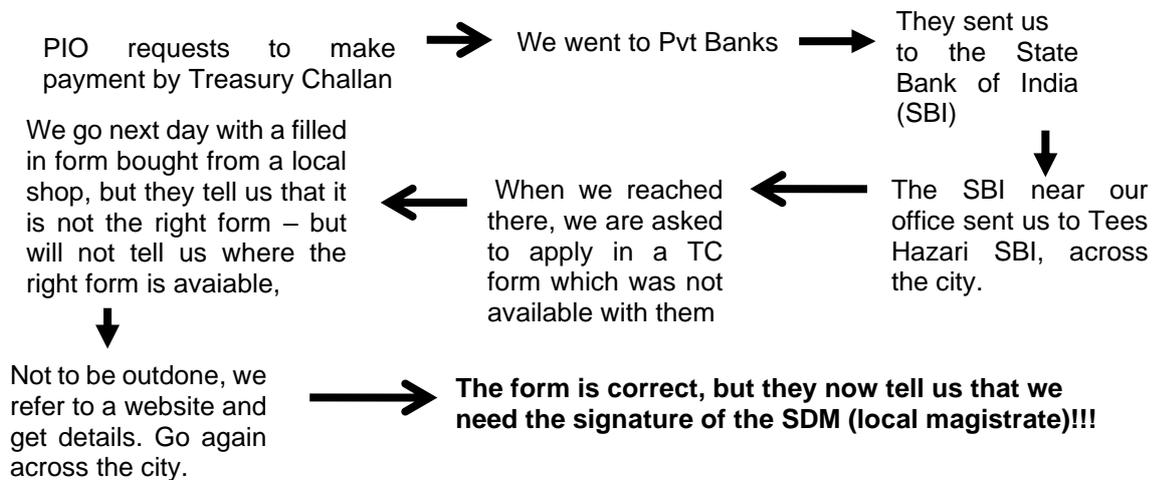
We finally decided to go ahead and file applications with the various competent authorities asking for a copy of their rules. As the Central Government rules were most widely (though not universally) adopted by states and various competent authorities, we filed these applications in accordance with the Central Government rules. For the most part this resulted in our getting back rejection letters where the concerned authority had helpfully told us why our application was being rejected (fee is Rs. 20 but you sent only Rs. 10, postal orders are not accepted, only court fee stamps are permitted, etc.). This allowed us to send an amended

application that was in accordance with the rules. However, we will forever fondly remember one PIO from a Legislative Assembly who sent us a stern letter admonishing us because our RTI application asking for their rules did not conform to their rules. He then proceeded to enclose a copy of their rules saying that we should study them and then file a fresh application, this time in the proper format, asking for a copy of the rules!

Having by hook or crook gathered together most or all of the rules we required, the next challenge was to ensure that our RTI applications were in conformity with them. Ordinarily, there are five ways in which the application fee can be remitted to a PIO. It can be sent by cash, by a bank draft, by a postal order, by court fee stamp, and by a treasury challan (a type of receipt). Unfortunately, the decision on which one or more of these would be an acceptable mode of payment was left to each of the earlier described 72 “appropriate governments” and “competent authorities”. In keeping with the famed cultural diversity of India, each of these governments and authorities chose a different combination.

One state specified that you can pay either by cash or by treasury challan, nothing else. We, accordingly, sent a money order to the PIO, but this was returned and when we rang up the PIO he informed us that a money order - though the end result was cash - was not an accepted mode. By then, we were ready with three or four applications which offered only these two options. So we decided to try our luck at getting a treasury challan made. The process that we followed is described below.

The complicated payment process: Treasury Challans: A saga



Four days are wasted and we give up on treasury challans.

We then decide that we will send the money, as it is not a large amount, in cash by post. We duly put a ten rupee note inside our RTI application, sealed it in an envelope and posted it to the PIO. However, this it turned out was illegal and one PIO sent us back the ten rupee note - by post if you please - with a stern note that sending currency notes by post was illegal!

We finally succumbed and adopted a non-replicable process of asking friends and contacts in the concerned state to go personally and deposit the fee on our behalf.

The problem was somewhat easier where bank drafts were accepted, but here also confusion existed about whom they should be payable to. Many rules, like the ones of the Central Government, specify that the bank draft should be payable to the accounts officer of the public authority. However, we learned to our dismay that many PAs did not have accounts officers, and many accounts officers did not have bank accounts, neither did most PIOs. In one case (from Kerala IC) the PIO sent back a draft because it was crossed - he wanted an uncrossed bank draft - but no reason was given why.

To make a long story shorter, we had endless problems in paying application fee to about 10% of the public authorities in our sample. However, just when we had finally managed to meet with every ones requirement and get our applications accepted, we started receiving requisitions for the additional fee payable for photocopying the documents we had asked for. So far so good - as

we had finally learnt in what form each of the PAs wanted their fee paid. However, we discovered to our horror that the rules for paying application fee were not necessarily applicable for paying additional fee, and the whole process started all over again.

It was not just the mode of payment, even the amounts differed, both for the application fee and for the per page charge of photocopying as additional fee (see section 8.3 for details).

Even more vexatious, whereas most states and competent authorities accepted applications on plain paper, some demanded that they be submitted on specified forms otherwise they would be rejected. In fact, Orissa even demands proof of citizenship - which seems a violation of section 6(2) of the RTI Act. In short, many of our applications were initially returned and had to be refiled, sometimes more than once.

e. The Language Problem

Though all our applications were invariably written in English, as the replies started coming in we discovered that from many states even the correspondence was in their state language. This particularly became a problem for responses from Gujarat, Maharashtra, Orissa, Andhra Pradesh and Karnataka. Whereas one could understand that at a sub-district level there might not be anyone who could respond in English or Hindi, our applications were only to district and state level PAs. Also, as our application was in English and it is unlikely that it was centrally translated and then sent to the district, there must have been someone there who could read English. In some cases the address would be neatly typed or written in English both on the envelope and in the letter, but the rest of the letter would be in a local language.

Despite the fact that we wrote to all these PIOs drawing their attention to section 4(4) of the RTI Act which states that "All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area..." , and also reminded them that the local language in Delhi was English or Hindi, we continued to get all correspondence in regional languages and a lot of time and money had to be spent in getting each letter translated. This also sometime resulted in our response getting

delayed. Many PIOs, mostly illegally, specified in their letter to us asking for additional fee that if we did not remit the fee asked for within 15 days then our application would be rejected. Therefore, by the time the letter was translated and we realized that they had asked for the additional fee, it was too late to remit it.

f. Invoking Section 6(3) in Vain

Another major problem was that many PIOs “transferred” our RTI application to other PIOs within the same public authority, often explicitly invoking section 6(3). However, Section 6(3) states that:

“Where an application is made to a public authority requesting for an information, –

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application

or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.”

From the above it is clear that section 6(3) only refers to transfer of an application to another PA and not to one or more PIOs in the same PA. In fact, if the information asked for by an applicant is partly or wholly not within the custody or control of the PIO receiving the application but is available with some other officer in that public authority, the correct section to invoke would be sub-section 4 and 5 of section 5, which states that:

“(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

“(5) Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the

purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.”

Therefore, what the PIO should have done was sent a copy of the RTI application to the officers who had the required information and asked them to send this information to the PIUO so that he/she could forward it to the applicant within the prescribed time limit.

Unfortunately, by wrongly transferring our application to sometimes more than 20 PIOs, and asking these PIOs to directly deal with the applicant, suddenly the number of applications we had to handle, along with first and second appeals, doubled in number from what we had planned for. As sometimes we were not even informed as to whom our application had been transferred to, we did not even know who all were supposed to send us separate bits of the information we had asked for.

13.2 HOW EASY IS IT TO FILE A FIRST APPEAL?

The next set of problems confronted us when we had to file first appeals against either part or whole denials or against non-response to our application, which made it a deemed refusal under the law. Though sections 7(3)(b) and 7(8)(iii) of the RTI Act make it mandatory for the PIO to inform the applicant the details of the appellate authority, very few of the PIOs actually follow this section. As a result, we found that for a large number of rejections there was no information about the first appellate authority. Also, for a deemed refusal there was no rejection letter and therefore no details of the appellate authority.

It is perhaps a lacunae in the RTI Act that it is not obligatory on the part of the public authority to proactively make public the details of the first appellate authority, as it is of the PIO. Perhaps because of this, we found it even more difficult to get the addresses of the first appellate authorities, than we had initially of PIOs. In many cases we had to send our first appeal to the Principal Secretary to the state government looking after that department and ask him or her to forward it to the first appellate. On many occasions they did, but sometimes we heard nothing further and had finally to go for a second appeal.

Another problem with the first appeal process was that whereas most states did not prescribe a fee at this stage, nor a form, some states prescribed

both. Therefore, we still had to ensure that we were up to date with the rules of all states, for these also kept changing from time to time.

Finally, many first appellate authorities decided to conduct a hearing and ask us to be represented there. Though having a hearing is a good thing in itself, most often the notice came at the last moment and was often in a regional language so that by the time we had it translated it was too late to attend, or even to inform them that we were not attending. Unfortunately, despite it not being mandatory for the appellant to attend either the first or the second appeal hearing, many first appellate authorities would not hold the hearing and fix a new date. However, even for this rescheduled hearing the notice would arrive late and the whole cycle would repeat itself. This inordinately delayed decisions.

14. PUBLIC PERCEPTION OF THE RTI

14.1 WHAT ARE THE PERCEPTIONS OF THE PEOPLE ABOUT RTI?

The rural and urban applicants interviewed as a part of this assessment were also asked about their perceptions relating to the RTI, especially what was wrong and right with it, and what further should be done. Given below are their responses.

a. Rural Applicants

The most common suggestion for improvement from the rural areas was that people's awareness should be enhanced (30%). This was followed by the demand that punitive powers under the Act should be enhanced (20%), that the 30 days period for providing information should be shortened (10%) and that there should be more training (5%). Other suggestions from rural applicants included the shortening of the 30 day time period, the setting up of a citizen forum to ensure compliance with the law, improvement in record keeping, the complaint mechanism should have public oversight, organizational infrastructure should be enhanced, and there should be proper signage.

b. Urban Applicants

From the urban areas, the most popular demand was for raising awareness (35%), followed by enhancement of penalties (20%) and shorten time limit for providing information (15%). Some of the other suggestions from the urban applicants included better use of technology, decentralization of information commissioners, improving communications between applicants and PIO, improving information delivery mechanisms, improving signage, increasing staff, giving information in local languages, information commissioners should play a pro-active role, there should be quick disposal of appeals by information commissioners, fee should be reduced, fee procedures should be simplified, all procedures should be simplified, *suo moto* disclosures should be strengthened, PIOs should not be a part of the public authority, training should be strengthened, and the law should be strengthened.

15. PUBLIC AUTHORITIES

SUMMARY OF KEY FINDINGS

- *For non-web-based proactive disclosures, rural PAs were better than urban ones. However, both were very poor.*
- *For web based disclosures only urban PAs were assessed and their average compliance was well under 30%.*

BACKGROUND

Section 4 of the RTI Act, especially sub-section 1, lists various categories of information that should be proactively or *suo moto* be available to the public and should not require the filing of any RTI application. In many senses this is perhaps the most important part of the RTI legislation, and certainly seems to reflect the future directions that the transparency regime in India must take.

There are many advantages to an increasing amount of information being made available proactively, and this is the one area in which advances in modern technology, especially the ability to digitize data, to paste it on the website and to access it through personal computers and through cell phones, has significantly opened up possibilities that were not available earlier.

The proactive disclosure of information saves the public authority from having to deal with an increasing load of applications and the attendant risks and vulnerabilities involved. It saves the PAs time and effort and also creates a good impression among the public who generally believe that agencies that are willing to put more and more information in the public domain without being asked, must be having less to hide.

One "misuse" of the RTI Act that is often discussed, though there is almost no empirical evidence that this actually happens, is the possibility of blackmailing officials by using the RTI Act to access sensitive information about them and then threatening to make it public. However, if most or all of the information that can be accessed by a citizen is already available proactively to every one, then it would become impossible to use such information to blackmail anyone.

For the public, it saves them the time, the cost and the bother of filing and pursuing applications. It also gives a certain permanence to the information, for once it is put into the public domain it cannot easily be changed on a later date to suit someone's interests. But perhaps, most

significantly, in an environment where even the asking of information can be a dangerous enterprise for the common citizen, especially for the poor and the disempowered, being able to access the required information without having to specifically ask for it provides great protection.

Where the information being asked for potentially threatens powerful vested interests, the applicants are often threatened and browbeaten into not pursuing their applications. In many cases a fear phobia is created where people are afraid to ask for information lest they expose themselves to discrimination or violence (see chapter 7.5a above). Even government agencies have been accused of using threats to discourage applicants from seeking sensitive information that might embarrass them. However, if such information becomes proactively available, it allows the concerned individuals to access it without being identified and targeted.

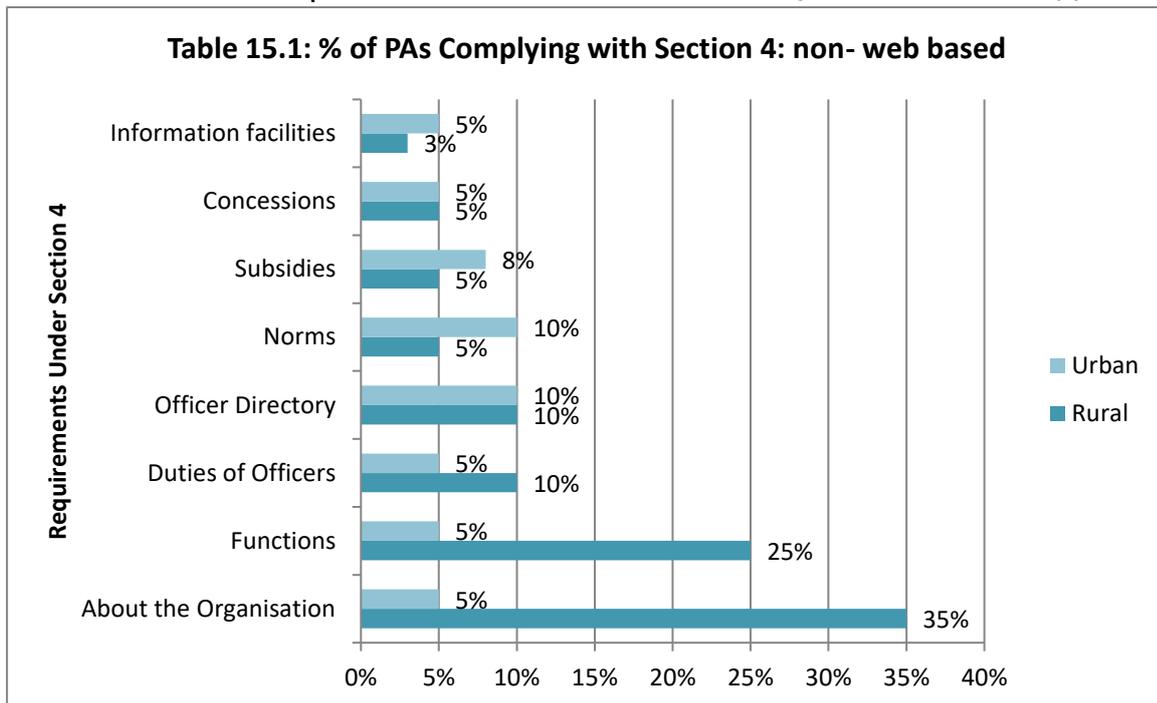
Universal proactive disclosure also promotes a culture of transparency, for everyone knows that there is no probability that any information will not be made public. It, therefore, ensures that the functioning of government is in accordance with norms and principles that are acceptable to the public. This can be the only way forward, for if a billion plus Indians were forced to file RTI applications each month in order to ensure access to even their most fundamental rights, then the whole system would sooner or later collapse. The only way transparency can work progressively over the medium to long term is if the certainty that all information will become public becomes a deterrent for apathy, inefficiency, laziness and wrongdoing in governance.

Keeping in mind the crucial importance of proactive disclosures, the People's RTI Assessment 2008 conducted a holistic audit of Section 4 compliance across the country. This included both a 'physical' and an 'electronic' audit. In the former, we checked for Section 4 reporting on the walls, signboards, and notice-boards of over 1,000 sample rural and urban public authorities; and in the latter we did the same on the websites of close to 100 state, district, and central level PAs. In addition, we filed RTI applications with 50 sample state and Central Government PAs requesting copies of their section 4 manuals and publications.

Detailed Findings

15.1 HOW EXTENSIVELY ARE REQUIREMENTS FOR SUO MOTO (PRO-ACTIVE) DISCLOSURE COMPLIED WITH IN THE OFFICE PREMISES OF PUBLIC AUTHORITIES?

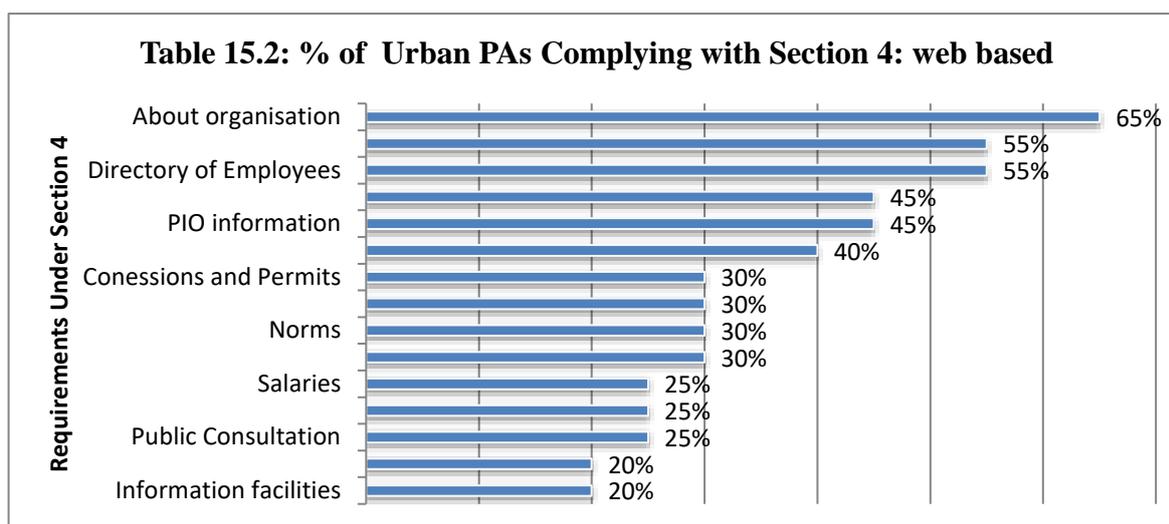
65% of sample village and district PAs, and 95% of Central and state PAs, still report no section 4 information at all on their premises/notice boards. Moreover, while rural PAs differ greatly with respect to the Section 4 items they choose to report, urban PAs typically post just the name of the department and some PIO/ FAA information. Presumably urban PAs contain more information on their websites (discussed later), but that



does not absolve them of their responsibility to make this information accessible to the majority of the country which does not have access to the web.

15.2 How Extensively are Requirements for Suo Moto (Pro-active) Disclosure Complied With in the Websites of (Urban) Public Authorities?

As Table 15.2 shows, state, central, and district PAs report far more section 4 information on their websites than on their wall. On average, 30% of sample urban PAs report some section 4 items on their websites, with over 60% reporting organization-related information. The electronic reporting of all other items is also markedly higher than their physical reporting. The difference is particularly marked in the case of subsidies, directory of employees, and decision-making processes.



However, it must be pointed out that, on average, 70% of PAs still do not report over half of the required section 4 items. Leading among these are budgets; permits, concessions, and authorisations; and the basis for major policy and quasi-administrative and judicial decisions.

Other important findings of the website survey were:

a. Outdated information

Almost without exception, Section 4 information is out of date. In many cases, budget, expenditure, and programme/project data is not even dated, making it unusable. Not one sample PA, moreover, reported the date of its last update, or how frequently data is supposed to be updated.

b. No reporting on Section 4.1. c and Section 4.1. d

Although Section 4.1.c and d of the Right to Information Act require all PAs to proactively inform the public imminent policy and other decisions, and to proactively provide a basis for its administrative or quasi-judicial decisions, virtually no sample PAs has explained the basis upon which it took important decisions.

16. PUBLIC INFORMATION OFFICERS

SUMMARY OF KEY FINDINGS

1. Many PIOs do not want to be PIOs mainly because of the additional work involved and a lack of financial incentives.
2. 30% of the rural PIOs admitted to not knowing the provisions of the RTI Act.
3. 35% of the urban and rural PIOs had received no applications since the RTI Act came into existence, and another 30% had received less than 10.
4. 70% of the rural PIOs spent less than one hour per week on RTI work and another 15% between one and two hours.
5. For both rural and urban applicants, requests for voluminous information were the major difficulty, followed by unclear applications.
6. 50% of the rural and 5% of the urban PIOs do not have a copy of the RTI act available to them!
7. 60% of the urban and rural PIOs had received no training in RTI and most felt that this was a major handicap.
8. Over 40% of the rural PIOs did not know that they were PIOs!
9. 70% of the heads of office and heads of department interviewed at the district and sub-district level spent less than one hour per week on RTI related work. Another 20% spent between one and two hours.
10. Requests for voluminous information, followed by unclear applications and non-existence of the asked for information, were the greatest difficulties faced by PIOs while dealing with RTI applications.
11. As a whole, rural PIOs expressed much fewer difficulties than the urban PIOs.
12. Lack of training, unfamiliarity of the law, and lack of manuals and guides were the main constraints expressed by PIOs to the effective implementation of the RTI Act. Rural PIOs cited deficiencies in applications as a major constraint.
13. Heads of Departments considered poor record management, inadequate budgets, a wrong mind set among public servants, and lack of human resources as the main constraints to the proper implementation of the RTI Act.
14. They recognized that some of the benefits of the RTI included citizen empowerment, faster decision making, and support for honest officers.

15. *However, they bemoaned the misuse of the Act, especially its use by disgruntled civil servants. The opinion was divided on the long term impact of the Act, especially on making the government more accountable, and its impact on the political class.*

BACKGROUND AND METHODOLOGY

The primary repository of information relevant to the public is the government, though the RTI Act provides access to information from many institutions outside the government, including non-government organizations and private corporate bodies. Consequently, a large proportion of RTI applications at all levels are filed with the government. Therefore, a major objective of this assessment was to evaluate the workings of the government machinery as a facilitator of the RTI Act, especially the functioning of public information officers (PIOs) who are, in a sense, the backbone of the RTI system. It is they who have the responsibility, under the RTI Act, to receive RTI requests, to process them, to decide what information can be given and what must be denied, and to ensure that the information is given in time. They are the ones that can be penalized if things do not go right. Though they also have the authority to demand cooperation from other officers who might control some or all of the information that has been asked for, but apart from this they very much carry the primary burden of servicing RTI applications on their shoulders.

The assessment adopted five different methods of collecting information about the functioning of the government and of government officials. First, over 900 public information officers (PIOs) were interviewed³⁸ in villages, sub-divisions, districts, state and national headquarters. Of the total number of PIOs interviewed, about 2% were employed by the Central Government, 20% by local governments, and the remaining almost 75% by state governments.

They were asked a wide range of questions partly to assess their skills and attitude, and partly to evaluate the facilities and support they had from their public authority and from the government. Their views on the RTI Act and their suggestions for improvements were also solicited, as were details about their workload and the time they spent on RTI matters.

³⁸ Using questionnaire III, copy at annexure 3

Special emphasis was paid to determining the constraints and problems they faced as PIOs

Second, over 500 heads-of-departments and heads-of-office were interviewed³⁹ at village, block/sub-division/district, state and national levels. These included principal secretaries to state government and Secretaries to the government of India. These interviews sought to get an overall perspective of the RTI regime and sought to determine the perception of the senior administrators towards this law. Constraints and problems were also discussed, as were ideas for change and improvement.

*Third, over a 1000 public authority (PA) premises were inspected⁴⁰ by the research teams, in villages, towns and cities, in order to determine whether they were making all the *suo moto* (pro-active) disclosures required under section 4 of the RTI Act and whether facilities for filing RTI applications were adequate.*

Fourth, web sites of state and national level PAs were accessed and analysed to see how far these PAs were complying with the requirements of proactive disclosure, as laid down in section 4 of the RTI Act. Though a larger proportion of people in urban areas would have access to the web, as compared to rural areas, it was still important to cater to the information needs of those who did not. Therefore, a special assessment was done to determine whether state and central level PAs, apart from putting information on their web sites, were also making adequate arrangements to ensure that those who did not have access to the internet could also access this information.

Fifth, as mentioned earlier, the research team processed over 600 RTI applications, a majority of them filed through the post and a smaller number filed in person by members of the research team. A bulk of these applications (over 500) asked for identical information from a large number of PAs. This helped us to determine whether there was uniformity in the manner in which PAs across different states and the central government, and at different levels of the hierarchy, dealt with identical requests.

³⁹ Using questionnaire IV (copy at annexure 4) for all except those at state head quarters and in the Central Government, who were asked open ended questions, described later.

⁴⁰ Data recorded using questionnaire V - for copy see annexure 5.

Of course, what was asked for, namely details of RTI applications received and the manner in which they had been dealt with, along with copies of the applications, of first appeals and of the orders of the first appellate authorities, were also inputs into the assessment. Besides, the manner in which our own applications were dealt with, and the completeness, accuracy and timeliness of the information provided (often after a first or even a second appeal), all provided valuable data and insights into how the system works. The asked for information, when it was finally received, became a basis for calculating the number of RTI applications various PAs were receiving, how well they were responding.

Another set of RTI applications were got filed by the field teams, often by persuading one of the local villagers to file them, in order to record the process of filing RTI applications - how easy or difficult it was, what problems, if any, were faced by the applicant, and how long did it take to file the application. These applications were on varying subjects, often asking for information that the local volunteers themselves were interested in getting.

A third set of information requests were filed by the urban research teams, and these mainly sought to get details of any non- web based material that the PAs might have produced and disseminated in compliance of their *suo moto* disclosure obligations under section 4.

All these gave valuable information and insights into how the government was fulfilling its responsibilities under the RTI Act. The detailed findings are described below.

Keeping this in mind, a very elaborate and extensive survey was carried out of the PIOs across the country, through structured interviews. Though nearly 900 PIOs were interviewed, a large proportion of these were from rural areas and from district headquarters. A very much smaller proportion were from the state and headquarters and from Delhi. A total of 540 heads-of-departments/offices (HoD/Os) were interviewed across the country. Of these, 495 were heads of department/offices at the district and sub-district level, seven were secretaries to the Government of India and 38 were principal secretaries to various state governments. The 495 heads-of-departments/offices at the district and sub-district level were interviewed using a structured questionnaire.

DETAILED FINDINGS

16.1 HOW PREPARED AND ABLE ARE PUBLIC INFORMATION OFFICERS (PIOs)

Interestingly, over 30% of the *rural* PIOs candidly admitted that they did not want to be PIOs, while nearly 50% said they wanted to be PIOs. The rest had no comments. Their *urban* counterparts were more discreet, with nearly 75% responding “can’t say”, over 15% saying they wanted to be PIOs and less than 10% stating that they did not want to be PIOs.

When asked for reasons why they did not want to be PIOs, over 50% of those who did not want to be PIOs said it was because of the additional work involved. This is interesting, considering nearly 70% of the *rural* PIOs had received either no application or only one application since they became PIOs, and nearly 90% of the *rural* PIOs and 45% of the *urban* PIOs admitted to spending less than two hours a week on RTI related work (see table 16.3 below).

Box 16b: Training for What?

It must not be assumed that all training is focussed on how to give out information. In many training programmes organised for staff of public authorities, the most popular sessions are those that discuss ways of denying information without getting into trouble.

In fact, soon after the RTI Act came into being, a talk was organised at the Delhi office of the World Bank in order to facilitate the Bank staff’s understanding of the finer points of this new and revolutionary legislation. At the conclusion of the talk, almost the first question asked of the speaker, an enthusiastic advocate of the RTI, was how to prevent the Government of India from giving out World Bank documents and information under the RTI Act!

Box 16a

Low levels of awareness about RTI among officials is not a problems unique to India. In a study conducted in 2002 on the South African Freedom of Information law to assess public officials awareness levels found that a mere 46% had heard of the Act.

Over 10% of the PIOs cited the lack of financial or other incentives & the reason for not wanting to be PIOs, nearly 7% cited poor record management and difficulties in record management, 6% were afraid of penalties, 4% complained about lack of cooperation from colleagues, 3% felt that there was a lack of support systems, and the remaining 20% cited various other reasons. Gujarat, with nearly 80% of the *rural* PIOs being happy to be PIOs was the leader in PIO satisfaction, followed by Karnataka with nearly 65%. At the other extreme was Meghalaya, with 20%, UP with 25%, and Maharashtra with 30%. The

variation between states for urban PIOs was not statistically significant.

Skills and Information

Interestingly, over 30% of the rural PIOs admitted that they did not know the provisions of the RTI Act. West Bengal scored the worst in this, with nearly 70% of the PIOs admitting ignorance. Andhra Pradesh was second with nearly 45% confessing to not being conversant with the Act. Gujarat came out the best with only 5% expressing ignorance.

All of the urban PIOs claimed that they knew the RTI Act well.

Not surprisingly, nearly 60% of the rural PIOs responding stated that they had received no training on the RTI Act. Uttar Pradesh was the worst with over 90% of the PIOs claiming that they had never been trained. In Rajasthan and Maharashtra around 70% of the PIOs had not been trained, and in Andhra Pradesh the proportion was over 60%. Meghalaya was the best with only 20% of the PIOs yet to be trained, followed by Orissa with about 40%.

Even among urban PIOs, nearly 60% were not trained, matching their rural colleagues as far as capacity development went.

The good news is that about 90% of both the urban and the rural PIOs who had been trained felt that the training was helpful to them. Of those who found it unhelpful, about 70% said that this was because it was too short, and another 10% thought that it did not prepare them to deal with the practical aspects of addressing an information request.

Also, while responding to another question asking them to suggest any improvements in the RTI procedures, nearly 30% of the PIOs suggested that PIOs and other staff should be trained.

Box 16c: Can PIOs not know that they are PIOs?

On the face of it, it looks strange that a PIO does not know that he or she is a PIO. How can it be that the field research team knew that the concerned officer is a PIO while the officer did not know this? Actually, this happens because the government often issues a circular order designating all block development officers (BDOs), or all sub-divisional officers (SDOs), as PIOs for their offices. Though the field team might have a copy of this circular, it might not have reached all the BDOs or SDOs in the field. Of course, these hapless worthies procedurally cannot accept a copy of this circular from the field team and thereby assume duties as PIOs, for it must come to them “through proper

Nearly 40% of the rural PIOs frankly admitted that they were not aware of the fact that they were PIOs! West Bengal was the worst, with over 85% not knowing, while in Karnataka and Assam, nearly 50% did not know that they were PIOs. UP was the best, with only a little over 10% of the PIOs not being in the know.

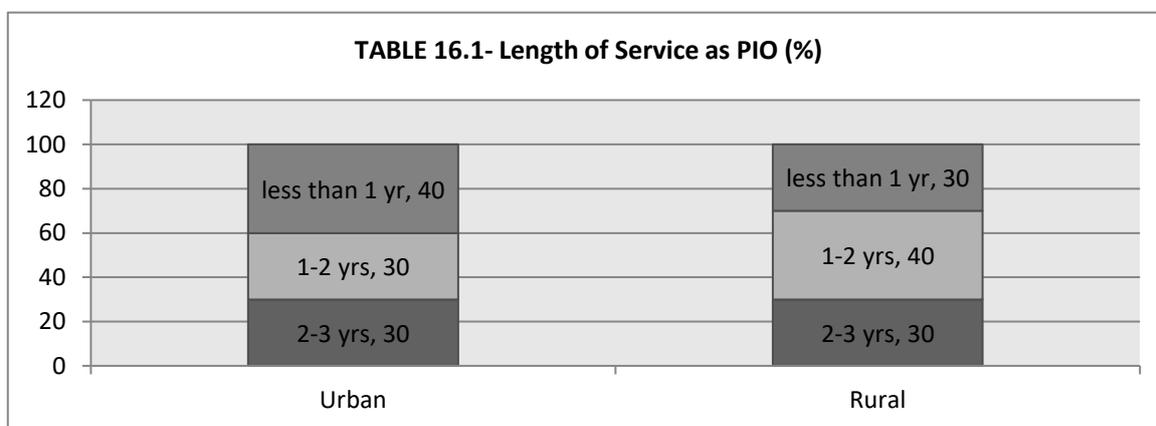
All the urban PIOs interviewed were aware that they were PIOs.

Nearly 30% of the rural PIOs had been PIOs in that department for 2 to 3 years. Another 40% had been PIOs for between 1 and 2 years. The remaining 30% had been PIOs for less than a year when interviewed.

Among the urban PIOs, a little more than 30% had been PIOs for 2-3 years, 30% for 1 to 2 years, and over 40% for less than a year, on the date of interview.

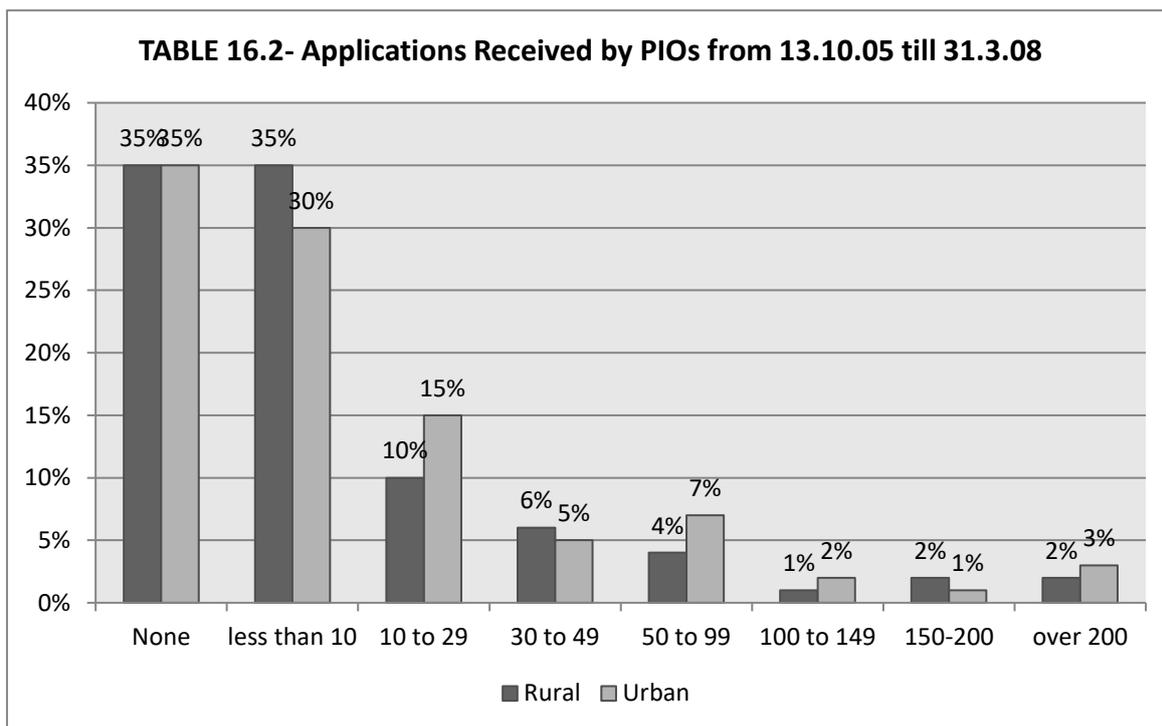
About 25% of the rural and 20% of the urban PIOs had been PIOs earlier in another department.

Given the fact that the RTI Act itself was only three years old when this survey was carried out, the data above suggests that there is some amount of continuity among the PIOs. Hopefully, the lack of training to some extent will be made up by longstanding experience and continuity.



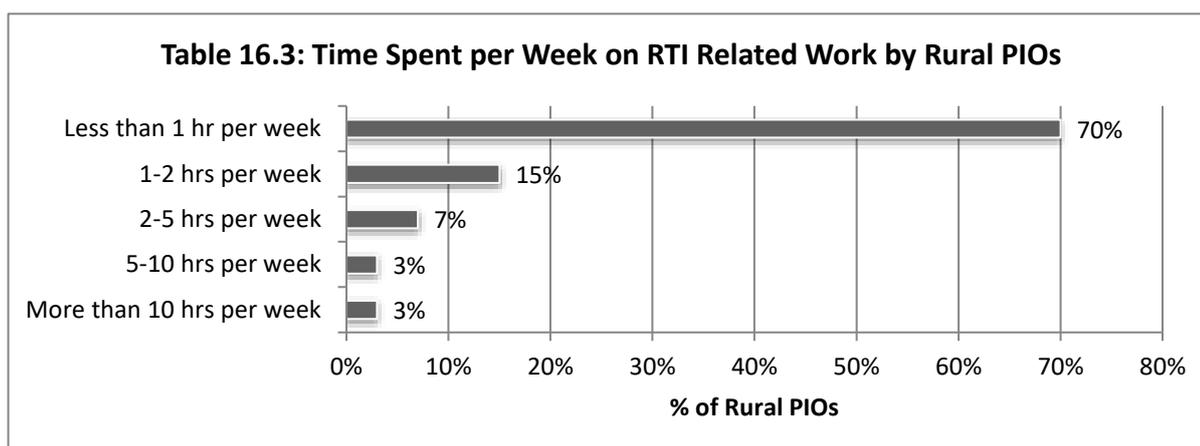
Workload and Facilities

Of the urban and rural PIOs responding, 35% had received no applications since the RTI Act came into existence and another 30% had received less than 10, and another 25% less than 100 applications in the two and half years since the RTI Act came into effect.



It must here be remembered that though urban public authorities receive far more RTI applications than their rural counterparts, as a rule, however correspondingly urban PAs also appoint far more PIOs, so that the load per PIO does not necessarily reflect the overall numbers of applications being received in any particular PA.

Another question asked of all the PIOs was the time they spent per week on RTI related work. About 70% of the rural PIOs spent less than an hour



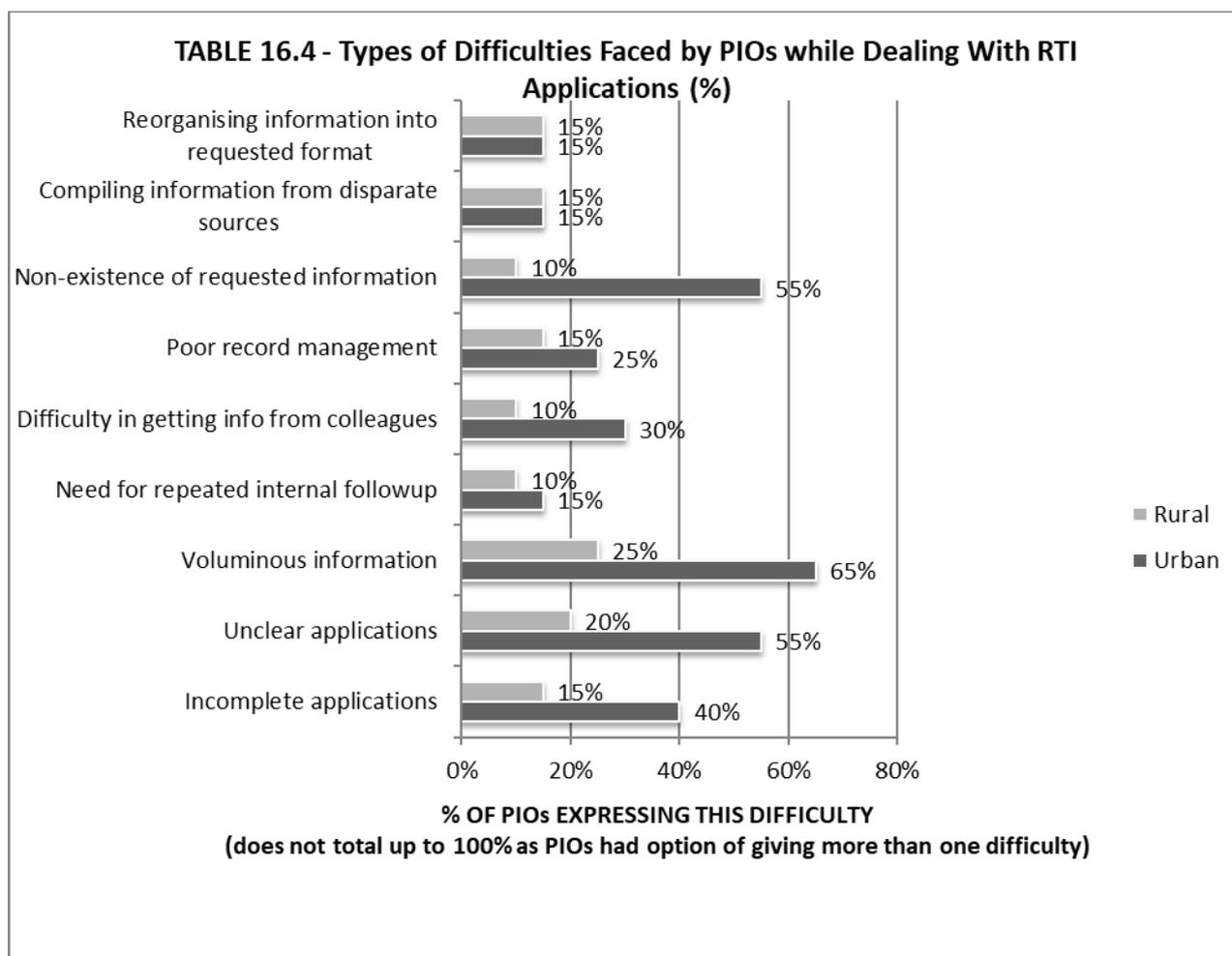
per week on RTI related work. Presumably these comprised the 35% who received no applications and the 35% who had received under 10.

Over 15% said that they spent between 1 and 2 hours a week on RTI related work. Less than 7% spent between 2 and 5 hours per week, about 3% between 5 and 10 hours, and another 3% more than 10 hrs.

Comparable data was not available for urban PIOs, but considering there was not much difference between the urban and rural PIOs in the number of applications they received, presumably the time they spent would also be similar.

When asked how much time they spent each month appearing before the information commission, nearly 85% of the rural PIOs and over 90% of the urban PIOs said that they spent less than a day a month on this. 10% of the rural and 7% of the urban PIOs spent between 1 and 3 days a month appearing before the commission. 4 % Of the rural and 2% of the urban PIOs spent between 3 and 6 days, 1 % of the rural and no urban PIO spent more than 6 days a month appearing before the commission.

In order to understand the problems that PIOs might face in dealing with RTI applications, they were asked in an open ended question to indicate what their main difficulties were. Interestingly, rural PIOs indicated much lower levels of difficulties than the urban PIOs.



Essentially, both urban and rural PIOs listed the asking for voluminous information as the most important difficulty. However, whereas nearly 65% of the urban PIOs listed this as a major concern, only 25% of their rural counterparts did so.

There was also agreement across the urban rural divide on the second most important difficulty, which were unclear applications. Here, also, the urban PIOs at nearly 55% were far ahead of their rural counterparts who only registered a 20% incidence.

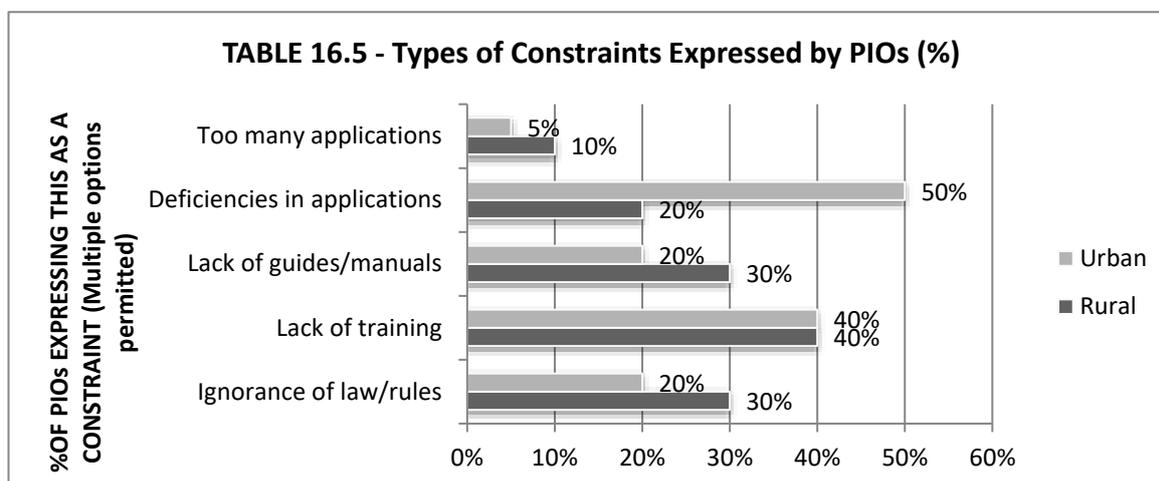
However, the similarity between the urban and rural PIOs ended here. To urban PIOs, unclear applications, at 55%, was as important a difficulty as the non-existence of the asked for information. However, for rural PIOs Interestingly, difficulty in getting information from colleagues (30%) and inadequate record keeping (25%) are also important difficulties for urban PIOs. However, for rural PIOs they are a low 10% and 15% respectively.

Apart from these, the PIOs were also asked if there were any other constraints that they faced in implementing the RTI Act. 40% of both the urban and rural PIOs agreed that lack of training was a major constraint. For the urban PIO deficiencies in the RTI applications remained the most important constraint (expressed by 50%), however less than 20% of the rural PIOs felt this way.

PIOs were also asked whether they had any financial constraints regarding the coverage of costs for servicing RTI applications. Nearly 40% of the rural PIOs and over 10% of the urban PIOs admitted such constraints. Inadequate budget for photocopying was identified as the primary constraint and shortage of money for postage was identified as the second constraint.

Interestingly, in response to another question, it emerged that 50% of the rural PIOs and 5% of the urban PIOs do not have a copy of the RTI act available to them!

About 4% of the PIOs responding said that they had no difficulties or constraints. Some of the other difficulties and constraints identified by less than 1% of the responding PIOs included: lack of equipment, lack of staff, malafide requests, lack of an information culture, political interference, and pressure from applicants.



16.2 WHAT ARE THE PERCEPTIONS OF THE PIOs ABOUT THE RTI ACT?

In an open ended question, PIOs were asked to suggest improvements to the RTI law, and to the rules and procedures related to the processing of RTI applications. Manifesting a healthy diversity of views and opinions,

Box 16d

Though the RTI Act and rules provide for the collection of costs incurred by PIOs in the photocopying of documents to be supplied to applicants, the accounting and budgeting system of the government creates problems for the PIO. This is because mostly the remittance received from the applicant as additional fee towards photocopying charges is credited to the government account without being made available to the specific PIO who has to pay for the photocopying. Therefore, the PIO has to meet the photocopying expenses from the available budget, which might not be enough. This problem gets aggravated when the applicant is from a BPL family and is entitled to free photocopying, or when the supply of information has been delayed and the applicant is not required to pay. Understandably, this is a real problem when information asked for is voluminous.

the PIOs came up with a large number of suggestions. There was a fair amount of consensus among all PIOs on the suggestion that PIOs and

other officials should be trained in RTI, and some consensus on the recommendation that public awareness should be raised. Apart from these, there was little consensus among the PIOs on most matters. One set of views reflected support and appreciation for the RTI Act and made recommendations to “increase administrative transparency”, “decrease reply time limit”, “punish uncooperative officers”, and even “do away with reasons for rejection”. However, there were a larger number of voices that wanted to restrict the scope of the RTI Act and recommended that there should be a substantial fee increase, those seeking “malafide/malicious” information should be punished, the time frame for the information that can be sought should be restricted, the time limit for processing an application should be increased, scope of RTI applications restricted, exemptions from payment of fee for those below the poverty line removed, penalties abolished, with one or two PIOs even demanding: “repeal the RTI”!

There were a fair number of “neutral” suggestions designed to make the RTI Act function better. However, it is clear from the aggregate of the responses that the family of PIOs across the country and at various levels of government have not yet internalised the spirit of the RTI Act and that much more needs to be done to win them over. A list of suggestions given by the PIOs, indicating the percent of PIOs making them, is given below.

SUGGESTIONS MADE BY PIOs

<i>Suggestion</i>	<i>% of PIOs making it</i>
1. Train PIOs/other staff	30%
2. Create public awareness	10%
3. Substantially increase the fee	7%
4. Punish those seeking malafide/ malicious information	7%
5. Restrict timeframe of information that can be sought	6%
6. Provide additional staff	5%
7. Ensure clarity of applications	5%
8. Increase the time allowed for processing application	5%
9. Stop misuse of the Act	5%
10. Restrict scope of RTI applications	5%
11. Provide additional finances	3%
12. Create separate RTI cells	3%
13. Provide financial incentive for PIOs	2%

14. Promote e-processing	2%
15. Remove fee exemption for those below the poverty line	2%
16. Abolish penalties	1%
17. Provide additional equipment like photocopiers	1%
18. Ensure better record keeping	1%
19. Increase administrative transparency	1%
20. Decrease reply time limit	1%
21. Only accept applications pertaining to the department	1%
22. Do away with reasons for rejection	1%
23. There should be an easier mode of payment of fee	1%
24. There should be more administrative efficiency	1%
25. Punish officials that do not cooperate	1%
26. Repeal the RTI Act	1%
27. No personal information should be divulged	1%

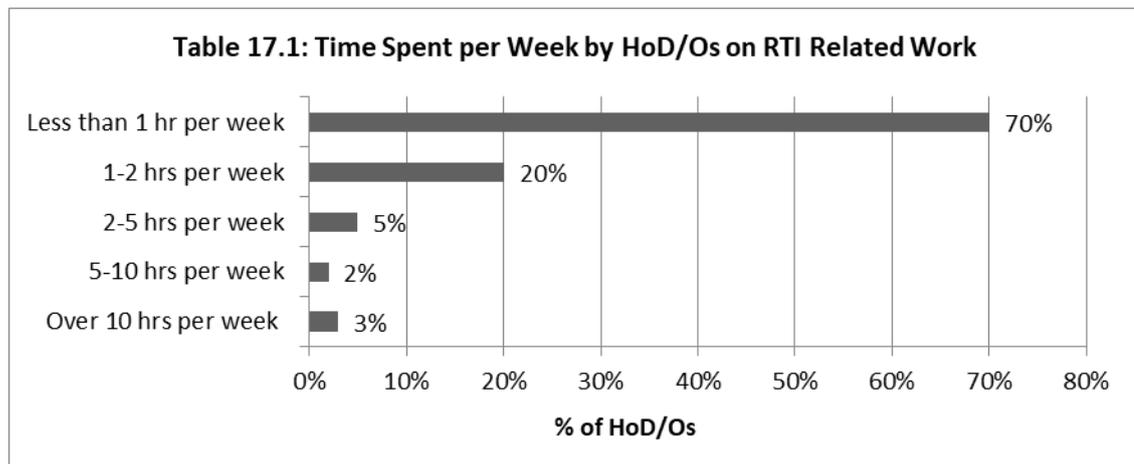
Note: The percentages have been rounded off to the nearest full percent for all those below 7.5%, and to the nearest 5% for all those above.

17. HEADS OF DEPARTMENTS/OTHER OFFICIALS

17.1 HOW PREPARED AND ABLE ARE HEADS OF DEPARTMENTS/OFFICES?

Workload

The nearly 500 HoD/Os interviewed at the district and sub-district levels were asked various questions about their public authorities and their



own functioning. Interestingly, the HoD/Os also seemed to, as an average, spend the same amount of time on RTI related work as the PIOs (see table 17.1 below).

a. What are the Perceptions of the Heads of Departments/Offices at the District and Sub-district level about the RTI Act?

The district and sub-district HoD/Os were asked to list the difficulties that their departments or offices were facing in implementing the RTI Act. An encouraging 60% said that they were having no problems. Another 10% identified the lack of training as the main problem, followed by paucity of staff (6%), request for old records and information (4%), paucity of funds (3%), and demand for voluminous information (2%). Some of the other difficulties which were listed by less than 1% of the HoD/Os included refusal by applicant to pay the fee, difficulty in contacting applicant, requests for “irrelevant” information, poor record management, malafide requests, unclear applications, “misuse” of the RTI Act, poor support from colleagues, and repeated applications. One PIO was very cryptic and stated that the main problem was “too much transparency”!

The HoD/Os were also asked to "... suggest any improvements in how the 'right to information' is currently serviced". Nearly 25% had no suggestions, another 30% thought that there must be more training, and 10% wanted awareness to be raised. There was a demand for a separate RTI cell from 5% of the respondents, and for increase in staff and in the time frame for supplying information from 4%. Among the suggestions given by less than 1% of the respondent were: abolish section 6(3) of the RTI Act (which obligates the PIO to forward an application to the public authority that has the asked for information), increase budgets, computerize records, have better co-ordination with the first appellate authority, draft better rules (did not specify what was wrong with them), improve record keeping, increase fee, and exempt old information. One respondent just felt that the Act was "too liberal"!

17.2 WHAT ARE THE PERCEPTIONS OF THE HEADS OF DEPARTMENTS/OFFICES AT THE STATE AND CENTRAL LEVEL ABOUT THE RTI ACT?

Secretaries to the Government of India and principal secretaries to state governments represent, in a sense, the policy formulation core of the government. Therefore, it is extremely important to understand their views on the RTI Act and its implementation, for at least in part the future of the Act depends on the sorts of recommendations these officers give to their ministers and, indeed, to the chief ministers of states and the Prime Minister of India.

Apart from their influence on policy, many of the implementation issues that have been highlighted by the various PIOs and heads of offices can also be resolved at the level of secretaries and principal secretaries. Therefore, it is also important that they be well informed about the real situation regarding the implementation of the RTI Act.

Keeping all this in mind, we decided to interview the heads of various central ministries and state departments that were part of our study sample. Consequently, 45 heads-of-departments were interviewed. No structured questionnaire was used and they were essentially asked to give their views on the positives and negatives of the RTI Act, list major constraints, and give suggestions. In addition, they were encouraged to add whatever else they thought relevant to the overall objectives of the study.

There was a clear consensus amongst HoDs interviewed that transparency was crucial to effective governance. The RTI Act, by virtue of the fact that it committed the government to unprecedented levels of transparency, was thus a welcome legislation. Crucially, HoDs saw the RTI Act to be an important tool for enhancing citizen empowerment. 'Information is power' was an oft repeated phrase during the interviews.

a. Constraints

There was also a recognition of the fact that the government's architecture for responding to the RTI was inadequate. Poor information management systems, complex decision making processes, low skill levels and lack of capacity at the lower levels of bureaucracy, and crucially a lack of understanding of the law were amongst the key issues cited.

Poor record management: However, despite recognition of these problems, there was acknowledgement that very little had been done at the policy level to address many of these. Even the changes that were being made to the record-keeping processes were being made within the larger framework of computerization of records, a process which predated the RTI Act, and one which continued without necessarily incorporating the specific requirements of the Act.

The creation of new departments and ministries had created new challenges in record management. In almost all cases, new ministries or departments are carved out of existing ones. However, the separation of records does not take place, usually because it is not feasible. This creates problems in responding to queries which pertain to a time prior to the creation of the new entity.

Inadequate budgets: An issue which came up often was the lack of budgetary support for RTI. However, solutions were also suggested - one being to set aside a small percentage of all project, plan and non-plan budgets towards information management and dissemination, with a specific reference to the provisions of the RTI Act.

Wrong mind set: A crucial issue that emerged from the interviews was that there remain critical areas of the Act on which a consensus needs to be developed within the bureaucracy. This is indicative of the fact that much more needs to be done to initiate a mind-set

shift within the bureaucracy towards open government. This is a task which must be seen in the larger context of overall reforms across all processes of governance, and the RTI must be seen not as a stand alone solution but integrated into a larger process of change.

Some felt that the RTI Act had initiated a mind-set shift within the lower rungs of the government. As some HoDs pointed out, the RTI Act had ensured that officials recognized the 'right' of citizens to governmental information. Consequently, officials were being forced to be more open and amicable to the public they served.

Lack of human resources: *A universal challenge expressed by HoDs was the lack of human resources available to the public authorities. They felt that the process of responding to applications was very time consuming and the opportunity cost on officials' time was extremely high. HoDs argued that most applications asked for voluminous information or old records, or requested for information in specific formats, all of which was time consuming. In particular, they felt that offices at the block and district levels are unable to cope with demands made by the RTI Act. Many HoDs argued in favour of a dedicated cadre of PIOs with no other work.*

Lack of Training and knowledge about the provisions of the Act: *Many HODs thought that the understanding of the RTI Act was weak within the government. There was inadequate training and much confusion on what types of information could be furnished through the RTI Act. For instance, many HoDs said that they were confused about whether cabinet notes, annual confidential reports (ACRs) of staff, inquiry reports, police investigation reports, etc. should be made public. Were Departments required to give out files relating to issues and policies that are still under discussion and where decisions have not been reached? Were files for ongoing police and court inquiries public?*

Many HoDs thought that the government had invested little in training. Where training had been done, most HoDs thought it to be inadequate and too short. The need for more frequent training programmes of better quality was reiterated through all the interviews.

Other challenges: included long hours spent at IC hearings, confusion over responding to applications that ask for the basis on which decisions are taken, and internal governmental procedures that delay decision making or centralize power in the hands of unaccountable individuals.

b. The Positive Aspects of RTI

Citizen empowerment: All HoDs agreed that the RTI's single biggest contribution was that it empowered citizens. As many HoDs put it, the RTI was an important 'right' that gave citizens an insight into the governmental decision-making system.

Faster decision making: Bureaucrats at all levels were conscious of the possibility of RTI applications being filed asking for details on why particular files have not moved, or who was responsible for delaying decisions. This had begun to act as a deterrent against delays, particularly on service delivery matters.

Some HoDs suggested that the RTI Act had made the system more quality conscious by increasing the scope of public scrutiny over the quality of goods and services, of infrastructure, and of decisions taken.

A boon for honest officers: The RTI Act significantly strengthened the hands of honest bureaucrats. Interestingly, some HoDs argued that the RTI Act could help curb the menace of politicization. A couple of interviewees confessed that they deliberately reminded their ministers that files may be accessed by the public under the RTI Act, in order to ensure that they took considered and well-argued decisions. One HoD also pointed to the deterrent value of the RTI Act on bureaucrats who colluded with vested interests to manipulate decisions or extort payments from citizens.

Some Improvement in record management: Overall, the RTI had not had a significant impact on information management and computerization. However, some departments had begun to comply more fully with existing record-keeping and maintenance instructions in manuals and guidelines, to ensure that information was updated in all registers. There was also some indication that consequent to the RTI Act, departments were becoming more diligent about uploading information on their website.

c. *The negative aspects of RTI*

Misuse: A common view among the senior levels of the bureaucracy seemed to be that while the RTI Act was an important Act, it had unfortunately been “captured” by vested interests, who were misusing it to settle personal scores or redress personal grievances.

Three major types of “misuse” were cited. The first was by touts and blackmailers, for extracting money from people or pressurizing officials. Instances were also cited where such touts posed as BPL applicants, or used BPL applicants as a front, in order to access voluminous information for free.

The second type of misuse was by aggrieved government employees who used the RTI Act to redress their grievances, particularly with regard to promotions, postings and disciplinary action.

The third type of misuse was by grassroots political players who used RTI-sourced information to denigrate or embarrass political opponents, particularly at election time. Political jockeying was particularly evident in big infrastructure projects (such as ports or airports) where political players who were out of power had been known to use the RTI to obtain project documents, and to ‘politicise’ and stall projects.

Another oft repeated “misuse” was in accessing “personal” information concerning civil servants. Many HoDs lamented having to respond to queries asking for details of “personal” information such as mobile phone bills, travel records, and stipends of civil servants. They felt strongly that information of this nature should not be given to RTI applicants and that requests for information of this nature were akin to harassment of individual officials and misuse of the law. Some HoDs argued for the need to institute checks and balances so that requests for such “personal” information could be filtered out.

Use by the elite: In addition, another limitation of the Act, according to HoDs, was that it was mainly being used by individuals who were already privileged within the social hierarchy - typically well educated and with a good understanding of the government processes. The implication was that the marginalised and vulnerable sections of society, who

needed the Act the most, were the ones who were least likely to use it.

No impact on the decision making process: One set of HoDs thought that the RTI Act had indeed resulted in greater transparency in decision making, while another group thought it had not. This latter group believed that it had resulted in deliberations being increasingly carried out 'off the record'. In fact, one viewpoint was that the RTI Act had made the decisions making process more opaque.

The skeptics argued that government processes, even before the RTI Act, were such that no blatantly wrong decisions would ordinarily have been taken on file. Since the implementation of the RTI Act, typically files reach decision makers in a form which is approvable. The RTI Act accesses only file notings, it cannot capture the discussions that preceded the decisions taken on file, and that is when the actual decision is taken.

All this has meant that new and innovative practices have begun to emerge to get around public scrutiny. One HoD referred to the 'post-it' phenomenon- so that all that has to be hidden from public scrutiny is written on post-its, which are not a part of the record.

Undermines the authority of the executive: The RTI Act had resulted in officials being hesitant to take unpopular decisions, or record adverse remarks against subordinates, for fear of being harassed. As some HoDs argued, India had witnessed a steady whittling of executive authority due to political and judicial pressures. By opening file notings to the public, the RTI had contributed further to this 'retreat' in executive authority. The culture of the dissenting note had gone down as a result.

The continued use of the RTI by aggrieved junior officers is resulting in a slow undermining of the authority of senior officers. The latter are now more circumspect about penalising and not promoting poor-performing juniors, who might spitefully use the RTI to create trouble. Even at the horizontal level, allowing public access to ACRs has resulted in creating bad blood between colleagues.

d. RTI impact on the political class

Opinion was divided as to whether the RTI Act has had an impact on politicians. Many HoDs argued that nothing had changed. Politicians, they said, considered themselves outside the ambit of the RTI and hence remained unaffected. However, others argued that the RTI Act had the potential to be a deterrent. Although they saw no real impact on the way in which politicians made decisions at present, the awareness was growing among them that decisions can be publicly scrutinized, and this had the potential of deterring arbitrary and overtly political decisions.

Others were more positive. One interviewee felt that the RTI had minimised political interference in postings and promotions. Proactive disclosure had particularly helped in such cases. By virtue of the fact that posting and transfer data had now to be made public through the web and scrutinized by the media, insulated the bureaucracy to some extent from political interference.

e. From Transparency to Accountability

Has greater transparency resulted in greater accountability of the government? On balance, HoDs felt that the jury was still out. To the extent that public scrutiny had created some deterrents against arbitrary and improper decision making, accountability was being promoted. Moreover, public scrutiny had resulted in faster decision making. However, the fact that the RTI had not led to any perceived changes in record keeping and information management, appeared to suggest that its impact had been limited.

It was also conceded by many HoDs that the Act was young and that its full potential had not yet been realized, especially because of its limited use by civil society. As discussed earlier, there was a strong perception amongst HoDs that the Act was being misused by vested interests. They felt that the common citizens need to be encouraged to use the RTI Act and ask for information that is 'relevant' and in public interest. This, they felt, could yield significant results for accountability.

17.3 DISCUSSION

In the final analysis, what seemed to emerge from the discussions with HoDs was that the RTI Act has had mixed results. While the awareness of the importance of transparency has indeed increased manifold, infrastructure needs to be built around it to allow it to work better. At the same time, the key to increasing accountability of public authorities lies in bringing about attitudinal changes - which is something that takes time. The RTI Act, being all of three years 'young', was generally welcomed as a step in the right direction. However, there was concern regarding the negative spinoffs of the RTI Act.

17.4 MISUSE OF THE RTI ACT

It is interesting to contrast the views of the HoDs with those of the PIOs, listed earlier. The HoDs were mostly officials who did not deal with the day to day functioning of the RTI Act but often had to face the fallout and repercussions of making information public, especially when it led to public outrage or to questions from their bureaucratic or political bosses. The PIOs, on the other hand, were perhaps less involved in the repercussions of transparency but were far more engaged with the day to day servicing of RTI applications. Understandably, the perspectives would differ.

Specifically, the HoDs seem susceptible to some of the rumours about the RTI Act being used mainly by the educated and the privileged. Our findings do not support this conclusion.

HoDs also seem to think that a major use of the RTI is by "...aggrieved government employees who used the RTI Act to redress their grievances, particularly with regard to promotions, postings and disciplinary action." Again, our findings do not support this belief. The spectre of harassment, and vexatious and frivolous applications, is also often raised. Admittedly, frequent requests for the supply of telephone bills, or travel claims, or other expense details, could be tedious. But this problem is easily solved by putting all such items (that could possibly interest the public) on the web and making them proactively available in other appropriate ways. This would remove the potential of harassment.

There is also the fear of blackmail. Blackmail could only occur where some officer has done wrong. Surely, the answer to that is not to do wrong, rather than to try and restrict access to information regarding such

wrong doing. Besides, if all the relevant information is already in the public domain, through proactive disclosure, one essential condition for blackmail, that someone has privileged access to incriminating information, would not be fulfilled as everybody would have access to this information, and there would be little point in getting blackmailed!

17.5 UNDESIRABLE IMPACTS OF THE RTI ACT

Also, there is the concern that the RTI Act, especially access to file notings, would inhibit civil servants from expressing their views honestly. In our survey there was almost no complaint about access to file notings, except from a few HoDs.

Besides, officers are pressured to record notings contrary to their convictions or opinions, or contrary to public interest or the law, NOT by the public but by their bureaucratic and political bosses (who already have access to file notings independent of the RTI Act).

The possibility that such file notings will become public would actually put a counter pressure on officials to give advice that is in public interest and in accordance with law. It would also inhibit the bosses from irrationally or self-servingly overruling such advice. It would allow honest and upright officers to put counter pressure on their bosses by reminding them that their decisions and the basis of their decisions would all be up for public scrutiny.

An understandable fear is that people will not understand or appreciate the conditions under which certain decisions were taken, especially when there was insufficient information. Consequently, "hind sight" analysis would show the concerned officials in bad light and might even question their motivation or competence.

Will the RTI Act make the processes of government even more opaque? On the face of it, it is possible that officials might not record all the factors that influenced a particular decision, so that these could not be accessed by the public under the RTI Act. However, as a strategy this is unlikely to succeed very often, for public scrutiny could very easily test the facts and arguments on which a decision is based and also access other related documentation. Therefore, at the very least, such decisions could always be challenged as being irrational or arbitrary, even where the real reasons behind the decision were not known.

Governments have always had, and will always have, working for them many men and women of conscience and integrity. Where conspiracies are hatched to keep the real reasons for a particular decision secret from the public, and where such secrecy is unwarranted, there will always be the danger that someone will “blow the whistle” and expose the conspiracy. Therefore, at the very least, the RTI Act will make it more difficult and dangerous to hatch such conspiracies.

Another danger is that of the bureaucracy becoming totally “rule bound”, as discretionary action is difficult to explain objectively. Are we then salvaging governments from arbitrary functioning just to plunge them into rigidity and rule-boundedness?

If the basis on which (and the circumstances under which) decisions are made or discretion exercised, is regularly shared with the people, they will educate themselves. They will understand and appreciate the conditions under which government functions, and begin to recognize the efforts that honest and sincere government servants are putting in, even if they sometimes falter, or make mistakes.

17.6 GETTING OVERWHELMED

Our findings suggest that the government is at present in no danger of getting swamped by RTI applications. However, this could become a problem in the future, especially if current trends continue unabated. But as governments begin to understand what types of information the people mainly wanted, they could start putting these out proactively. This would significantly reduce their work load.

Additionally, if governments analysed what grievances were behind most of the RTI requests (delays, seemingly unfair decisions, inaction, corruption, lack of response) and started tackling these, the number of RTI applications would go down further.

17.7 MINDSET OF THE CIVIL SERVANT

In the matter of RTI, as in many other matters, the Indian bureaucracy is divided. There are many, both at the junior and the senior levels, who think of the RTI Act as an abomination, even though they might not always be willing to say so publicly. On the other hand, there are many more, perhaps a majority, and again at all levels, who welcome this Act to varying degrees and for a variety of reasons.

We must not forget that historically bureaucracies have been nurtured on secrecy (all of them still swearing an oath of secrecy) and bureaucrats understand better than all others that information is power. For the most, they have been playing the game of "hide and seek" for centuries among themselves, with each department and ministry protecting its own turf while they happily encroach upon others, all through the use of information and access. Therefore, there is bound to be consternation when suddenly millions of members of the public join the game and start poring over well kept secrets and springing well preserved skeletons. To make things worse, these new entrants bring in their own rules and a new found sense of rights and empowerment. Even for the most benign and timid, the sudden sharing of age old exclusive power has its twinges.

With the advent and growth of democracy, especially in India, bureaucracies are under increasing pressure to reinvent themselves. How can they serve two masters - the people and their own bosses? In the earlier phases of democracy, especially when it was exclusively a representative one, they could claim to be answerable only to their bosses who were then ultimately and in an ineffectively convoluted and indirect way answerable to the public. However, as democracy deepens and becomes more participatory, this bulwark of protection starts crumbling and there is a growing demand from the people that the government, at all levels, must be directly answerable to them. This is where transparency comes in.

The civil servant who is forward looking, who is fundamentally democratic, and who has the required level of flexibility, sees the writing on the wall and starts preparing for this open new world. Much needs to be done. Protocols have to be developed, information cultures established, transparency institutionalised, and all of actions (and inactions) increasingly need to be such that they can withstand public scrutiny. Of course there are problems, and false starts, and differences of opinion, and excesses on both sides, but inexorably the creature that is government inches its way towards a transformed reality.

There are other civil servants who continue to live in the past and to reminisce about the "good old days", and still hope that in some inexplicable way they will be able to turn the clock back. Eventually the world will no doubt pass them by, the only question being how long they can delay the inevitable.

The fact that we have the type of RTI law that we have in India, is witness to the fact that there are many forward looking civil servants at the policy level in India, and whether they outnumber their conservative colleagues or not, the future belongs to them. The fact that the RTI Act is working, as can be seen from the findings of this assessment, is witness to the fact that there are a lot of sincere and honest civil servants at the implementation level, who are not letting their own doubts or the misgivings of others come in the way of promoting and facilitating this historic transformation to an open society.

18. ADJUDICATORS: THE INFORMATION COMMISSIONS

SETTING UP/COMPOSITION OF INFORMATION COMMISSIONS

SUMMARY OF KEY FINDINGS

- *All the information commissions were set up within a year of the RTI Act becoming operational, the earliest one being set up before the Act became operational on 12/13 October 2005 and the last being set up in October 2006.*
- *All of the 28 commissions were headed by persons who had retired from the government, mostly from the executive and a few from the judiciary.*
- *An overwhelming proportion of the 96 information commissioners for whom information as available were also from the government.*
- *In the 21 information commissions for which data was available, a total of 87165 appeals and complaints had been received from their inception to 31 March 2008. The largest number was received by the State Information Commission (SIC) of Maharashtra - 22215, followed by the Central Information Commission (CIC) - 21014. The smallest number were received by Nagaland - 11.*

BACKGROUND

Information commissions under the Indian RTI act have a unique position and responsibility. Unlike some other countries, the Indian information commissions are independent, have a very high stature, have extensive powers including the power to impose penalties on officials, and are the final interpreters of the RTI law and arbiters of decisions on what information is exempt. Their decisions are binding and not recommendatory, as is the case in some other countries.

Consequently, they are widely seen as being critical to the RTI regime. In fact, many believe that the health of the RTI regime in a state or within the national government primarily depends on how strict and pro-active the information commission is.

It is, therefore, but natural that right from the inception of the RTI Act enormous public attention has been focused on the information commissions and their functioning has been extensively debated.

ISSUES

Some of the main issues regarding information commissions that have concerned the public include:

1. *The timely setting up of the information commissions and their composition, especially in terms of the balance between former members of the civil services and people from other backgrounds and professions.*
2. *Adequate and appropriate support for the commission, especially in terms of budgets, office space, infrastructure, and staff.*
3. *Maintaining the independence of commissions, especially by giving them the required autonomy and ensuring that they have control over their own budgets, staff and other necessary support systems.*
4. *The rules and regulations related to the functioning of the commission, especially in relation to the acceptance and disposal of appeals and complaints, the issuing of orders and other related matters.*
5. *Pendency and delay in the commission and the consequent backlog.*
6. *The quality of the orders passed by the information commission.*
7. *The proportion of appeals and complaints that are allowed.*
8. *The imposition of penalties as per the law.*
9. *The award of compensation.*
10. *The ability to ensure that the orders of the commission are followed by the government and other public authorities.*
11. *The fulfillment of various obligations and the exercise of various powers that are specified in the RTI Act.*
12. *The role of the courts of law in relation to the orders of information commissions.*

METHODOLOGY

In order to analyse and assess the functioning of information commissions around the country, two RTI applications were filed. The first asked each commission to send statistics regarding the number of appeals and complaints received from the time they were set up till 31st of March 2008. They were also asked to give information regarding how many of these appeals and complaints were disposed of every quarter, how many remained pending, in how many cases penalty was imposed, how often was compensation awarded, and how many of the orders had been put on to the web site. Though much of this information should in any case have been available in the annual reports of each commission, unfortunately many of the commissions had not posted their annual reports on the web and very few had updated the information.

Fortunately 21 of the 28 information commissions around the country, including the Central Information Commission, sent in their response to this RTI application, though in some cases it was only after a first appeal. The data got from these responses is presented later.

A second RTI application was sent to each of the information commissions asking them to send copies of documents related to cases that might have been filed in any high court or in the Supreme Court in connection with the orders of the information commission. Again, some of the information commissions obliged, but fewer in number.

In addition, a questionnaire was sent by name to all the chief information commissioners asking them to provide detailed information regarding various aspects of their commission and its functioning, and to give their views and suggestions relating to the functioning of the RTI act. Though this questionnaire was not sent under the RTI Act, fortunately 13 information commissioners responded and provided detailed information and interesting views and suggestions.

Apart from this, wherever orders of any information commission were available on the web site, these were downloaded and separately analysed. For those information commissions which had not uploaded their orders on to their web sites, or did not have websites, an RTI application was filed asking for copies of their orders, preferably in electronic form. Most of the information commissions obliged.

Nearly 50,000 orders had been issued by the 20 information commissions (out of 28) who had responded to our RTI query. As it was not possible to access and analyse all these orders as a part of this assessment, only orders passed in 2007-08 were analysed.

Information commissions in the 10 sample states were also visited by the field teams and a quick assessment of the facilities available for appellants and the efficacy of signs and other communication material was also assessed.

Over 250 second appellants, from both rural and urban areas across the country, were interviewed and their perception about the appeal process and the functioning of the information commissions was also recorded.

Both Maharashtra and Gujarat information commissions immediately posed a problem as a large proportion of the orders were in Marathi and Gujarati respectively. Though efforts were made, it was not possible to find

Marathi and Gujarati speaking researchers of adequate ability and experience to analyse these orders. Therefore, as an alternate from the region, Goa was chosen, though it is not one of the 10 sample states. Efforts were also made to analyse those orders of the Gujarat information commission that were in English.

Another sample state, Uttar Pradesh, neither posted their orders on the web nor responded to the RTI application, the first appeal or the second appeal. They also did not respond to any of the other RTI applications or the questionnaire sent to them. Therefore the Uttar Pradesh information commission has for the moment been excluded from the study.

The quantum of information collected from all these sources was too large to be included in this synthesis report. It is, therefore, proposed to bring out sometime later a separate report more fully reporting and analyzing findings related just to the information commissions. What is given below is therefore a summary of some of the findings.

DETAILED FINDINGS

WHEN WERE THE INFORMATION COMMISSIONS SET UP?

By the time the study commenced, all the states had set up their information commissions. In fact, one union territory, Puducherry, had also set up an information commission despite the fact that as per the law only states should have their own information commissions and all centrally administered union territories are covered by the Central Information Commission. Fortunately, a few months after the Puducherry commission was set up, better sense prevailed, and the commission has since been wound up.

The RTI Act came into effect from the midnight of 12th and 13th October, 2005, in most states the information commissions were set up and activated later. (annexure with dates will be included later).

WHO WERE APPOINTED INFORMATION COMMISSIONERS?

The commissions were headed overwhelmingly by retired civil servants, most of whom were former members of the Indian Administrative service. Three commissions have been headed by retired judges, two from high courts and one from a district court, and one was headed by a retired police officer. Among the commissioners, again a large proportion were retired civil servants, though this time there was a much wider variety of

services represented. There were also representatives of other professions, like journalists, academics, social activists, and at least two retired army officers.

There was much debate, in the media and elsewhere, on the desirability of populating information commissions primarily by retired civil servants. Many among the public felt that this was not a desirable trend as civil servants would obviously have much greater sympathy and affiliation to their erstwhile colleagues than to the general public. It was also feared that as in almost all the states, officers who had previously served in that state were now heading or manning the information commissions, they might have a vested interest in protecting their past actions or those of their colleagues and friends still serving in the government. There was also concern that the information commissions rather than being institutions housing men and women of eminence in public life, as stipulated in the law, had actually become a post-retirement slot for civil servants.

In their defense, many civil servants from within and outside the information commissions argued that it was the civil servants who knew best what information is available with the government, where is it ferreted, and how best to dig it out. Therefore, they had an advantage over others when it came to ordering governments to be transparent. There was also the concern that as the RTI Act was a new and somewhat revolutionary measure, which the bureaucracy would potentially resist, and the fact that the commission might need to hand out penalties and admonishments, which the bureaucrat would resent, it might perhaps be prudent to initially have retired civil servants perform these unpopular functions till the RTI regime became more acceptable and the culture of transparency was internalized in the system.

It was also hoped to that if the commissions were manned by retired senior civil servants, many of whom had till recently headed state bureaucracies or central government departments, they would be in a better position to get the required support and assistance out of the government and to ensure that the government co-operated with the commission and effectively implemented its orders.

In some states, the fact that the outgoing head of the bureaucracy or some other senior retiring officer saw the information commission as an attractive post-retirement berth, could have hastened the process of

setting up information commissions and thereby activating the RTI Act in that state.

In the final analysis, the commissions must be judged on their performance in terms of the manner in which they safeguard and facilitate the people's fundamental right to information. It is this, and this alone, that should be the basis for determining whether the commissioners were chosen wisely or not.

SUPPORT, INFRASTRUCTURE AND AUTONOMY

WAS ADEQUATE SUPPORT PROVIDED BY THE GOVERNMENT TO THE COMMISSIONS?

Almost all the information commissions responding to the questionnaire complained about the inadequate financial and infrastructural support provided by the government. There were complaints about inadequate budgets, shortage of staff, poor infrastructure support, inadequate office space, and many other such.

Half of the information commissions responding to our questionnaire stated that the budgets allocated to them were not adequate. Budgetary information sent by some of the commissions is given below.

Budgets of some Information Commissions

<i>State</i>	<i>2005-2006 Budget in Lakhs of Rs.</i>	<i>2006-2007 Budget in Lakhs of Rs</i>	<i>2007-2008 Budget in Lakhs of Rs</i>	<i>Average annual Budget in Lakhs of Rs</i>	<i>Average expenditure per case (Rs.)</i>
<i>Assam</i>	38.51	47.02	38.51	41.35	42,920
<i>Bihar</i>	NA	37.64	164.35	100.99	NA
<i>Haryana</i>	26.79	126.00	135.05	95.95	11,306
<i>Karnataka</i>	50.00	100.00	100.00	83.33	3,087
<i>Kerala</i>	100.65	278.74	NA	189.68	NA
<i>Tripura</i>	84.43	127.95	129.46	113.95	280,197
<i>Uttarakhand</i>	100.00	301.79	156.81	186.20	27,736
<i>West Bengal</i>	NA	5.28	31.73	18.51	7,172

85% of them thought that the staff sanctioned to them was not adequate. Only Bihar and Haryana information commissions, among the respondents, felt that the staff was enough. Barring Tripura and

Uttarakhand, in all the other ICs responding, many of the sanctioned posts were lying vacant.

A back of the envelope calculation shows the great variance in the staffing patterns of information commissions.

IC	Sanctioned Posts	No. of cases	No. of Ics	No. of cases per post	No. of posts per IC
Assam	31	289	2	9.3	15.5
Bihar	67				
Haryana	80	2546	2	31.8	40
Karnataka	34	8098	3	238.2	11.3
Kerala	48				
Manipur	0	132	1		
Meghalaya	11	71	1	6.5	11
Tripura	7	122	1	17.4	7
Uttrakhand	18	2014	1	111.9	18
West Bengal	15	516	1	34.4	15

Nearly 60% of the commissions did not have what they considered to be adequate infrastructure.

The point that emerges from all these statistics is that there is no uniformity in the funding or staffing patterns of information commissions. Considering their work is similar, if not identical, it should not be difficult to develop norms of staffing and funding that could be applicable across the country. Perhaps this is an initiative that needs to be taken up by the "collegium" of information commissioners.

WAS THE AUTONOMY OF INFORMATION COMMISSIONS SAFEGUARDED?

The RTI act stipulates that the general superintendence, direction and management of the affairs of the Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Information Commission autonomously without being subjected to directions by any other authority under this Act. However, despite this, there are many ways in which governments appear to undermine the autonomy of information commissions.

Though it is difficult to prove that there is a deliberate effort by governments to influence information commissions, there is certainly a perception among many that governments are unwilling to give the prescribed levels of autonomy to the commissions and often the functioning of the commissions is seriously hampered due to this. One significant way in which the autonomy of information commissions is compromise is by not giving them distinct budgetary allocations but

meeting their expenses from within the departmental budget. This often results in delay and obstacles in the even release of funds and even in sanctions for expenditure, which have to be cleared by state governments. There are complaints that payment of salaries, payment of bills, and even sanctions for routine expenditure on telephones and petrol, are held up for months. Whether intentional or unintentional, such practices tend to appear to be efforts at pressurizing the commission and compromising their autonomy, even if in actuality commissions remain unaffected. 75% of the ICs responding to our questionnaire admitted that they were not financially independent.

The location of information commissions within the secretariat or within other government complexes can also compromise the autonomy of the commission, especially in the eyes of the appellant. It also creates problems of access as most government offices these days have some level of security and require the issuing of passes to enter. Only half of the ICs responding had offices independent of other government offices.

Box 18a

Problems in Goa IC: Extracts from the Annual report 2006-07

Though information commissioners frequently talk about the problems they are having with governments, it is not often that you find these written up in graphic detail. However, the Goa Information Commission has recorded in detail the threats to its autonomy. Some of the extracts are reproduced below. Many other information commissions have had similar experiences.

“The terms and conditions of service of the Chief Information Commissioner and Information Commissioner are laid down under Section 16 of the Right to Information Act, 2005 (RTI Act). The Chief Information Commissioner enjoys the salary and perquisites of a Central Election Commissioner, who in turn, enjoys the salary and perquisites of a Supreme Court Judge. These are laid down in Supreme Court Judges (Salaries and condition of service) Act, 1958 as amended from time to time. The Information Commissioner enjoys the status, salary and perquisites of the Chief Secretary of the State Government. In spite of the statutory provisions, both the Chief Information Commissioner and Information Commissioner had faced considerable difficulty in claiming what is legally due to them. After repeated correspondence, including letters to the Hon’ble Chief Minister, finally, the terms and conditions are issued by an order of the Information Department on 8/5/2007, a good fourteen months after the appointment of the Commissioners.

“The Commission started functioning from the two shops allotted at Ground Floor of Shrama Shakti Bhavan w.e.f. 8th June, 2006. However, the Commission could not effectively carry out its functions and duties since no computer/typewriter was provided. The worst thing is that even postage was not made available to the Commission till 28/7/2006.

“...the Commission is functioning in a small premises of 78.29 sq. mts. The situation becomes unmanageable on the days of the hearings as the advocates and the officers and the Heads of Departments who attend the hearings have to practically stand in the verandah for want of adequate space. The Commission is taking up the hearings in a small room of Chief Information Commissioner where only 4 to 5 chairs can be accommodated and the remaining persons have to stand, as they would like to observe the hearings. Minimum 5 persons attend for each case such as Public Information Officer, first Appellate Authority and their advocates and Appellant and his advocate. However, the Commission is not in a position to make their seating arrangements in the room of the Chief Information Commissioner. Practically, the advocates and the officers are standing in the verandah. This resulted in adverse publicity to the Government in the local press.

“Neither a clerical Assistant nor any Stenographer was provided to the Commission. No computer or typewriter was provided to the Commission. In the absence of such assistance, Chief Information Commissioner himself typed the first order on his own computer. Similarly, the Information Commissioner also got his notes typed from his own computers and the other work of typing notices etc. was got done from the outside agencies.

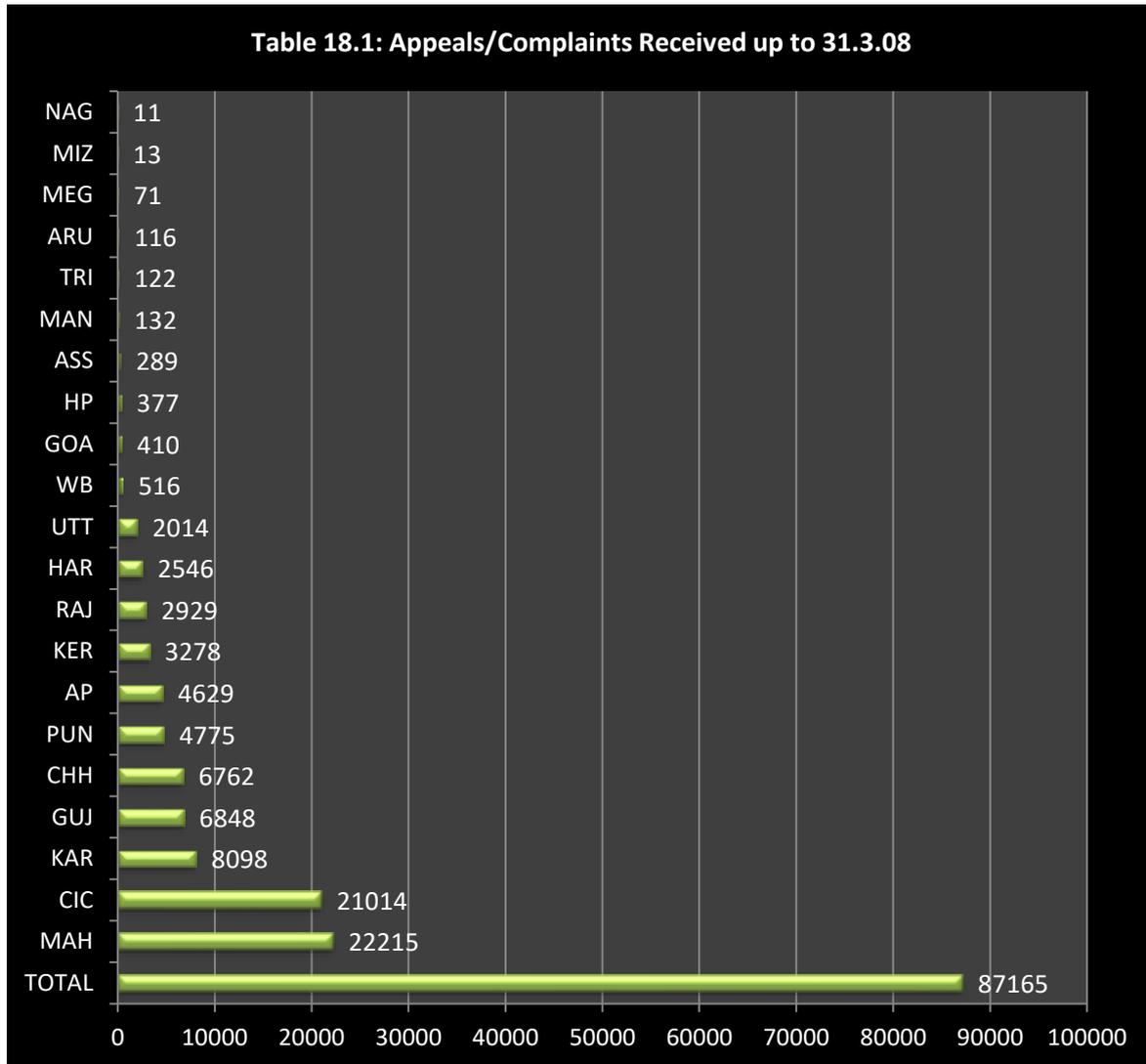
“The Commission was set up on 02/03/2006. However, no funds were made available to the Commission. Initially, an amount of Rs.8.00 lakhs was sanctioned to the Commission from the Contingency fund vide order dated 16/06/2006. However, the said amount was placed at the disposal of the Director of Information and Publicity who continued to operate the same. Right from the beginning, the Commission has been made totally dependent for its requirements of funds and office stationary on the Director of Information and Publicity.

“...it is evident that the Director of Information and Publicity continues to exercise the control over the budgetary provision provided to the Commission and control over the Secretary to the Commission which is not a healthy practice. In fact, the Commission has absolutely no autonomy at all either in administration matters or in finance matters as the recruitment and the appointment of its staff and the financial matters are controlled by the Director

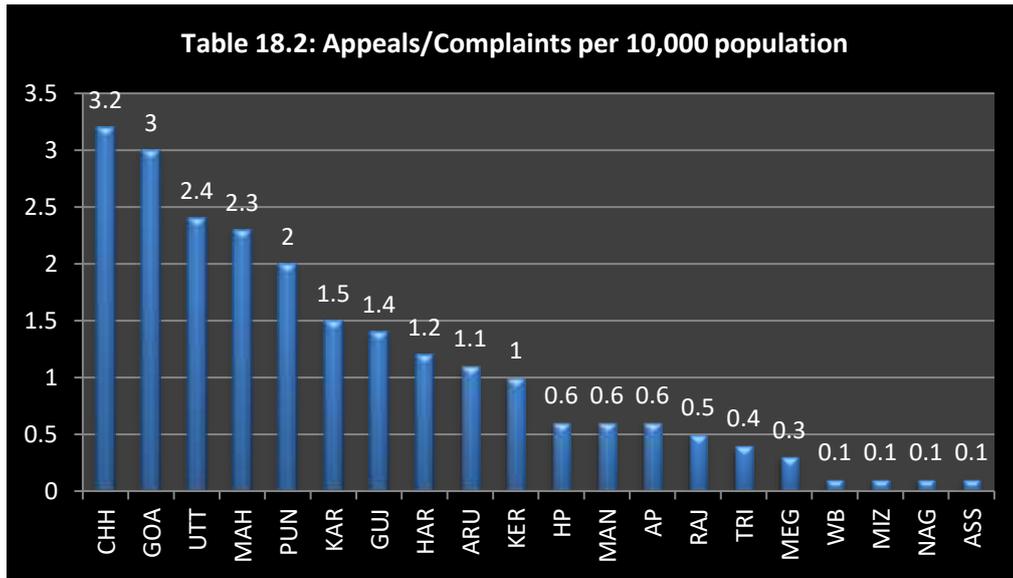
PERFORMANCE AND FUNCTIONING OF ICs

HOW MANY APPEALS AND COMPLAINTS WERE FILED AND DISPOSED?

The number of appeals and complaints filed from 13 October 2005 to 31 March 2008, in 19 state information commissions and in the Central Information Commission, from whom we got data, were 87165. The commission wise break up is given below.

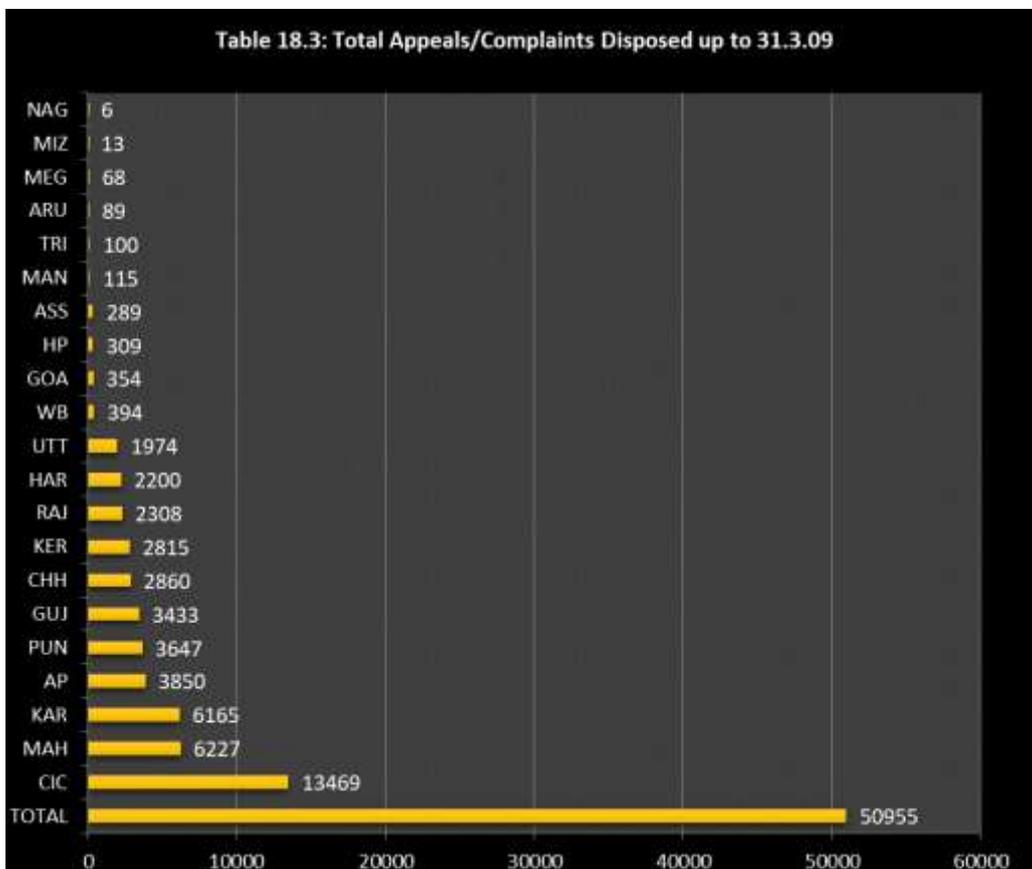


If we analyse these figures in terms of the population of each state, the picture that emerges is as follows.

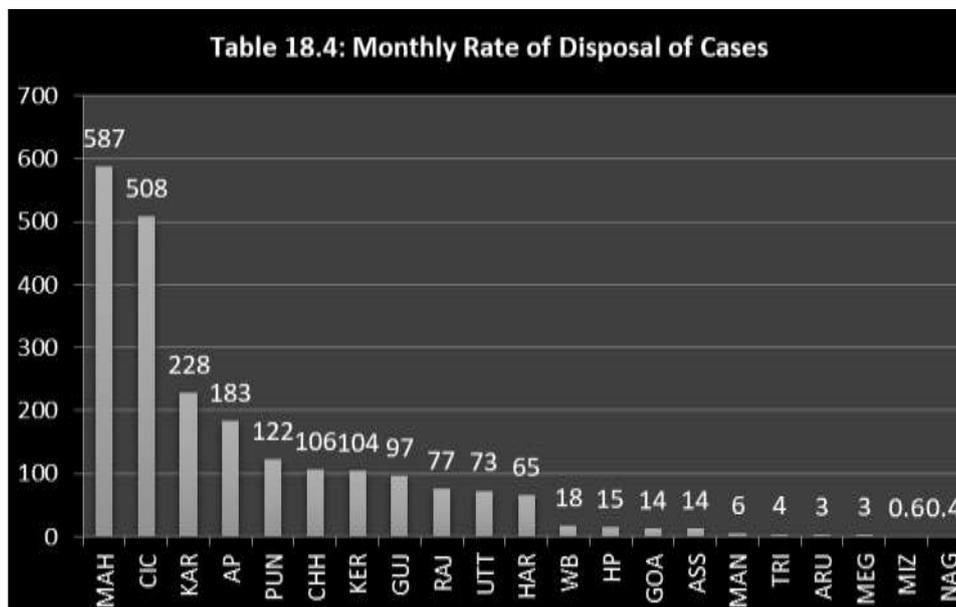


The density of second appeals is the highest in Chhatisgarh, followed by Goa, then Uttarakhand, Maharashtra, and Punjab. Whether this corresponds to the density of RTI applications will have to be separately determined.

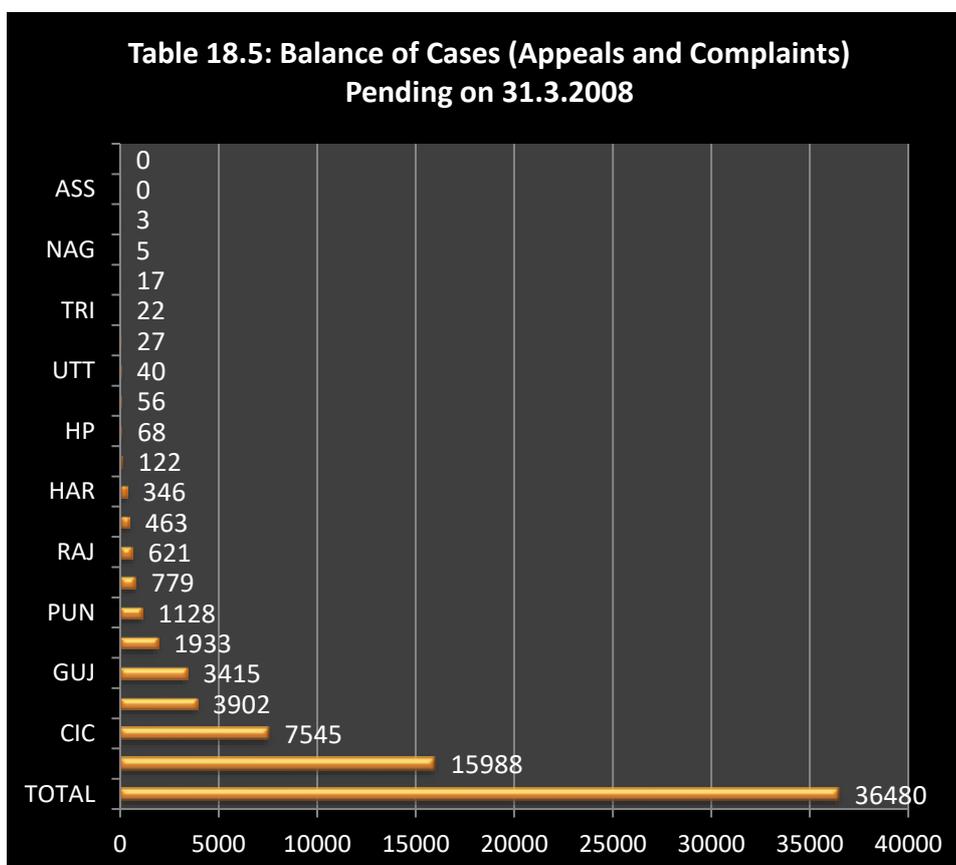
The monthly rates of disposal of cases (appeals and complaints) showed great variance across states. Without adjusting for the number of information commissioners, the picture that emerged was as given below



(table 18.4 - zeros statistically represent less than one). These are the latest rates of disposal (January-March 2008):



Despite some very impressive rates of monthly disposal, the pendency in these 20 information commissions collectively was awesome. Over 35,000 cases were pending just in these ICs.



Note: zero means less than one.

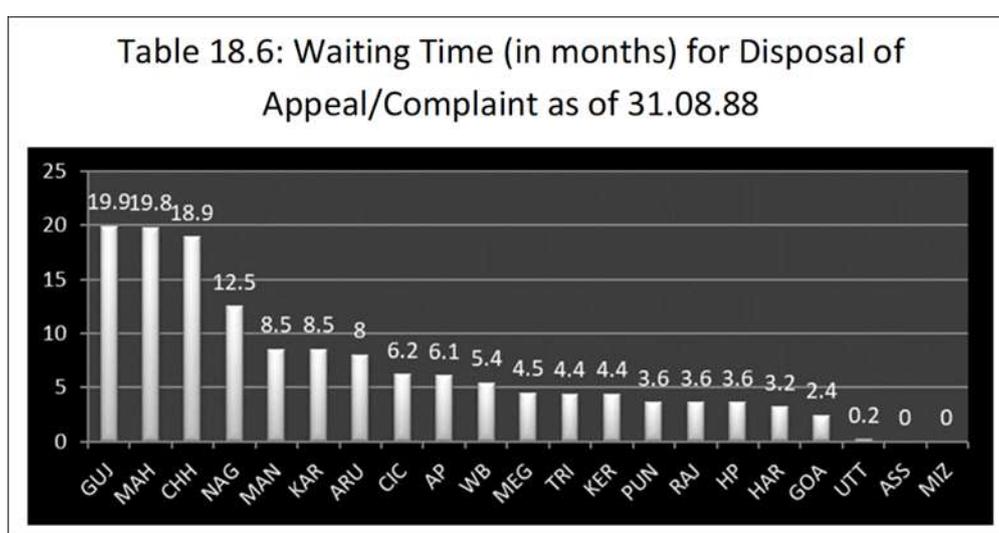
HOW QUICKLY DID THE APPEALS AND COMPLAINTS GET SETTLED?

Perhaps one problem was the very wide variation in the rates of disposals per commissioner across the different ics.

This has resulted in a situation that in some ICs (Gujarat, Maharashtra, Chattisgarh) if appeals and complaints are taken in the order they were received, and at the rate of disposal prevalent from January to March 2008, it would take over one and a half years to get an order!

Unfortunately, the RTI Act does not specify any time limit within which information commissions must dispose an appeal or complaint. This is despite the fact that a limit of 30 days, extendable after giving reasons in writing to 45 days, is prescribed for the first appellate authority. It is not as if this time limit could be strictly enforced, if the information commissions chose to ignore it. However, it would have given some guideline both to the commissions and to the people, and allowed appellants to move High Courts if their appeals were being inordinately delayed.

This omission is not deliberate and most likely inadvertent. In the RTI Bill presented to Parliament in December 2004, a similar time limit had also been prescribed for information commissions. This was, unfortunately and most likely inadvertently, nullified in the subsequent amendments. The position is described in the following extract of a letter written by the NCPRI⁴¹ to the then Minister for Personnel. Unfortunately,



⁴¹ Letter dated 28 July 2005 to Shri Shri Suresh Pachauri, Minister, Ministry of Personnel, Public Grievances and Pensions, from Aruna Roy and Shekhar Singh, on behalf of the NCPRI.

despite a personal meeting with the Minister, all efforts to get the error rectified proved futile.

“Dear Shri Pachauri,

While congratulating you for skilfully steering the Right to Information Act through Parliament, we would like to bring to your notice two very significant errors that seem to have crept in to the act, as passed by the Parliament. As these errors would impact seriously on the proper implementation of the Act, we would urge you to rectify these errors by using the provisions of section 30(1), before the full act becomes operative in the middle of October 2005. The errors are described below.

1. In the RTI Act, section 19(6) reads as follows:

“An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.”

Whereas the reference to sub-section (1) seems correct, the reference to sub-section (2) seems incorrect. Instead of sub-section (2) it should read sub-section (3).

This is borne out by the fact that in the RTI Act sub-section (2) of section 19 is not a section under which an appeal is preferred. The two sub-sections under which appeals are preferred are sub-section (1) - to “an officer senior in rank..”, and under sub-section (3) - to the Central or State Information Commissions.

This is also borne out by the fact that in the RTI Bill, as introduced in Parliament in December 2004, subsection (6) of section 16 (corresponding to section 19 in the amended bill finally passed) also mentions sub-section (1) and (2). However, in the December bill the provision for preferring an appeal before the information commission is in sub-section (2). This clearly indicates that the intention of the government was that both levels of appeal should be disposed of within the specified period.

It seems that when a sub-section was inserted between sub-section (1) and sub-section (2) of section 19 of the final

(amended) bill, and the original sub-section (2) was renumbered as sub-section (3), a corresponding change in numbering was erroneously not made in sub-section (6).

The relevant portions of section 16 of the December bill are reproduced below for your ready reference:

“16. (1) Any person who, does not receive a decision within the time specified in sub-Appeal section (1) or clause (a) of sub-section (3) of section 8, or is aggrieved by a decision of the Public Information Officer, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Public Information Officer in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Commission:

Provided that the Commission may admit the appeal after the expiry of the period of ' ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3).....

(4) ..

(5) ...

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed, of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.”

2. In Section 20(1), relating to penalties, the RTI Act lists various types of offences, including refusal to receive application, delay in furnishing information, malafide denial, giving incorrect, incomplete or misleading

information, destruction of information, or obstruction. For all these the act prescribes “..a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty five thousand rupees.”

However, the provision for a fine “each day” would only be relevant in the case of a delay in furnishing information. None of the other offences lend themselves to a “per day” assessment for imposition of a fine. This, again, seems to be an error that has crept in while amending the December 2004 bill, as in that bill there seems to be no mention of a daily fine but only of a “.. fine which may extend to rupees twenty-five thousand..”. The relevant section of the December 2004 bill is given below for ready reference.

“17. (1) Notwithstanding anything contained in the provisions of section 20, where the Commission at the time of deciding any appeal is of the opinion that the Public Information Officer has persistently failed to provide information without any reasonable cause within the period specified under sub-section (1) of section 7, the Commission may authorise any officer of the Central Government to file a complaint against such Public Information Officer before a Judicial Magistrate of First Class.

(2) Any Public Information Officer who is in default under sub-section (1) shall be liable on conviction to fine which may extend to rupees twenty-five thousand or a term of imprisonment which may extend to five years, or with both.”

We hope you will urgently have these errors rectified so that the Act, when it becomes fully operational in October, can function smoothly.”

HOW FREQUENTLY DO COMMISSIONS IMPOSE PENALTIES?

As can be seen from the letter quoted above and the extracts of the RTI Bill therein, the original Bill contained a provision for imprisonment, which was later dropped. Nevertheless, even with reduced penalties, perhaps the most contentious issue regarding information commissions, as far as the people are concerned, is the seeming reluctance of

commissioners to impose the prescribed penalties on seemingly errant PIOs. The final version of section 20 of the RTI Act stipulates:

“Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.” (emphasis added).

Further, the power of the commission to impose penalties while deciding on appeals is also affirmed in section 19(8) of the RTI Act, which states:

“In its decision, the Central Information Commission or State Information

Commission, as the case may be, has the power to—

(a) require the public authority to take any such steps as may be necessary to secure

compliance with the provisions of this Act, including—

.....
(c) impose any of the penalties provided under this Act;”

A popular understanding of the law is that whenever an appeal or a complaint is being disposed of and one or more of any of the punishable

violations has occurred, the commission is obliged under the law to either impose the prescribed penalty, after following the prescribed procedure, or state reasons why it is not imposing a penalty, from within the reasons allowed by law. The penalty is imposable whether asked for or not by the appellant or complainant, as long as it is warranted.

The various information commissions, without perhaps explicitly disagreeing with this interpretation and at least in one instance seemingly agreeing with it⁴², nevertheless almost without exception do not appear to follow it.

Informal discussions with various commissioners, both central and state, have over the years thrown up a host of reasons why they decline to impose penalties. In the first instance, soon after the RTI Act became effective, the most common reason was that as the Act is new PIOs are still ignorant of its provisions and therefore it would not be fair to penalize them. This was a common explanation for over a year after the Act was operationalised, even though it is a well known legal principle, universally applied to all non-PIOs in India, that ignorance of law is no defence.

A variation of this was the justification, often explicitly stated in the order, that as this was the first violation by a particular PIO, penalty was not being imposed. This became a matter of embarrassment for a particular commissioner when someone pointed out that that commissioner had excused the same PIO thrice in a row, in quick succession, citing the "first violation" argument!

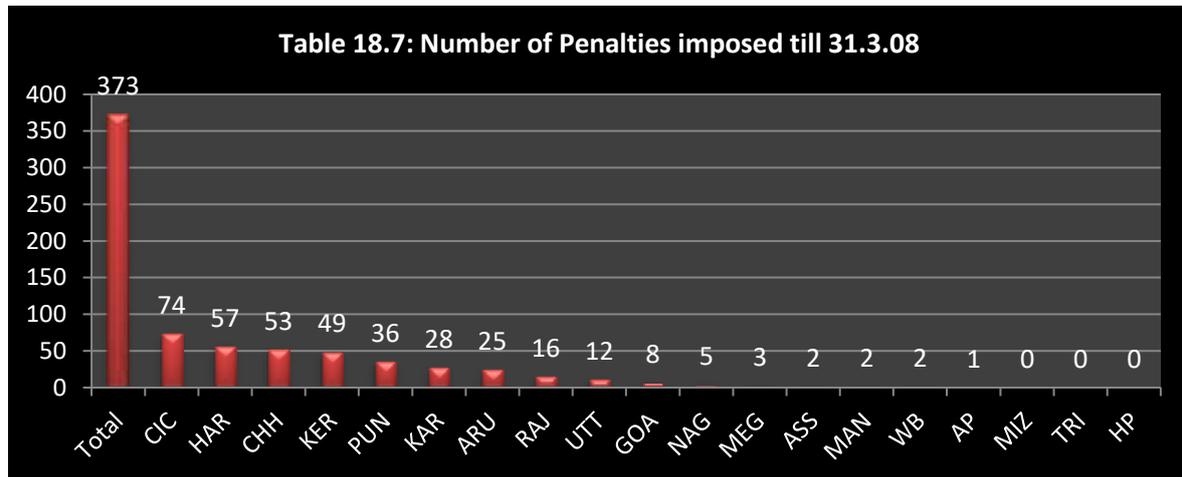
In many cases, a warning, or even a stern warning, is given as if it was an allowable alternative to a penalty. In others the rationale for not imposing deserved penalty was that the PIO had acknowledged his/her mistake, and apologised and promised never to do it again.

Some commissioners have ideological problems with imposing penalties and are therefore in a sense conscientious objectors to the system of

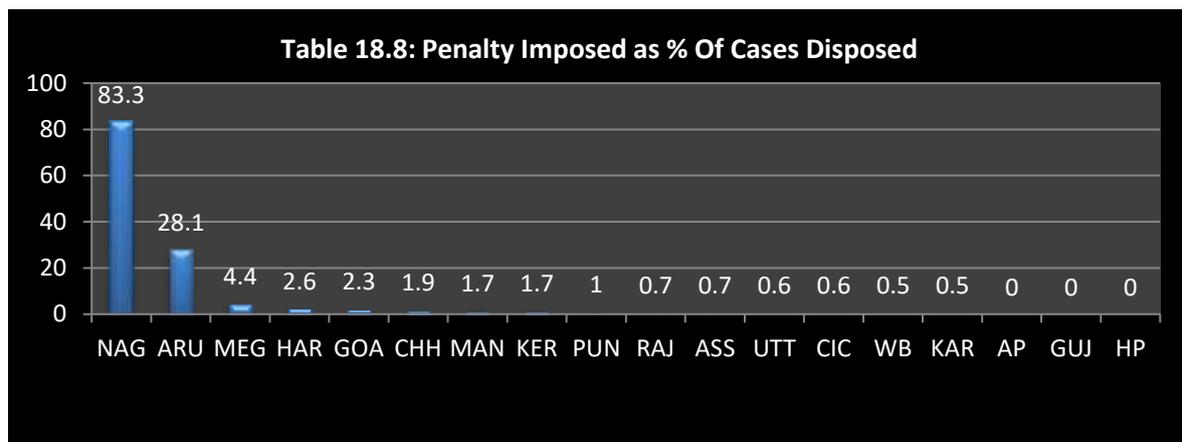
⁴² In recommendations made in the conference of chief information commissioners and information commissioners from the central information commission and various state commissions, on 17 October 2007, there was a recommendation that the RTI Act be amended to make the imposition of penalty discretionary (page 9, para 9). This seems to suggest that they accept that at present it is mandatory!

penalties. Others feel that imposition of penalties would make the bureaucracy hostile to the commission.

Another common justification assumes that many PIOs are over-worked and therefore it would not be fair to penalize them. Though demonstrable overwork, in a specific case, might be considered a reasonable ground for delay, in most cases there is neither the ability nor



Note: zero means less than 0.5.



the effort to determine whether the PIO was actually overworked, but only a general assumption that all officials are overworked. And this is despite the fact that the law explicitly places the onus of proof on the PIO.

Clearly all the above reasons (and many more that are offered) are beyond the pale of law - yet they are the rule rather than the exception. This very benign approach of information commissioners across the country (as can be seen from the two tables) must bring cheer to the bureaucracy, even as it exasperates the people of India. We, the citizen's of India, can only pray that income tax commissioners and members of the tax appellate tribunal show the same level of "understanding"

towards the citizens of India that most information commissions show towards the officials of India!

Of course, these macro statistics cannot be fully appreciated unless one can estimate the number of cases (and the % of cases) where penalty was imposable. Unfortunately, such an estimate is not possible for most categories of violations without doing a detailed analysis of each case. However, for cases of delay in giving information, which are by far the most common of the violations, it is easier.

Of the 48,140 cases that had been disposed of in the period under review, 31,719 were appeals and 16,027 were complaints. The rate at which appeals and complaints were allowed averaged around 50%, so we could conclude that 15,000 appeals and 8000 complaints were (wholly or partly) allowed.

In the 15,000 appeals that were partly or wholly allowed, by definition some or all of the information had not been provided in the specified time and, therefore *prima facie* these 15,000 cases attracted a penalty for delay. The fact that they had been filed in the commission as second appeals meant that they must have gone through the first appellate process and, therefore, given the time frame prescribed for each step, it is unlikely that the delay in any case would be less than 100 days.

Of the 8000 complaints, on the face of it you cannot determine what the basis of complaint was. However, the sample looked at suggests that in 95% of complaint cases there is delay involved, even if some other violations are also present.

Here, again, it is not possible to tell, without examining each case, how much delay was being complained about. But, again, the sample survey suggested that in most cases where complaints were filed, the delay was of over 14 days, in some cases it ran to over a year. To be conservative, a delay of 14 days can be assumed for 95% of the complaints allowed.

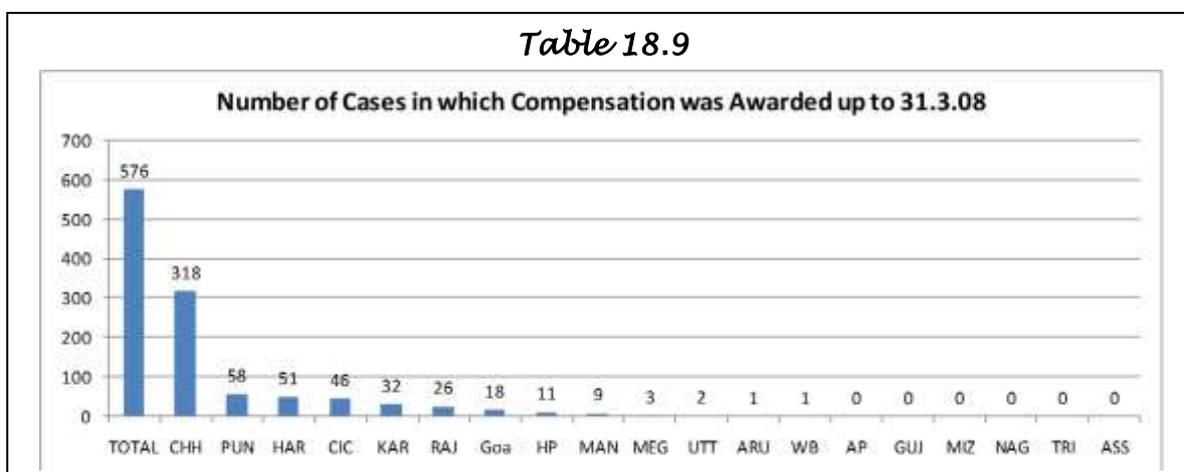
We also have another 15,000 appeals that were not allowed, but some or many of them might attract a penalty because the either PIO did not respond at all, or did not respond in time, refusing the information. However, as it is impossible to assess the numbers without a detailed study, this category, as well as the category of complaints that were not allowed, are being left out of the calculation.

Therefore, the number of cases where some penalty should have been imposed, by very conservative estimation, would be 22,500 in the 18 commissions for which the relevant data was available. Let us round it off to 20,000. The actual penalties imposed were 284, or about 1.4%!!

HOW OFTEN DO COMMISSIONS AWARD COMPENSATION?

Section 19(8)(b) of the RTI Act empowers the information commissions to “require the public authority to compensate the complainant for any loss or other detriment suffered”. Mostly this has been interpreted by information commissions to compensate the appellant for costs relate to attending hearings and pursuing applications, where the information was being wrongly delayed or denied. In some cases innovative interpretations have been used to compensate appellants for harassment suffered in the hands of public authorities or actual financial loss because of information being wrongly denied or delayed.

Despite the fact that thousands of cases of wrongful denial or delay have been logged in, and most if not all must have involved expense on part of the appellant, compensation has been awarded in very few cases, essentially less than 600 in the 19 commissions for which information was available (see table 18.9 below).



Actually, the power to award compensation can be used creatively by information commissions to create pressure on public authorities to conform to provisions of the RTI Act, especially section 4 requirements for proactive disclosures. Various information commissioners have, from time to time, raised the issue that whereas they are empowered to penalize PIOs, they have no power to penalize public authorities that do

not appoint PIOs, or do not make public the information that they are required to under section 4. Though this is correct and perhaps a weakness in the law, by insisting that PAs compensate complainants who were not able access information that should have been proactively accessible because the PA had failed to make it available, commissions could ensure that PAs started conforming to these and other provisions of the RTI Act. The fact that the RTI Act does not prescribe any limit to the compensation awarded, as it does for penalties, makes this even a more powerful tool to ensure compliance.

EFFICACY OF THE COMMISSIONS: HOW OFTEN DOES THE COMMISSION SUCCEED IN HAVING ITS ORDERS COMPLIED WITH?

Only four of the 13 responding ICs: Andhra Pradesh, Meghalaya, Tripura and Uttarakhand, were satisfied with the manner in which state governments were following the orders of the state information commissioners.

It is one thing for the government to not comply with the provisions of the RTI Act, but quite another to willfully ignore or disobey a direct order of the information commission. Unfortunately, in most states and at the centre this is not an uncommon occurrence. It could involve not responding to summons for hearings, not responding to show cause notices, not complying with orders of the commission to appoint PIOs, proactively put out information, or provide information to an applicant. It can also involve ignoring the commission's orders to deduct the penalty amount from an officer's salary or to pay compensation to an applicant. In some cases, the Central and various state governments infringe upon the authority of information commissions by setting themselves up as interpreters of the RTI Act and by issuing circulars that give interpretations of the law that are at variance with those given by the information commissions.

In a recent, celebrated, case the Department of Personnel and Training (DoPT), Government of India, which is also the nodal department for the RTI Act, refused for many years to honour directions from the Central Information Commission to remove from their website an fallacious interpretation of the RTI Act. Fortunately, this "clash of titans" finally was resolved by the DoPT issuing a circular correcting their interpretation to bring it in line with that of the Central Information Commission.

19. THE MEDIA

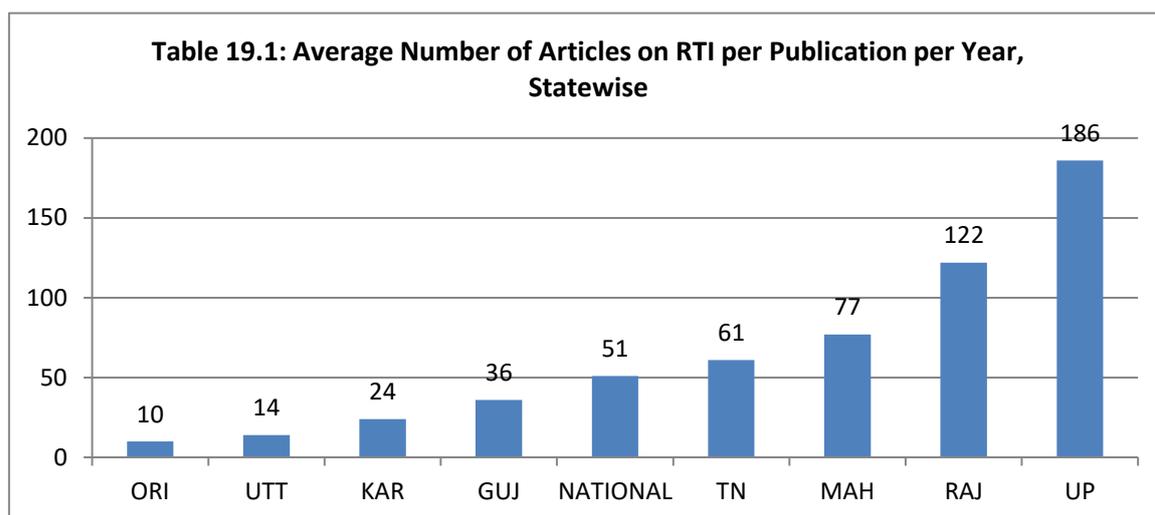
BACKGROUND

The print and electronic media in India has certainly been, and continues to be, a staunch ally of the people as far as the RTI Act goes. The media has not only been ready to raise issues related to the RTI even before the national law was enacted, but has since then been very supportive of RTI movements and has stood by the Act when it has been threatened, like in 2006 and again recently when the government attempted to weaken it.

Apart from this, findings of this assessment show that the single largest source of information for rural and urban citizens about the RTI Act has been the print media, followed by the electronic media (see chapter 7.4 for details). Also, the use of RTI to promote government accountability, especially in terms of preventing corruption and arbitrary governance, promoting efficiency and ensuring the stated pro-poor policies of the government remain, just that in practice, cannot be done without the help and cooperation of the media.

For the media itself, the RTI Act can become an important professional tool, by the use of which much information can be gathered. There is of course the danger that because of the RTI Act the exclusive access some senior journalists had to ministers and others in power might no longer be such a distinct advantage. However, as is argued later, perhaps the RTI Act can help broaden access to sensitive information, but it is unlikely to fully replace the “good contact”.

Keeping these things in mind, we included in this assessment of the RTI Act a study of the media at the national level and in some of the states. As a part of this assessment, a sample of over sixty leading English and Indian-language newspapers and magazines, at both the national and state levels were assessed for their coverage of the RTI since May 2004, when the RTI Act was passed by Parliament. Though initially it was thought that the electronic media would also be assessed in terms of its contribution to the promotion of the RTI, problems of accessing archival material resulted in our dropping the electronic media, at least for the time being.



The assessment was based around five core issues:

1. *Coverage* - How much, and what type of, coverage have different publications given to the Right to Information Act, and to RTI-related issues and cases?
2. *Raising Awareness* - What role have different publications played in raising public awareness about the RTI Act and its use?
3. *Tone and Perspective* - What tone and perspective is inherent in the reporting and comment about the RTI Act?
4. *Use for Investigative Journalism* - Have newspapers, magazines and other publications used the RTI as a tool for investigative journalism, and have they found it useful?
5. *Perceptions about the RTI* - What does the Indian media establishment (i.e. owners, editors and journalists) think of the RTI Act? Has the Indian media establishment begun to internalise the RTI in letter and spirit by enhancing transparency in their own functioning?

The first four questions were answered mostly through an analysis of sample publications' RTI coverage from 1 May 2005 to 31 July 2008. The question relating to media' perceptions of the RTI was answered by interviewing a cross-section of editors and journalists across the country, largely from within the sample publications.

DETAILED FINDINGS

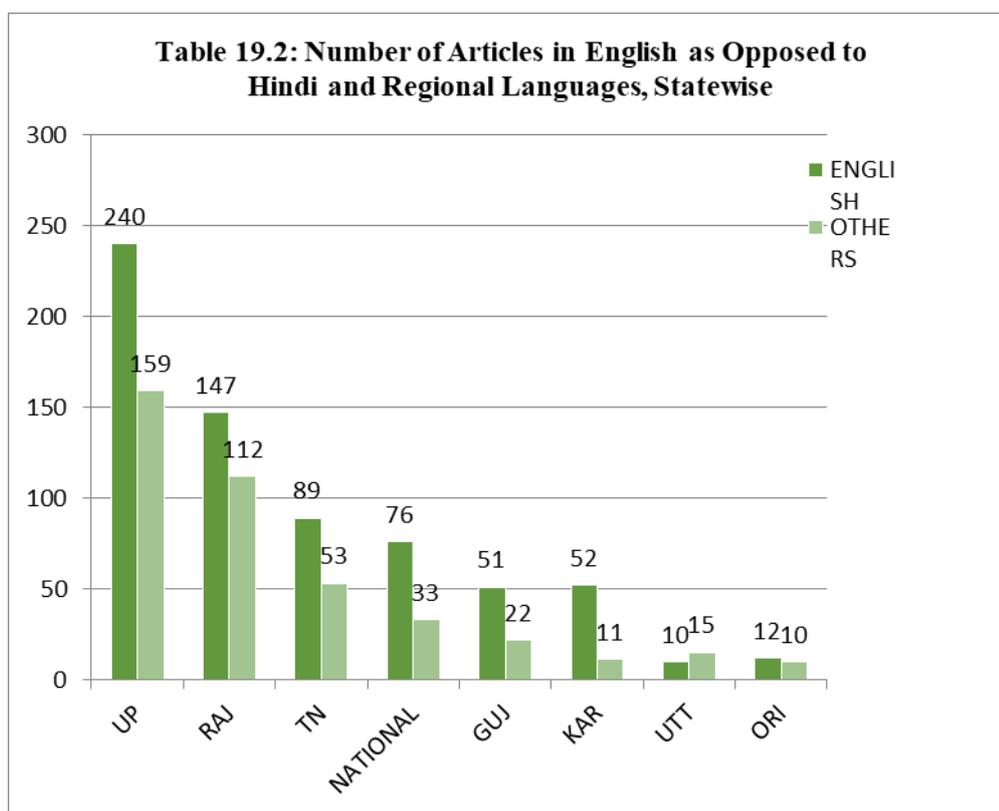
19.1 WHAT WAS THE COVERAGE OF THE VARIOUS NEWSPAPERS AND MAGAZINES RELATING TO RTI?

As a national average, there were 65 items on the RTI per publication per year, making it an average of 1.25 items per week. Uttar Pradesh,

Rajasthan and Maharashtra were above the national average, while national publications and publications from Gujarat, Karnataka, Uttarakhand and Orissa were below the national average.

Differences in RTI intensity by language - English publications seemed to have printed an average of two times as many RTI articles as their Hindi and regional language counterparts, as Table 10.1b shows. The state in which we see a departure from this pattern is Uttarakhand, where Hindi coverage is slightly higher than English coverage.

Differences in the form of coverage - Across national and state samples, coverage has consisted primarily of 'news items'. These include reports on RTI developments⁴³, RTI events, the doings of RTI activists, and stories that track interesting RTI applications and appeals. Editorials/ Op-Eds and Special Features account for a significantly smaller proportion of coverage, although the ratio varies radically across states as Table 10.1c



shows.

⁴³ These include such events as the tabling and enactment of the RTI Bill, the setting up of Information Commissions, the establishment of RTI rules, the inclusion of Government Departments into the purview of the RTI, and so on.

Table 19.3: RTI Coverage: Break Up by Type of Item (% of total coverage)*

	<i>Gujarat</i>	<i>Uttar Pradesh</i>	<i>Rajasthan</i>	<i>Karnataka</i>	<i>National</i>
<i>News items</i>	68	81	85	79	75
<i>Editorials/ Opeds</i>	9	2	6	3	20
<i>Special features</i>	12	4	2	13	4.5

**These are the only five states for which we have the necessary disaggregated data.*

*Magazine coverage of the RTI - RTI coverage in the national periodicals within the sample was very limited both in English and Hindi. Although *Tehelka* and *Outlook Saptahik* were the top performers, they only had 9 and 7 RTI stories for the entire 3 year period.*

*English magazines appeared to more items on RTI than the Hindi ones. This is especially true of niche magazines such as *Tehelka* or *Down to Earth*. While most magazine articles were news stories, they were longer and more analytical than those in the newspapers, elaborating on the impact of RTI on corruption, on fundamental changes to government institutions, and the like.*

*At the state level, mainstream magazines had far less RTI coverage than niche magazines. When niche magazines that promote civil society empowerment took up the cause of the RTI, there was a manifold increase in RTI articles. Thus, magazines, such as *Diamond India* and *Vividha Features* in Rajasthan, published 121 and 64 articles, respectively. Often, these magazines worked in association with NGOs to push for better functioning of RTI rules, such as the lowering of RTI application fees or the creation of more venues for the payment of these fees. Other magazines with higher-than-average RTI coverage at the state level are *Frontline* and *Kudimakkal Murasu* in Tamil Nadu, and *Pavai Piyush* in Uttarakhand.*

19.1 WHAT ROLE DID THE PRINTED MEDIA PLAY IN RAISING PUBLIC AWARENESS ABOUT RTI?

Publications with the largest number of RTI related stories were not necessarily the ones that contributed most to the raising of awareness about the RTI. Separate from news items about RTI, for awareness raising what was required were special features on the RTI Act explaining its

features, its relevance to the common citizen, and how to make the best use of it.

In this sense, the Gujarat and the Karnataka media appeared to be promoting the RTI most extensively, with the ratio of special features to news items far in excess of others. Thus, while the media in these states might not be covering the RTI as intensively as the media in Uttar Pradesh and Rajasthan, they appear to be investing far greater energy in promoting it.

19.2 WHAT WAS THE TONE AND PERSPECTIVE OF THE VARIOUS PUBLICATIONS?

The coverage of both success and failure stories relating to citizen's attempts to access information was far greater in the state, than at the national level. This suggested that state level media was more focused on people's use of the RTI while national media tended to focus more on RTI issues and developments.

Tough most publications reported both 'success' and 'failure' stories, at the national level the English press tended to have a marginally higher percentage of 'success' stories rather than 'failure' stories. Interestingly, among at least the national media, the English media seemed to highlight successes far more than the Hindi media, which appeared to dwell more on the failures. Was this coincidental, or did it hint at a reality where the English speaking citizen had a far better chance of success than the Hindi speaking one!

19.3 HOW EFFECTIVELY AND EXTENSIVELY DID THE MEDIA USE THE RTI FOR INVESTIGATIVE JOURNALISM?

Judging by the small number of RTI-based investigative stories we found, it appears that the Indian media is not yet using the RTI Act much for unearthing stories and investigating issues. Surprisingly, even magazines, which are generally in the business of longer, more in-depth exclusives, have not used RTI Act very often to gather material for stories.

Only three RTI based stories were found in the national sample, one each in the Indian Express, the India Today (English), and the Times of India. In the first two cases, RTIs were filed to get information on the perks enjoyed by senior government servants, and the third discussed the problems faced by the citizen in filing and following up an RTI application.

The state sample offered more investigative stories using the RTI Act, although numbers were still small. Orissa and Gujarat appeared to have the highest, followed by Goa. Tamil Nadu's best-known story based on an RTI application was relating to Priyanka Gandhi's visit to the Vellore prison. In Karnataka, the *New Indian Express* had two stories emanating from RTI applications, but in Rajasthan and Uttarakhand, no examples of investigative stories could be found amongst the sample of dailies and periodicals.

a. Why so little RTI for investigative journalism?

Journalists and editors offered some explanation for the unwillingness or inability of the media to use the RTI Act as a means of investigative journalism. They said that while the press sees the RTI as an extremely useful tool to obtain information, many journalists have found the RTI application and appeal process to be long and slow, and one that does not assure an immediate or complete answer. Moreover, a journalist must already know much of the background of a potential story to pose the right kinds of questions in the RTI application. For both these reasons, repeated applications are necessary, many interviewees said, and also explained why most RTI-sourced stories deal with every day issues, rather than the big, controversial ones.

Many of the journalists felt that the RTI Act can never fully replace the 'good contact'. Nor should it, they thought, as journalists are trained to talk to people and pick up as much from what is not said, as they do from what is said. 'Tip-offs' thus continue to be essential, with the RTI Act being seen as a useful supplementary tool to substantiate a story with facts and figures.

Many interviewees also pointed out that journalists are unfamiliar with how to file applications and appeals and are often too lazy to use the RTI Act.

Nevertheless, there was unanimity on the need to train, encourage, and support journalists, especially the younger ones, to use the RTI effectively.

b. Media Use of the RTI Poised to Grow

Apart from this, several journalists stated that they got a lot of valuable information from RTI activists and indeed were very dependent on them for information.

Interviewees also said that, despite their still-limited use of the RTI Act, it has without a doubt helped their research and investigation, especially while exposing corruption and mal-governance. For this reason, some publications have begun to institutionalize the use of the RTI Act. For example, at the national level, the Indian Express and Mail Today have established specialized 'investigative desks' dedicated to writing and following up RTI applications. Most interviewees also predicted increasing media use of the RTI over time, due among other things to competition. For, the more journalists and news publications that use the RTI to break stories which others do not have, the more their competitors will be compelled to use it.

Although the RTI will remain just one arrow in most journalists' quiver of information sources, the story of Priyanka Gandhi meeting Nalini in Vellore Prison, is a good example of how a high-profile case in one paper can fire the imagination of other journalists. For this reason, the RTI may in itself fan a growing culture of investigative reporting in the country. Both at the national and state level, interviewees agreed that more investigate stories would be seen, especially from those journalists that who receive training on the RTI Act.

19.4 WHAT WERE THE PERCEPTIONS AMONG THE PRESS ABOUT RTI?

Interviews with editors and journalists across the country yielded two primary messages.

a. The press sees the RTI primarily as a boon for citizens, rather than itself. Many interviewees appeared to draw a line between themselves, on the one hand, and activists/citizens, on the other. From their perspective, activists and citizens should consistently use the RTI to highlight issues and causes, and actively use journalists to push these. Since journalists' preoccupations often lie elsewhere, the RTI is largely of tangential value to them, at least for the present.

b. Newspapers and magazines do not see the spirit and the letter of the RTI Act as being relevant to them, in terms of their internal transparency and accountability. Most see themselves as private companies who, in any case, are committed to ensuring fair and transparent systems of pay and promotion.

BACKGROUND

The RTI Act is applicable to non-government organizations (NGOs) or, as they are being increasingly called, to civil society organizations (CSOs). Section 2(h) of the RTI Act defines a “public authority” as, among others, being: “...any... non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;”, the appropriate government being the state or the Central Government. Further, section 2(f) of the RTI Act, while defining “information”, defines it as “...information relating to any private body which can be accessed by a public authority under any other law for the time being in force;”.

Therefore, section 2(h) of the RTI Act brings under the purview of the RTI Act all the NGOs that are being substantially funded by public funds. The term “substantial” remains undefined in the RTI Act but is commonly understood to mean “non trivial”. Besides, in keeping with the spirit of the RTI Act, the onus should ordinarily be with the NOG to establish that it is not substantially funded, if it is asked for information.

Even those NGOs that do not receive a penny from public funds get covered by the RTI Act at least for those bits of information that the government can access under any other law - for example the Societies Registration Act, The Charitable Trusts Act, The Income Tax Act, etc.

Therefore, one way or another, most if not all NGOs are under the purview of the RTI Act, even if most of them do not know this.

The fact that NGOs are so extensively covered under the Indian RTI Act marks it out from many other transparency laws, old and new. In fact, in many parts of the World there is great hesitation on the part of CSOs and NGOs to allow themselves to be included under transparency laws. Various reasons are given for this, the main one being that oppressive government regimes would then use the transparency law to harass NGOs and to interfere with their functioning. However, the main movements supporting the RTI Act in India have always supported the inclusion of NGOs under the RTI Act, mainly because transparency is seen as a value for all social institutions and not just for the government. Besides, it is only fair that those who demand openness of others should themselves be willing to be open.

Keeping all this in mind, as a part of this assessment a small exercise was done to see how far are the NGOs in India following the letter and spirit of the RTI Act.

METHODOLOGY

The NGO survey was done in essentially through accessing the websites of a sample of NGOs and seeing how closely they conformed to the letter and spirit of the RTI Act. For those NGOs who received substantive funding from governments and therefore were public authorities, their web sites were checked to see how closely they met with the requirements of section 4. A list of 38 NGOs was culled from the website of the Council for Advancement of People's Action and Rural Technology (CAPART), which is an autonomous organization under the Ministry of Rural Development, Government of India. These were all those who had received substantial funding from CAPART. The names of another 16 NGOs were taken from the website of the Ministry of Environment and Forests, as being those that had received funds as environment information (ENVIS) centres.

Some of the NGOs working in the area of RTI but who did not get government funds and therefore were not, technically, public authorities, were also selected in order to determine how much information they put out on their own on their websites, in order to be in conformity with the spirit of the RTI Act.

FINDINGS

Of the 38 NGOs culled out from the CAPART list, only 21 had websites. No judgement is being made regarding the others as they might well have been disseminating the required section 4 information by some other means.

Of those 21 who had web sites, only one (PRAVA) had an RTI link on its website. The others gave no information, not even the basic information regarding the name and address of the PIO.

Similarly, of the 16 NGOs culled from the Ministry of Environment and Forests, all of whom had received substantial funds from the Ministry, 14 had websites but only one (Environment Protection Training and Research Institute) had an RTI link in its website. This is all the more disconcerting as all these organizations were getting grants in order to be information clearing houses for the Ministry, and yet were not conforming to the provisions of the RTI Act.

As mentioned earlier, we also scanned the web sites of 11 organisations⁴⁴, directly or indirectly dealing with transparency issues, that were as far as we know not receiving government grants and, therefore, were not public authorities. Here, though there was no legal requirement to put information on the web site, the issue was whether these organizations were actually practicing what they were preaching. We give our findings below.

- While organisations like Transparency International, Kabir, Parivartan, NCPRI and CHRI displayed their accounts, groups such as ADR and PRIA listed their donors (CHRI does both). However, in case of the latter, there was no mention of the exact amount of funds received from each donor. CMS, SNS, MKSS and JOSH did not give accounts.*
- Some sites needed to be updated while others, who presented updated accounts, lacked details.*
- Some organisations described their functions in detail (PRIA lists its support functions in a point-wise format) and some presented summarised information (ADR).*
- All of the 11 organisations provide contact details.*

DISCUSSION

It is unfortunate that the first set of NGOs in the sample, those who are public authorities, seem to conform even less to the requirements of section 4 than the government did. Clearly this is not healthy and the concerned information commissions need to take cognizance and instruct all governments that when funds are released to any NGO there must be a specific provision in the sanction letter that the relevant provisions of the RTI Act must be followed. The non-compliance must be dealt with according to the RTI Act but should also render the concerned NGO ineligible for government funding at least for a certain period.

⁴⁴ These organizations were Association for Democratic Reforms, Centre for Media Studies, Commonwealth Human Rights Initiative (CHRI), Joint Operation for Social Help (JOSH), Kabir, Mazdoor Kisan Shakti Sngathan (MKSS), National Campaign for People's Right to Information (NCPRI), Parivartan, Satarak Nagrik Sangathan (SNS), Society for Participatory Research in Asia (PRIA), Transparency International (India).

21 Some Illustrative Case Studies

Ensuring Open Information is actually open

Despite the fact that many other laws and procedures demand that certain types of information be made public, independent of the RTI Act, unfortunately much of this does not happen, especially as there are no procedures in position to ensure compliance and no penalties for non-compliance. Therefore, the RTI Act is being increasingly used to ensure that information that in any case should have been public, actually becomes public.

One touching case of such a use is related to a provision inserted by the Delhi Development Authority (DDA) right from the 1960s that required all private schools that were being given land by the DDA at concessional rates to reserve 15% of its seats for children belonging to the economic weaker sections of society, and to provide them free education. There was a requirement that each school would advertise this fact each year specifying the number of seats available and the procedure for applications and selections. Unfortunately, for the next forty years or so this did not happen and neither the public nor most of the school managements were aware of this provision.

It was only with the advent of the RTI Act, first the Delhi Act in 2001, and then the National Act in 2005, that NGOs started demanding from schools information about how many poor children had been admitted under this scheme. Initially the schools tried to argue that they were not covered under the RTI Act, but when finally this plea did not succeed, many of them admitted that for decades no children had been offered or given benefits under this provision. Based on the information accessed through RTI applications, and with the support of the Delhi High Court, thousands of children from poor families are now getting free education in hundreds of private schools that they could otherwise not have afforded. The only regret is that many thousand poor students could have had a similar education in the last 40 years if schools had just obeyed the requirement to make information about this scheme public.

Preventing Corruption

In the minds of many people, the RTI Act is primarily aimed at fighting corruption, by exposing it or, better still, by preventing it. Though the RTI Act obviously has many other functions and objectives, this still remains perhaps one of the most dramatic.

The RTI Act is regularly used to avoid the payment of bribes to get ones legitimate work done. One such heartwarming case involved a very elderly lady who had recently lost her husband. As both her children were settled abroad she wanted to go and spend the last few remaining years of her life with them. Accordingly, she applied for a passport but months passed and she did not receive it. Finally when she visited the passport office to enquire about what had happened the staff was not very helpful, but she was approached by a tout who offered to get out her passport for a consideration. He also assured her that unless she paid up, she would never get her passport as the dealing staff was also on the take.

As her subsequent efforts to complain to a senior officer in the passport office did not succeed, she finally approached an RTI campaign group and sought their assistance. She was helped to draft an RTI application with the passport office asking why her passport had been delayed, who was responsible for the delay, what action would be taken against him/her, and by when would she receive her passport. A few days later the lady was back in the campaign office and initially there was concern that perhaps she had not been allowed to file the RTI application. However, when she had caught her breath, she explained that she had just come to relate her wornerful experience.

Apparently, when she approached the staff at the passport office and gave them her RTI application and asked them to accept it and her application fee, they took one look at the application and then went and got her passport and gave it to her!

Exposing Corruption

There are hundreds of case studies of dramatic exposé of corruption. This is one aspect of the RTI Act that has caught the imagination of many groups and individuals, and there are now hundreds, perhaps thousands, of RTI activists who are ensuring that corruption gets detected, exposed, punished and that all this hopefully deters further corruption.

The first case study comes from a village in Rajasthan. The village had near it a small stream which the villagers had to cross every time they went to the nearest market town. However, some years back the bridge over this stream had collapsed and despite their making frequent requests to all and sundry, it had not been repaired. As a result, they had to travel an extra five miles up and down the stream till they came to a

shallow part where they could cross. And this was not by car or bus, but on foot, on bullock cart or, at best, on a bicycle. Every time they raised the issue with the local panchayat functionaries or with their block development officer, they were told that a requisition for funds had been made to the collector's office but no money had been sanctioned.

Then one day some of the villagers attended a meeting organized by an NGO working at promoting the RTI. One of the villagers raised the issue of the broken bridge and asked if the RTI could help them get the bridge repaired. The NGO workers helped the villagers to draft and file an RTI application at the collector's office, asking why their bridge had not been repaired for so many years and when was the money likely to be sanctioned.

When three weeks later they got the reply, they were horrified to learn that the collector had sanctioned the required funds to repair the bridge some three years back and that, as per the records, the bridge had been repaired and was fully functional. To add insult to injury, additional funds had been sanctioned last year and, as per records, utilized for repainting the (non-existent) bridge!

Armed with this information, the villagers confronted their local officials, had complaints registered against them, got the process of recovery of funds initiated and finally got their bridge repaired in reality.

The National Rural Employment Guarantee Act was passed by the government some years back to ensure that every rural family had legally guaranteed access to 100 days of employment. Unfortunately, like many other mass programmes designed to benefit the poor, this programme also had the potential of being hijacked by corrupt elements in the bureaucracy and in local governments so that the benefits did not reach those who really needed them. This fear was also the basis of initial hesitation on the part of some elements of the government who feared that a huge amount of money would be lost to corruption without any significant benefits for the poor. However, the passing of the RTI Act reassured many of them, for it was thought that appropriate transparency in the functioning of this programme could minimize corruption.

In order to institutionalize transparency, a system of mandatory social audits was introduced, based on an extensive use of the RTI Act. This has

been effectively used in some states, like Andhra Pradesh, Rajasthan, and Orissa to expose corruption in NREGA activities.

Social auditing involves accessing the accounts of government expenditure by using the RTI Act. Once these accounts are received, they are verified by contacting all the listed beneficiaries and confirming that they had all received the amount shown against their names. Where any discrepancies are found, the concerned people are requested to give a written affidavit and also invited to participate in a *jan manch* or public meeting, where the accounts are finally discussed.

On a pre-designated day the *jan manch* is organized and the accounts are read out. The concerned officials are invited to be present and as discrepancies get established immediate action is initiated, mainly to address the grievances, pay the money due to the people and make recoveries from defaulting officials.

Perhaps the best example of effective social audits is in Andhra Pradesh, where the state government has institutionalized it and it is beginning to have the required deterrence on corruption related to NREGA.

Curtailing Wasteful Public Expenditure

Wasteful expenditure that might not strictly be illegal or corruption can be minimized if there is public exposure and embarrassment. Soon the fear of exposure begins to deter even the high and mighty as no one wants to be publicly ridiculed.

One example of such publicity was a recent RTI application regarding the foreign travel of judges of the Supreme Court of India. A leading television channel collected shocking information using the RTI Act, pertaining to foreign trips made by judges on government expenses⁴⁵. According to information revealed by the Law Ministry, one judge made seven foreign trips in one year. He travelled along with his wife in First Class and the air fare alone amounted to Rs 39 lakhs. For another trip, the judge did not go by the shortest route as per government rules, but instead took a long detour through three other cities before reaching his destination. This tourist extravaganza entailed Rs 5.70 lakhs as airfare and Rs 80,000 as entertainment allowance of the judge.

⁴⁵ Source: Humjanenge 22786/NDTV/PTI/CEN/2008; Humjanenge 20593/CNN-IBN/CEN/2008.

The Justice Department's responses to information sought by an RTI activist also exposed the use of public money on foreign trips by other judges. Though expenses on their stay and other expenses were not revealed, the expenditure on air fares alone was close to Rs 3 crore. This was the cost borne by the government for the 72 trips made by the judges during a five year period. Out of these 72 instances, during 42 of them the judges were accompanied by their spouses.

A similar story on how much union ministers spend on foreign travel had reportedly led the Prime Minister to issue strict instructions that foreign travel should be undertaken only when absolutely essential.

In another case, the governor of a particular state in India was in the habit of frequently travelling to his home town, which was in another state, mostly with his wife and at government expense. When an RTI application revealed that the gentleman had made over 20 such trips at public cost, newspapers splashed this on the front page. The embarrassed governor publicly vowed not to repeat such trips!

Another case involved a Chief Minister's Relief Fund (CMRF) that was set up with the sole aim of providing relief and assistance to victims of natural calamities across the country. Subsequently, the beneficiary list was expanded to include those affected by communal riots, accidents and Naxalism.

Contravening the provisions of the Fund, the CMRF chest was opened up for the well-appointed Raj Bhavan (Governor's Mansion) to refurbish its sports and club facilities. A Press Club got money to construct toilets, undertake electrical work, purchase computer hardware and software.

CMRF's beneficence has also gone to kabaddi and chess competitions, towards construction of buildings for hundreds of educational institutions, to youth organisations for purchase of cycles and computers. It has contributed regularly to the kitty of cultural, theatre and literary festivals; and money has also gone to a ghazal festival, a legislator's religious programme and to actors' fan clubs. Funds have also been given to a mango festival and to a flying club!

There is another catch. Most contributions to the CMRF are voluntary but, as the state information commission pointed out, the government has used "its strength, authority and might to mop up maximum contributions". For example, the commissioner for sugar had

directed that, following a government order, cooperative sugar factories deduct Rs 2 per tonne crushed from its members and deposit it into the CMRF, failing which crushing licences for the next year won't be issued. A day's pay was deducted from the salary of all government employees for the CMRF without their consent.

Hopefully, with all this being made public, the managers of the fund would think twice before disbursing and collecting funds irresponsibly. It would certainly strengthen the hands of the honest and conscientious civil servant, of which there are many, who when faced with pressure from above to release money for an ineligible clause can always hold up the spectre of RTI and public exposure to neutralize the pressure.

Exposing misuse of power and influence

The forest minister of an Indian state was convicted for contempt of court and sentenced to one month in prison. However, on the very day he was imprisoned he complained of uneasiness and was shifted to a hospital. He remained there on doctor's advice till the day he was to be released, and came back to jail just to secure his release.

An RTI activist filed an application asking for his medical records. Though the government refused, saying that they were exempt, on appeal the information commission ruled that the release of his medical records was in public interest. The government appealed to the High Court, but the High Court also upheld the information commission's order. One consequence of this was that doctors even in government hospitals became far more reluctant to provide false certificates to important persons!

Accessing justice

In a bizarre case that came to light recently, the Right to Information (RTI) Act was used by two accused persons to prove their innocence. These two were arrested by 11 police personnel of the Pune rural police on charges of firing shots at a police party. The duo was booked for attempted murder.

The lawyer representing the two used the RTI act and procured various documents which included the station diary extracts and details of police rewards. He used these documents to show the inconsistencies in the case and how his clients had been framed in order to falsely show

that an encounter had taken place so that the policemen involved could claim a reward.

The judge presiding over the case condemned the personnel for faking the entire encounter to earn awards and glory. He also pointed out that the policemen faked records and implicated innocent men for their own selfish gains.

In another case involving the judiciary itself, five candidates had been selected to appear for interview for appointment as a lower judiciary judge. The interview was scheduled and cancelled thrice. When the selection committee of five High Court judges finally met the selected applicants, they were informed that the interview would take place yet another time. After six postponements, when the much awaited interview finally occurred, only three candidates were selected.

Perturbed by the aberrations of the committee, two of the five candidates who appeared in front of the committee used the RTI to fill in the perplexing blanks. They found that, out of the blue, the selection rules had been modified by including a new criterion- that of cut off marks- for the interview.

They then filed a case in the Supreme Court. The candidates contended that if 16 vacancies existed, all the five candidates should have been chosen. The Supreme Court ordered that the two applicants who had moved the court be appointed to the judiciary services.⁴⁶

Another case concerns the rights of a daughter whose father appropriated all the gold and silver jewellery given by both himself and by her in-laws on her wedding day at the time of her "Bidaai" (send-off). When she went to her father to take back her jewellery, she was beaten up and threatened with dire consequences by her parents and brother. They even went to the office of her mother-in-law and hurled abuses and threats at her.

A complaint was lodged in the police station but she got no help from there. She wept and pleaded to no avail. No F.I.R. was lodged. She was then advised by an activist to submit a complaint in the office of Chief Secretary, the Director General of Police, the Women's Commission, and the Human Rights Commission. However, when even these complaints evinced no response, an RTI application was filed in all the above offices.

⁴⁶ Humjanenge 20396/Times News Network/Central/2008

Then there was action. Officials of the police station came to her house, took her statement and assured her of full police support in recovering her jewellery. They sent her enquiry report to the police station of the area in which her parents reside. The police station lodged an FIR against the family. Now she is treated with respect by the authorities and investigation is going. There is now pressure from her father to take back her jewellery and withdraw her complaint.

Accessing entitlements

The grass roots movement for the right to information really started in the villages of Rajasthan out of the grievances of poor labourers who, despite toiling day and night, were not paid their full wages. Particularly poignant is the story of one couple who were landless, with nothing but a small hut in the outskirts of the village. They earned their living by doing manual work in people's agricultural land or in government projects, when these were available. They had no surviving children and neither of them knew how to read or write.

However, every day when they came home after working the whole day, they made a mark on the wall of their hut with a charcoal stick to mark each day they had worked so that they could claim their rightful due in terms of daily wages.

When pay day came, they took the help of a literate person to count the charcoal marks on the wall so that they knew exactly what was due to them. However, when they went to get their money they were told that what was due to them was much less than what they had calculated. When they protested and said that they had worked for many more days, and that they had a meticulously maintained account marked out in charcoal on the wall of their house, they were told that what mattered were the official accounts, which showed that they had worked far fewer days.

Some local activists tried to intervene on their behalf and demanded that they be shown the official accounts so that they could see where the discrepancy was. However, they were told that official accounts were government records and cannot be shown to them.

Unfortunately this story does not have a happy ending, for the couple did not get their wages. The husband died soon after, too poor to survive an illness. His last bit of advice to his wife was not to rub out the charcoal markings on the wall, for they were the only proof that she had of the

money owed to them. The wife faithfully preserved the markings, but died herself some months later without ever getting the money rightfully due to her.

However, this tragedy spawned in a sense the realization that before one can access one's basic entitlements one must be able to access the information that belongs to the people but is in the custody of the government.

Redressing grievances

Though the RTI Act was not intended to be a grievance redressal legislation, in practice it has quite often been working like that. Often the 30 days given to public authorities to provide information are used to address the grievances which might be behind inconvenient RTI applications. Slowly wisdom on this is growing among the public and more and more people, after they have made a few complaints that have not been responded to, file an RTI application broadly asking why their complaint has not been attended to, who is responsible for the inaction or delay, what action would be taken against him or her, and when will their complaint be attended to. Given the requirement under the RTI Act to provide an answer in writing, and that also in 30 days, and the government's dislike in putting down anything compromising in writing, often an effort is made to remove the grievance and then persuade the applicant not to pursue the application. As the RTI Act also penalizes false, incomplete or misleading replies, there are few options available to the public authority.

Of course, there is a danger that public authorities become so reactive to RTI applications that they start giving a lower priority to routine work that does not have an RTI application attached. Like the digital divide, there is a danger that there soon will be an RTI divide, where those who have the ability to file and pursue RTI applications will get preferential attention over those who cannot, and scarce resources will disproportionately start flowing towards the RTI savvy.

In order to prevent this from happening, the use of RTI applications to improve service delivery must quickly result in systemic change within the public authority that makes it more efficient and responsive to everyone, and not just more reactive to RTI applications.

A delightful case study about grievance redressal is about a nine year old boy, perhaps our youngest ever RTI user, whose bicycle was stolen. He

went with his elder brother to file an FIR in the police station. However, police officials refused to file an FIR and he returned home disconsolate. His mother then told him about the RTI and helped him to draft out an RTI application to the police chief of the district, asking why his complaint had not been taken seriously by the police and why no FIR was filed, and that if they do not file an FIR then how will he ever recover his bicycle. Two days later half the police station arrived at his house and his complaint was formally registered.

Rumour has it that later that evening some police officials brought four swanky new bicycles to his house, none of which were his, and begged him to declare one of them as his so that the case could be closed!

Supporting good officials

Though not often publicly acknowledged, one of the greatest beneficiaries of the RTI Act has been the honest, conscientious and efficient official. The RTI Act has given the public a powerful instrument by which it can support and defend such officials, whenever they are being wrongly attacked, as often happens when they refuse to go along, or even look the other way, when wrong things are happening. It also allows such officials to themselves use the threat that if there is wrong doing it would soon be discovered through an RTI application, to counter illegitimate pressure.

Perhaps the most telling story about the power of the RTI Act to expose and thereby prevent illegitimate pressuring of public servants comes from the state of Maharashtra where an auditor was posted in a particular town to audit the accounts of various co-operative banks. In the process he discovered a lot of irregularities in the accounts of one such bank and therefore issued to the management a note making adverse observations and asking for an explanation. The president of this bank was a very influential politician who had earlier been a Member of Parliament. He called the auditor and first reportedly offered him a bribe and, when that did not work, threatened him and asked him to desist from making such adverse observations.

The auditor did not comply and, consequently, the politician used his influence and got him transferred within a few months. Ordinarily the story would have ended there and would not have been very remarkable, as such things happen often. However, someone filed an RTI application with the concerned department asking them whether it was their policy and practice to transfer auditors within a few months, and if it was, to

please give the names of all the auditors who had been transferred in such a short time in the last three years. On the other hand, if it was not their policy or practice, then please give the reasons why that auditor was transferred so quickly.

The PIO who responded to this application admitted in his reply that it was neither the policy nor the practice to transfer auditors so quickly. He went on further to admit that this particular auditor had been transferred because of pressure from the president of such and such bank, which was being audited.

Obviously this answer put the cat among the pigeons and there were protests all around. When questioned later on as to why he had been so candid, the PIO insisted that he had no option for there were letters and notings on the file that made it clear why the person was transferred. If he had given a false or a misleading reply, the applicant had the option under the law to seek to inspect the file, and could then have got the PIO penalised for not giving the correct answer. It was suggested to the PIO that he could have "sanitized" the file and removed all the incriminating documents. His reply to that was that if he had done that, then there would have been no basis on file for the transfer and the concerned officers, including him, could have been accused of arbitrariness or bias for transferring the auditor without any reason!

Another delightful story involved a senior retired civil servant and how she tried to get a servant quarter allotted to her former peon, as he had become due for such an allotment. She rang up a former subordinate and requested him to do the needful, especially as the peon was eligible for such an allotment. However the officer, after promising to look into it, did not oblige. This annoyed her and she rang up the officer to berate him on how he could not do even a small thing like allotting a quarter to a peon who was eligible. She said she was mortified when the officer apologized but responded that, madam, it was now the era of RTI and though the peon was eligible, there were 59 others who had become eligible before him and were awaiting allotment. If the officer allotted a quarter to this peon, the next day he would receive 59 RTI applications asking him on what basis he had done so!

Equally important is to use the potential of the RTI to blunt internal pressure. A senior civil servant who looked after the release of government advertisements to news papers and magazine reported that till the RTI

Act came his minister would decide whom to release advertisements to on the basis of his own preferences. Soon after the RTI Act became effective the department received an application from a journalist asking for a list of the publications to which advertisements were released, the amount paid to them, and the basis on which they were selected. Initially the minister was not worried and thought that this could also be dealt with like assembly questions were. However, when the officer explained to him that RTI applications were not like assembly questions and that the applicant could file further questions and seek the inspection of all the files and papers, the minister got worried. Though finally this application and applicant were "managed", from then on whenever the minister rang up to instruct the officer to release an advertisement to such and such publication, the officer would tell him that he had no problem following the minister's wishes but tomorrow if someone filed an RTI they would be hard pressed to justify the release. According to the officer, the number of advertisements released in violation of norms and as per the whims and fancy of the minister went down drastically.

Public empowerment

Unquestionably the most important impact of the RTI Act is the sense of empowerment it creates among the public. This sense of empowerment becomes actual empowerment as information becomes available and leads to greater public accountability and responsiveness of the government.

The RTI Act has for the first time made a whole class of people, especially the poor and the marginalized, realise that in a democracy they have the right to question their elected representatives and officials. This new found sense of empowerment does not necessarily sit well with the ruling classes, especially those who are used to being answerable to none, or to very few from within the system.

Even before the RTI Act came into force, various wings of the government tried to be excluded from its purview. The President of India reportedly wanted his office to be excluded, as did the armed forces, and various police forces. Even the Central Vigilance Commission, a body set up to safeguard the integrity of the government, wanted to be outside the scope of the law. Subsequently, questions were raised on whether "constitutional authorities" should be covered under this act, and how far does it apply to judges and legislators. One state legislative assembly even threatened

the state information commission with the charge of contempt of the House if they dared to demand information from the Legislative Assembly.

Questions remain on whether Members of Parliament are public authorities and what sorts RTI queries are appropriate. The Administrative Reforms Commission, in its volume on RTI, while claiming to be supportive of the RTI did it great disservice by introducing the notion of "frivolous and vexatious" applications and by recommending that PIOs be authorized to reject all such under the Act.

In short, nothing rankles those in power more than the sense of empowerment that this act bestows upon the common citizen and the consequent sense of disempowerment it creates among the bureaucracy, the judiciary and the elected representatives. This has resulted in a strange situation where the most formidable opponents of the RTI Act are not the corrupt and the inefficient among the bureaucrats, judges and politicians, who would have been easier to handle, but the relatively honest and efficient, and yet arrogant and self righteous ones. It is these who think that they, and they alone, have the right to decide how this country should be governed and who should be privy to what information, who are constantly seeking to weaken the Act and to make it progressively ineffective.

Perhaps nothing illustrates the changing power structure that this Act has brought about, and the hope and resentment it causes, then the story about the street side hawker who sold peanuts on the pavement outside a Collector's mansion in a remote district of India. One day the Collector received an RTI application from this hawker asking for a copy of the log book of the official vehicle of the Collector for the last one year. The Collector was incensed at this application and the temerity of it, and his first response was to tear it up and throw it in the waste paper bin. However, his subordinates warned him about the penalty clauses and that led him to reconsider.

He still thought that this road side vendor had no business asking for copies of his car's log book (who does he think he is?). However, to be on the safe side, he rang up an RTI expert just to confirm that he was not legally obliged to respond to such an atrocious demand. To the Collector's disbelief, the RTI expert advised him that there was no clause in the RTI Act that could exempt the provision of a copy of the log book to

the applicant. When the infuriated Collector demanded what business a street vendor had with the log book of his official car, he was gently reminded that as the car and its petrol was paid for by public funds, as a tax payer the vendor had a right to know whether his tax money was being properly spent or not. The Collector protested that if the Act was going to allow any body off the street to question the Collector, how would the Collector command respect among the public. He ended the conversation suddenly when it was suggested to him that perhaps the peanut vendor, after examining the log book, would tell everyone how honest the Collector was and how he never used the official car for personal use. Surely this would gain him respect and raise his stature!

ANNEXURES

Annexure - 1

Questionnaire I

PEOPLE'S RTI ASSESSMENT 2008

C 17A Munirka, New Delhi 110 067

Tel: 011 46089324

RTI &
Accountability
Assessment Group
(Raag), New Delhi

*In collaboration
with*

National Campaign
for People's Right to
Information
(NCPRI), New Delhi

Tata Institute of
Social Sciences
(TISS), Mumbai

Centre for the Study
of Developing
Societies (CSDS),
Delhi

Association for
Democratic
Reforms, Bangalore

North Eastern
Network, Guwahati

ASHA, Varanasi

JANPATH,
Ahmedabad

United Forum for
RTI Campaign,
Hyderabad

Meghalaya RTI
Movement, Shillong

Centre of Action
Research and
Documentation
(CARD)
Bhubaneswar

School for
Democracy, Jaipur

Questionnaire I

Applicant's Questionnaire

*I have come from (NGO/Institution /university dCreated by
raag2istrict/Village)_____.*

*We are conducting a nationwide study about Right To information regime and the
functioning of the RTI Act. As a part of this assessment, we are interviewing citizens,
across the country, who have filed an application under the RTI Act. We are
interested in understanding the experience of citizens while filing RTI applications
and in accessing the required information.*

*This is an independent study and is not linked with any government agency. We will
be very thankful if you can spare some of your time and answer our questions to
make this study successful*

State ID Name of District/Capital _____ Block ID

I

PEOPLE'S RTI ASSESSMENT- 2008
APPLICANT'S QUESTIONNAIRE

INTERVIEWER'S INTRODUCTION:

*I have come from (NGO/Institution /university/ district/Village) _____.
We are conducting a nationwide study about Right To Information (RTI) regime and the functioning of the RTI Act. As a part of this assessment, we are interviewing citizens, across the country, who have filed an application under the RTI Act. We are interested in understanding the experience of citizens while filing RTI applications and in accessing the required information.*

This is an independent study and is not linked with any government agency. We will be very thankful if you can spare some of your time and answer our questions to make this study successful

A: QUESTIONNAIRE IDENTIFICATION (To be filled by FI)

A1. Date of interview:

Date	Month	2	0	0	8
------	-------	---	---	---	---

A2. Name of Applicant (*Code Res. No*): _____

A3. Village: _____

A4. Sub-Division: _____

A5. Block: _____

A6. District: _____

A7. State: _____

A8. Checklist of records to photocopy while interviewing applicants:		Yes	No
a.	a. Copy of RTI application	1	2
b.	b. Copy of fee receipt	1	2
c.	c. Copy of postal receipt, if sent by post	1	2
d.	d. Copy of acknowledgment from APIO (IF ANY)	1	2
e.	e. Copy of acknowledgment from PIO (IF ANY)	1	2
f.	f. Copy of response from PIO/APIO	1	2
g.	g. Copy of information (documents/records) received (IF ANY)	1	2
h.	h. Copy of First appeal (IF FILED)	1	2
i.	i. Copy of First appeal decision (IF RECIEVED)	1	2
j.	j. Copy of Complaint (IF FILED)	1	2
k.	k. Copy of Second appeal (IF FILED)	1	2
l.	l. Copy of additional correspondence between applicants and PIO/APIO (IF ANY)	1	2

A9. Name of field investigator (*Code FI No*): _____

A10. FI's signature: _____

C: DATE-LINE OF APPLICATION PROCESS

C1. I am going to ask you about the process of submitting the application. Please tell me on which date did you...

a. Submit the RTI Application

Date	Month	Year
<input type="text"/>	<input type="text"/>	2 0 0 <input type="text"/>

b. Deposit the fees and receive the receipt

<input type="text"/>	<input type="text"/>	2 0 0 <input type="text"/>
----------------------	----------------------	----------------------------

c. On which date did you receive information

<input type="text"/>	<input type="text"/>	2 0 0 <input type="text"/>
----------------------	----------------------	----------------------------

d. On which date was your application rejected

<input type="text"/>	<input type="text"/>	2 0 0 <input type="text"/>
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C2. Now I am going to ask you about the process of filing the first appeal. Please tell me on which date did you...

a. File the first appeal

Date	Month	Year
<input type="text"/>	<input type="text"/>	2 0 0 <input type="text"/>

b. What was the date of hearing

<input type="text"/>	<input type="text"/>	2 0 0 <input type="text"/>
----------------------	----------------------	----------------------------

c. And what was the date of rejection/acceptance order

<input type="text"/>	<input type="text"/>	2 0 0 <input type="text"/>
----------------------	----------------------	----------------------------

D: AWARENESS

D1. How did you learn about RTI? (*DO NOT READ OUT OPTIONS. Code answers given as 'Yes' and rest as 'No'*)

	Yes	No
a. Radio	1	0
b. TV	1	0
c. Newspaper	1	0
d. NGOs	1	0
e. Posters	1	0
f. Ward Committee members/ Panchayat members	1	0
g. Ward council/ Gram Sabha	1	0
h. MP/MLA	1	0
i. SHGs/ VOs/ RWA	1	0
j. State government official	1	0
k. Family/ friends	1	0
l. Others (please specify) _____		

D2. How many RTI's have you filed since the Act came in to force? (*Record exact answer and code. if more than 9 times then code 9*) _____

E: NATURE OF INFORMATION SOUGHT

I am now going to ask you some questions regarding the kind of information sought through the RTI. If you have filed multiple RTI's please give me information about the most recent RTI filed.

E1. Which Public Authority/ Department did you apply to? (*Please specify the full name of the Public Authority*) _____

E2. Now please describe to me the nature of information sought. (*Record exactly*)

E3. What was your reason for seeking the information? (*Record exact answer and use code book for coding*) _____

E4. The information you asked for was relevant to whom - you personally, you and your family, your village/ town, your union/association/group or your state?

1. You personally 2. You and your family 3. Your village/ town
4. Your union/association/group 5. Your state 6. Others (*Specify*) _____

E5. What was the format in which you requested the information?

1. Copies of documents 2. Copies of files 3. Copies of file notings
4. Daily progress reports 5. Data related to projects/programs 6. Electronic files
7. Certified copies/ samples 8. Inspection of records/premise/works 9. Others (*Specify*) _____

F: APPLICATION PROCESS

F1. Did you submit your application to a PIO? 1. Yes (*Go to F4*) 2. No 3. Don't remember 9.N.A

F2. Did you submit your application to an APIO? 1. Yes (*Go to F4*) 2. No 3. Don't remember 9.N.A

F3. (*If 'No'*) Who did you submit your application to? (*DO NOT READ OUT OPTIONS. Code answers given as 'Yes' and rest as 'No'*)

	Yes	No	N.A
a. Another officer in the PA	1	0	9
b. Local elected representative	1	0	9
c. Village elder	1	0	9
d. MP/MLA	1	0	9
e. School teacher	1	0	9
f. Post man/master	1	0	9
g. NGO	1	0	9
h. Private company	1	0	9
i. Other (<i>Specify</i>) _____			

F4. Did any external person or agency help you drafting or filing the application?
1. Helped in drafting 2. Helped in filing 3. Helped in both 4. No help taken (*Go to F6*)

F5. (*If received help*) Who was the main person or the most important agency that helped you?
0. NGO 1. Private company 2. Call center 3. Friends/ family
4. Local council member 5. MP/MLA 6. Local elite 7. Government official
8. Others (*Specify*) _____ 9. N.A

F6. Did you make your request orally? 1. Yes 2. No (*Go to F8*)

F7. (*If Yes*) Did the PIO/APIO reduce the request in to writing? 1. Yes 2. No 8. DK 9. NA

F8. Did you go personally to the PA/Department? 1. Yes (*Go to F10*) 2. No (*Ask F9 & go to F30*)

F9. (*If No*) Did you submit your application by post, email, or some third party?
1. Post 2. Email 3. Through a third party (*Specify*) _____ 9.NA

F10. (*If Yes in F8*) Was there a signboard at the entrance with any information relevant to the RTI?
1. Yes 2. No (*Go to F12*) 8. Don't remember (*Go to F12*) 9. NA

	F11. (If Yes) Now I am going to ask you about the signboard at the entrance. Did the signboard display.....?	Yes	No	NA
a.	a. Name of the PIO	1	2	9
b.	b. Designation of the PIO	1	2	9
c.	c. Location of the PIO	1	2	9
d.	d. Details of fee/Mode of payment	1	2	9
e.	e. Visiting hours	1	2	9
	F12. Did you have to get a visitors pass before entering the PA building?			
	1. Yes	2. No (<i>Go to F15</i>)	8. Don't remember (<i>Go to F15</i>)	9. NA
	F13. (If Yes) Did you have any difficulty in accessing the Pass?			
	1. Yes	2. No (<i>Go to F15</i>)	8. Don't remember (<i>Go to F15</i>)	9. NA
	F14. (If Yes) What difficulty did you face?			
	1. Had to wait for long (15 minutes or more)	2. Asked to show proof of identity		
	3. Stopped by guards/ peons from entering the building	4. Others (<i>Specify</i>) _____		9. NA
	F15. Did PA have a counter where RTI applications were accepted?	1. Yes	2. No (<i>Go to F18</i>)	9.N.A
	F16. (If Yes) Did you have any difficulty in getting to the counter	1. Yes	2. No (<i>Go to F27</i>)	9. NA
	F17. (If Yes) What was the difficulty?			
	1. No proper signage/directions for finding counter	2. Peon stopped		
	3. No lift available	4. Others (<i>Specify</i>) _____		9. NA
	F18. Did you face any difficulties in finding the PIO?	1. Yes	2. No (<i>Go to F20</i>)	9. NA
	F19. (If Yes) What were the difficulties?			
	1. No proper signage/directions to PIO office	2. Peon stopped		
	3. No lift available	4. Others (<i>Specify</i>) _____		9. NA
	F20. Was the PIO available at the time you visited the PA?	1. Yes (<i>Go to F22</i>)	2. No	9. NA
	F21. (If No) How long did you have to wait - less than 1 hour, between 1 and 2 hours, more than 2 hours, or the PIO never came?			
	1. Less than 1 hour	2. Between 1 and 2 hours	3. More than 2 hours	
	4. PIO never came	9. NA		
	F22. Did the PIO accept the application?	1. Yes (<i>Go to F25</i>)	2. No	9. NA
	F23. (If No) Did some other official accept the application?	1. Yes	2. No (<i>Go to F25</i>)	9. NA
	F24. (If Yes) What was the designation of the official?			
	1. APIO	2. HOD	3. PA/Secretary	4. Other Department official
	5. Peon	6. Others (<i>Specify</i>) _____	8. Don't remember	9. NA
	F25. Did the PA provide a prescribed format for submitting the application?	1. Yes	2. No	9. NA
	F26. How many visits did you need to make to submit your application?			
	1. One	2. Two	3. Three	4. Four or more (<i>Specify</i>) _____
	9. NA			
	F27. Did the PIO/ counter accept the fee?	1. Yes (<i>Go to F 30</i>)	2. No	9. NA
	F28. (If No) Where did you have to deposit the fee?			
	1. In the PA building	2. Some other location (<i>Specify</i>) _____		9. NA

F29. With whom did you deposit the fee?

1. Accounts Officer 2. Cashier 3. Clerk/Peon
4. Others (*Specify*) _____ 8. Don't remember 9. NA

F30. Did you get a receipt while/for submitting fee? 1. Yes 2. No

F31. (*Refer to B7a. If applicant is not a BPL card holder, go to F 33*) Did you get a fee waiver?

1. Yes 2. No 9. NA

F32. Did you get a receipt? 1. Yes 2. No 9. NA

F33. (*If paid fees*) What was the mode of payment?

1. Cash 2. DD 3. IPO 4. Judicial Stamps
5. Treasury Challan 6. Other (*Specify*) _____ 8. Don't remember 9. NA

F34. How much was the fee?

1. Rs. 10 2. Rs. 20 3. Rs. 50 4. Rs. 100 5. More than Rs. 100 9. NA

F35. Did you get a receipt while submitting RTI application? 1. Yes 2. No

G: RESPONSE TO THE APPLICATION

G1. Did you receive a response for your application? 1. Yes 2. No (*Go to G14*)

G2. Did you receive the information requested? 1. Yes 2. No (*Go to G10*)

G3. (*If Yes*) Did you receive the information in part or whole? 1. Part 2. Whole 9. NA

G4. In what form did you receive the information?

1. Copies of documents 2. Copies of files 3. Copies of file notings
4. Daily progress reports 5. Data related to projects/programs 6. Electronic files
7. Certified copies/ samples 8. Inspection of records/premise/works 9. Others (*Specify*) _____

G5. Was this the form in which you requested the information? 1. Yes 2. No 9. NA

G6. (*If No*) Were you given an explanation for why the form was not adhered to?

1. Yes 2. No (*Go to G8*) 9. NA

G7. (*If Yes*) What was this explanation?

1. Information not available in the form asked for
2. Information too bulky in the form asked for
3. Information in the form asked for would required disproportionate diversion of resources
4. Information in the form asked for would threaten the safety of the document
5. Others (*Specify*) _____ 9. NA

G8. Did you receive the information in the language you requested? 1. Yes 2. No 9. NA

G9. Was the information you got false, misleading or incomplete? 1. Yes (*Go to G14*) 2. No 9. NA

G10. (*If information refused*) Was it refused in part or whole? 1. Part 2. Whole 9. NA

G11. And were you given reasons why it was refused? 1. Yes 2. No (*Go to G14*) 9. NA

G12. (*If Yes*) What was the explanation? (*Please describe and attach photocopy of the refusal letter to the questionnaire*) _____

- G13.** Was the name and address of the first appellate authority communicated to you?
 1. Yes 2. No 9. NA
- G14.** *(If 'No' in G 1 & 'Part' in G 3)* To what extent did the act of filing the RTI result in the purpose of your filing the RTI being met - fully, somewhat or not at all?
 1. Fully 2. Somewhat 3. Not at all 8. Cant'say 9. NA
- G15.** Please describe how? *(Record exact answer and do not code)*

- G16.** *(If 'Whole' in G 3)* To what extent did getting of this information fulfill the purpose for which you had asked this information - fully, somewhat or not at all?
 1. Fully 2. Somewhat 3. Not at all 8. Cant'say 9. NA
- G17.** Please describe how? *(Record exact answer and do not code)*

H: FIRST APPEAL PROCESS

- H1.** Did you file an appeal with the PA after your information was refused?
 1. Yes *(Go to H3)* 2. No *(Ask H2 and Go to 'Section K')*
- H2.** *(If No)* Why not? *(DO NOT READ OUT OPTIONS. Code answers given as 'Yes' and rest as 'No'. After respondent gives reasons, PROBE further and ask if there were some other reasons as well)*
- | | Yes | No |
|--|-----|----|
| a. <input type="checkbox"/> a. Didn't know who to appeal | 1 | 0 |
| b. <input type="checkbox"/> b. Was not aware of the appeal process | 1 | 0 |
| c. <input type="checkbox"/> c. Missed the deadline | 1 | 0 |
| d. <input type="checkbox"/> d. Tried to file the appeal but was unable | 1 | 0 |
| e. <input type="checkbox"/> e. Too cumbersome | 1 | 0 |
| f. <input type="checkbox"/> f. Didn't care | 1 | 0 |
| g. <input type="checkbox"/> g. Cynical of outcome | 1 | 0 |
| h. <input type="checkbox"/> h. Scared of repercussions | 1 | 0 |
| i. <input type="checkbox"/> i. Information was time sensitive | 1 | 0 |
| j. <input type="checkbox"/> j. Problem resolved itself | 1 | 0 |
| k. <input type="checkbox"/> k. Other <i>(Specify)</i> _____ | | |
- H3.** Did any external person or agency help you drafting or filing the application?
 1. Helped in drafting 2. Helped in filing 3. Helped in both 4. No help taken *(Go to H5)*
- H4.** *(If received help)* Who was the main person or most important agency that helped you?
 1. NGO 2. Private company 3. Call center
 4. Friends/ family 5. Panchayat/ward member 6. MP/MLA 7. Government official
 8. Others *(Specify)* _____ 9. NA

H5. Now I am going to read out a few things that might have been the basis of your first appeal. Please tell me for each one of them if it formed the basis of your first appeal? *(Read out Options)*

		Yes	No
a.	Disagreement with the basis on which information was denied	1	2
b.	Receipt of partial information	1	2
c.	Information was misleading	1	2
d.	Information was not in the form asked for	1	2
e.	False information	1	2
f.	Fee was excessive	1	2
	g. Others <i>(Specify)</i> _____		

H6. Did you go personally to the PA to file the appeal?

1. Yes *(Go to H8)* 2. No *(Ask H7 and Go to H18)*

H7. (If No) Did you submit your application by post, email, or some third party?

1. Post 2. Email 3. Through a third party *(Specify)* _____ 9. NA

H8. (If went personally) Did you have any difficulty finding the appellate authority?

1. Yes 2. No 9. NA

H9. (If Yes) What was your difficulty?

1. Appellate office/desk hard to identify 2. No signage outside the appellate office/ desk
 3. Peon stopped you 4. No lift available
 5. Others *(Specify)* _____ 9. NA

H10. Was the appellate officer available at the time you visited the PA? 1. Yes 2. No

H11. (If No) How long did you have to wait - less than 1 hour, between 1 and 2 hours, more than 2 hours, or the appellate authority never came?

1. Less than 1 hour 2. Between 1 and 2 hours 3. More than 2 hours
 4. Appellate Authority never came 9. NA

H12. How many visits did you need to make to submit your application?

1. One 2. Two 3. Three 4. Four or more *(Specify. If more than 9, code 9)* _____

H13. (If No in H10) Did some other official accept the application? 1. Yes 2. No 9. NA

H14. (If Yes) What was the designation of the official?

1. PIO 2. APIO 3. RTI counter at PA office
 3. PA/Secretary to RTI Authority 4. Others *(Specify)* _____ 8. Don't remember 9. NA

H15. Did you have to pay a fee? 1. Yes 2. No

H16. (If Yes) With whom did you deposit the fee?

1. Accounts Officer 2. Cashier 3. Clerk/Peon
 4. Others *(Specify)* _____ 8. Don't remember 9. NA

H17. Did you get a receipt while submitting the fee? 1. Yes 2. No

H18. (If paid fee) What was the mode of payment?

1. Cash 2. DD 3. IPO
 4. Treasury Challan 5. Judicial Stamps 8. Don't remember 9. NA

H19. How much was the fee?
 1. Rs. 10 2. Rs. 20 3. Rs. 50 4. More than Rs. 50 9. NA

H20. What was the outcome of the appeal, was it allowed, partly allowed or rejected?
 1. Allowed 2. Partly allowed 3. Rejected

H21. *(If Appeal was rejected)* What were the reasons for rejection? Please give details. *(Record exact answer)* _____

H22. Did you receive a copy of the first appeal decision? 1. Yes 2. No

H23. Would you say that you were satisfied or dissatisfied with the outcome of the first appeal? *(Probe further whether Res. was 'fully' or 'Somewhat' satisfied or dissatisfied)*
 1. Fully Satisfied 2. Somewhat satisfied
 3. Somewhat dissatisfied 4. Fully dissatisfied 8. Can't say

H24. *(If Dissatisfied)* Did you file a second appeal?
 1. Yes 2. No 9. NA

H25. *(If No)* Why not? *(DO NOT READ OUT OPTIONS. Code answers given as 'Yes' and rest as 'No')*

		Yes	No	NA
a.	a. Didn't know who to appeal	1	0	9
b.	b. Was not aware of the appeal process	1	0	9
c.	c. Missed the deadline	1	0	9
d.	d. Tried to file the appeal but was unable	1	0	9
e.	e. Too cumbersome	1	0	9
f.	f. Didn't care	1	0	9
g.	g. Cynical of outcome	1	0	9
h.	h. Scared of repercussions	1	0	9
i.	i. Information was time sensitive	1	0	9
j.	j. Problem resolved itself	1	0	9
	k. Other <i>(Specify)</i> _____			

K: APPLICANT PERCEPTIONS

K1. What were the main constraints you faced through the RTI process? *(Record exactly)*

K2. Do you have any suggestions on resolving these problems and strengthening the RTI? *(Record exactly)*

K3. What are the positives about the RTI process? *(Record exactly)*

Annexure - 2

Questionnaire II

State ID Name of District/Capital _____ Block ID

II

**PEOPLE'S RTI ASSESSMENT-2008
SECOND APPELLANT QUESTIONNAIRE**

A: QUESTIONNAIRE IDENTIFICATION (To be filled by FI)

A1. Date of interview:

Date	Month
<input type="text"/>	<input type="text"/>

2	0	0	8
---	---	---	---

A2. Name of Appellant (*Code Res. No.*): _____

A3. Village: _____

A4. Sub-Division: _____

A5. Block: _____

A6. District: _____

A7. State: _____

A8. Checklist of records to photocopy while interviewing applicants:		Yes	No
a.	a. Copy of RTI application	1	2
b.	b. Copy of fee receipt	1	2
c.	c. Copy of postal receipt, if sent by post	1	2
d.	d. Copy of acknowledgment from APIO (IF ANY)	1	2
e.	e. Copy of acknowledgment from PIO (IF ANY)	1	2
f.	f. Copy of response from PIO/APIO	1	2
g.	g. Copy of information (documents/records) received (IF ANY)	1	2
h.	h. Copy of First appeal (IF FILED)	1	2
i.	i. Copy of First appeal decision (IF RECIEVED)	1	2
j.	j. Copy of Complaint (IF FILED)	1	2
k.	k. Copy of Second appeal (IF FILED)	1	2
l.	l. Copy of additional correspondence between applicants and PIO/APIO (IF ANY)	1	2
m.	m. Copy of notice/show cause notice issued by Information Commission (IF ANY)	1	2
n.	n. Copies of replies (IF ANY)	1	2
o.	o. Copy of intimation about hearing	1	2
p.	p. Copy of order of Information Commission	1	2
q.	q. Copy of information recieved	1	2
r.	r. Other documents (IF ANY)	1	2

A9. Name of field investigator (*Code FI No.*): _____

A10. FI's signature: _____

C: STATUS OF THE CASE

C1. What is the status of your case, has it been heard and decided, heard but not decided, or it has not been heard? 1. Heard and decided 2. Heard but not decided 3. Not heard

C2. (If Decided) What was the outcome, was it allowed, partly allowed or rejected?
 1. Allowed 2. Partly allowed 3. Rejected 9. NA

D: RTI APPLICATION DETAILS

D1. Which Public Authority/Department was information sought from? *(Record exact answer)*

D2. What was the type of information sought? *(Record exact answer)*

D3. Why was the information denied? *(Record exact answer)*

D4. Were you given any information about any Section or specific aspect of the Act under which information was denied? 1. Yes 2. No

D5. (If Yes) Please specify? *(DO NOT READ OUT OPTIONS. Code 'Yes' for the Section/Subsection mentioned, and code rest as 'No'. After R mentions a Section, ask reason given by PIO/Appellate)*

a.	Section	Yes	No	NA	<i>(If Yes) Reasons given by PIO/Appellate (Record exactly)</i>
b.	a. 2 (f)	1	0	9	_____
c.	b. 2 (h)	1	0	9	_____
d.	c. 2 (g)	1	0	9	_____
e.	d. 3	1	0	9	_____
f.	e. 7 (9)	1	0	9	_____
g.	f. 8(1)(a)	1	0	9	_____
h.	g. 8(1)(b)	1	0	9	_____
i.	h. 8(1)(c)	1	0	9	_____
j.	i. 8(1)(d)	1	0	9	_____
k.	j. 8(1)(e)	1	0	9	_____
l.	k. 8(1)(f)	1	0	9	_____
m.	l. 8(1)(g)	1	0	9	_____
n.	m. 8(1)(h)	1	0	9	_____
o.	n. 8(1)(i)	1	0	9	_____
p.	o. 8(1)(j)	1	0	9	_____
q.	o. 9	1	0	9	_____
r.	q. 11	1	0	9	_____
	r. 24	1	0	9	_____

E: SECOND APPEAL PROCESS

E1. How did you learn about the appeal process? (DO NOT READ OUT OPTIONS. Code answers given as 'Yes' and rest as 'No')			
		Yes	No
a.	a. PIO	1	0
b.	b. First Appellate Authority	1	0
c.	c. Radio	1	0
d.	d. TV	1	0
e.	e. Newspaper	1	0
f.	f. NGOs	1	0
g.	g. Posters	1	0
h.	h. Ward Committee members/ Panchayat members	1	0
i.	i. Ward council/ Gram Sabha	1	0
j.	j. MP/MLA	1	0
k.	k. SHGs/ VOs/ RWA	1	0
l.	l. State government official	1	0
m.	m. Family/ friends	1	0
	n. Others (Specify) _____	1	0
	E2. Did any external person or most important agency help you drafting or filing the appeal?		
	1. Helped in drafting	2. Helped in filing	3. Helped in both
			4. No help taken (Go to E4)
	E3. (If received help) Who was the main person or agency that helped you?		
	1. NGO	2. Private company	3. Call center
	4. Friends/ family	5. Local council member	6. MP/MLA
	7. Local elite	8. Government official	9. Others (Specify) _____
		0. N.A	
	E4. Now I am going to read out a few things that might have been the basis of your second appeal. Tell me for each one of them if it formed the basis of your second appeal? Yes No		
a.	a. Disagreement with the basis on which information was denied	1	2
b.	b. Disagreement with the FAA decision	1	2
c.	c. Receipt of partial information during 1st Appeal	1	2
d.	d. Information was misleading	1	2
e.	e. False information	1	2
f.	f. Fee was excessive	1	2
	g. Others (Specify) _____		
	E5. Did you go personally to the Information Commission to file the second appeal?		
	1. Yes	2. No	
	E6. (If No) Did you submit your application by post, email, or some third party?		
	1. Post	2. Email	3. Through a 3rd party (Specify) _____
			9.N.A
	E7. (If Yes in E5) Was there a signboard outside the commission's office displaying information related to the commission?		
	1. Yes	2. No	8. Don't remember
			9. N.A

a.	E8. (If Yes) Now I am going to ask you about the signboard at the entrance. Did the signboard display.....?	Yes	No	NA
b.	a. Names and location of the Information Commissioners	1	2	9
c.	b. Location of the counter/ room for filing appeals	1	2	9
d.	c. Procedures for filing	1	2	9
e.	d. Timings	1	2	9
	e. Vacations (IF ANY)	1	2	9
	E9. Did you have to get a visitors pass before entering the PA building?			
	1. Yes	2. No (<i>Go to E12</i>)	8. Don't remember (<i>Go to E12</i>)	
	E10. (If Yes) Did you have any difficulty in accessing the Pass?			
	1. Yes	2. No (<i>Go to E12</i>)	8. Don't remember (<i>Go to E12</i>)	9.N.A
	E11. (If Yes) What difficulty did you face?			
	1. Had to wait for long (15 minutes or more)	2. Asked to show proof of identity		
	3. Stopped by guards/ peons from entering the building	4. Others (<i>Specify</i>) _____	9. NA	
	E12. Did the Registrar accept the appeal?	1. Yes	2. No	
	E13. (If No) Did some other officer accept the complaint/appeal?	1. Yes	2. No	9.NA
	E14. Who accepted the complaint/appeal?			
	1. Information Commissioner's peon/clerk	2. Appeal counter at the Commission		
	3. Others (<i>Specify</i>) _____	8. Don't remember	9. NA	
	E15. Was the concerned officer available at the time you visited the Information Commission?			
	1. Yes	2.No		
	E16. (If No) How long did you have to wait - less than 1 hour, between 1 and 2 hours, more than 2 hours, or the officer never came?			
	1. Less than 1 hour	2. Between 1 and 2 hours	3. More than 2 hours	
	4. Officer never came	9. NA		
	E17. How many visits did you need to make to submit your second appeal?			
	1. One	2. Two	3. Three	4. Four or more (<i>Specify. If more than 9, code 9</i>) _____
	E18. (If Second Appeal not accepted) What was the reason? (DO NOT READ OUT OPTIONS. Code answers given as 'Yes' and rest as 'No')	Yes	No	NA
a.	a. Your Name and address not complete	1	0	9
b.	b. Particulars of the PIO/APIO/FAA not mentioned	1	0	9
c.	c. Particulars of the order against which appeal made were not stated	1	0	9
d.	d. Reasons for which appeal/complaint is being made not mentioned	1	0	9
e.	e. Prayer for relief not stated	1	0	9
f.	f. Supporting documents not enclosed	1	0	9
g.	g. Complaint/appeal not filed in prescribed format	1	0	9
h.	h. Procedure for applying for information from the PIO not followed	1	0	9
i.	i. Procedure for making first appeal not followed	1	0	9
	j. Others (<i>Specify</i>) _____			

F: FACILITIES AT THE COMMISSION

F1.	Now I am going to talk about a few facilities at the Information Commission. Please tell me if there was	Yes	No
a.	a. Waiting area	1	2
b.	b. Seating in the Commissioner's room	1	2
c.	c. Drinking water	1	2
d.	d. Toilet	1	2

G: QUALITY OF HEARINGS

G1.	How many times was your case heard - once, twice, thrice or more than thrice?	1. Once	2. Twice	3. Thrice	4. More than thrice (<i>Specify</i>) _____		
G2.	<i>(If More than once)</i> Please describe the reasons for adjournments? (<i>Record exactly</i>)						

G3.	Did you represent yourself at the hearings?	1. Yes	2. No				
G4.	<i>(If No)</i> Who represented you - a lawyer, friend or family members, some colleague or some NGO?	1. Lawyer	2. Friend/family	3. Colleague	4. NGO	5. Other (<i>Specify</i>) _____	9. NA
G5.	Did the PIO/FAA represent themselves?	1. Yes	2. No				
G6.	<i>(If No)</i> Who represented the PIO/FAA - a lawyer, friend, some colleague or some senior official?	1. Lawyer	2. Friend	3. Colleague	4. Senior official	5. Other (<i>Specify</i>) _____	9. NA
G7.	<i>(If Yes)</i> Was the hearing held on time?	1. Yes	2. No				
G8.	<i>(If No)</i> How long did you have to wait - up to 30 minutes, 30 minutes to 1 hour, between 1 and 2 hours or more than 2 hours?	1. Up to 30 minutes	2. 30 minutes to 1 hour	3. 1 to 2 hours	4. More than 2 hours	9. NA	
G9.	How long did the hearing take - up to 30 minutes, 30 minutes to 1 hour, between 1 and 2 hours or more than 2 hours?	1. Up to 30 minutes	2. 30 minutes to 1 hour	3. 1 to 2 hours	4. More than 2 hours		
G10.	Was the Information Commissioner present at the hearing?	1. Yes	2. No				
G11.	Now I am going to read out a few things that people often say after the hearing. Thinking about your experience at the hearing, please tell me do you agree or disagree with these statements. (<i>Probe further whether R 'fully' or 'Somewhat' agrees or disagrees</i>)						
		Agree		Disagree		No	
		Fully	Somewhat	Somewhat	Fully	Opinion	
a.	a. The Information Commissioner was aware of the facts of the case.	4	3	2	1	8	
b.	b. At some point during the hearing, you felt intimidated .	4	3	2	1	8	
c.	c. You/your representative was given adequate opportunity to be heard.	4	3	2	1	8	

H: FOLLOW UP TO THE COMMISSION'S DECISIONS

H1. Did you get the information that was ordered wholly or partly?

1. Wholly 2. Partly 3. Not at all

H2. Was it a case that warranted penalty?

1. Yes 2. No

H3. (If Yes) Was a show cause notice issued to the PIO?

1. Yes 2. No 9. NA

H4. Did you request for imposition of penalty in your complaint/appeal?

1. Yes 2. No

H5. Was a penalty imposed?

1. Yes 2. No

H6. (If Yes) What was the quantum of penalty imposed? (*Record exact amount*) _____

--	--	--	--

H7. (If No) Why was the penalty not imposed?

1. Commission did not think there was adequate cause
2. Commission let the PIO off because it was the first time he had delayed/refused information
3. PIO sought forgiveness of the Commission for the delay/refusal
4. PIO was excused because the public authority was not ready with the RTI processes
5. Other reason (*Specify*) _____
8. Don't know/Can't say
9. NA

H8. Was it a case that warranted disciplinary action?

1. Yes 2. No

H9. Did you request for initiation of disciplinary proceedings?

1. Yes 2. No

H10. Was it recommended? 1. Yes 2. No

H11. (If No) Why not? (*Record exact answer*) _____

H12. Was it a case that warranted compensation? 1. Yes 2. No

H13. Did you request for compensation in your appeal/ complaint? 1. Yes 2. No

H14. Was it awarded? 1. Yes 2. No

H15. (If Yes) What was the quantum of compensation awarded? (*Record exact amount*) _____

--	--	--	--

H16. (If No) Why not? (*Record exact answer*) _____

H17. Would you say that you are satisfied or dissatisfied with the ability of the commission to ensure compliance with its orders? (*Probe further if R is 'fully' or 'somewhat' satisfied or dissatisfied*)

1. Fully satisfied
2. Somewhat satisfied
3. Somewhat dissatisfied
4. Fully dissatisfied
8. No opinion

J: GRIEVANCES

J1. Now I am going to read out a few things that you might have felt during the appeal process. Please tell me if at any point of time during the appeal process, did you feel.....?

	Yes	No	Can't say
a. <input type="checkbox"/>			
b. <input type="checkbox"/>	1	2	8
c. <input type="checkbox"/>	1	2	8
d. <input type="checkbox"/>	1	2	8

J2. (If Yes to any item in J1) Did you complain to the commission or anyone else about it?

1. Yes 2. No 9. NA

J3. (If Yes) Did you find it easy or difficult to file the complaint? (*Probe further whether R found it 'very' or 'Somewhat' easy or difficult*)

1. Very easy 2. Somewhat easy
 3. Somewhat difficult 4. Very difficult 8. Can't say 9. NA

J4. What was the outcome of your complaint? (*Record exact answer*) _____

K: PERCEPTIONS

K1. Would you say that you will use the RTI again? 1. Yes 2. No 3. Can't say/Not sure

K2. (If Yes) Why? (*Record exact answer*) _____

K3. (If No or Can't say/ Not sure) Why? (*Record exact answer*) _____

K4. Now I am going to read out a few things on which you might have spend money while going through the entire process. Please tell me for each one of them how much money did you spent on...? (*Record exact amount and code. If the appellant does not remember the amount then code 9999*)

a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a. Visiting the PIO _____
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b. Visiting FAA _____
c.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	c. Visiting the commission _____
d.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	d. Cost of application _____
e.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	e. Cost of receiving information _____
f.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	f. Paying for assistance _____
g.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	g. Others _____

Annexure - 3

Questionnaire III

Q14. What did the training cover and what was the duration?

Topic (s) of Training (separately for each programme/course)	Who conducted the Training? Your PA? Other Govt.Deptt.? NGO? Others (please specify)	Duration of Training (In days & Code)

Q15. While speaking to officers we found out that they have different experiences of the training. Some officers say that the training was very helpful in their responding to RTI Applications, while some said that the training was not helpful. What about your experience of the training?

1. Helpful 2. Not helpful 8. No opinion 9. NA

Q16. (If not Helpful) What is the reason?

1. Training too short
2. Trainer not clear
3. Trainer not knowledgeable
4. Poor training materials/documentation
5. No training on the practical aspects of effectively addressing an information request
6. No refresher course
7. Other (Specify) _____
9. N.A

Q17. How many RTI applications have you received since you became a PIO? (Record number per year and code total applications) _____

Q18. How many applications have you transferred to other PIOs/public authorities? (Record number of applications and code accordingly)? _____

Q19. Do you have any limits /constraints for financial provisions/approvals to cover the cost of servicing RTI applications? 1. Yes 2. No 8. Cant Say/D.K

Q20. (If Yes) What are the constraints?

1. Postage 2. Photocopy 3. Others (Specify) _____ 9. NA

Q21. On an average, how much time do you spend per week on the RTI related work?

1. Less than 1 hour 2. Between 1 and 2 hours 3. Between 2 and 5 hours
4. Between 5 and 10 hours 5. More than 10 hours

Q22. How much time do you spend appearing before the Information Commission every month?

1. Less than 1 day 2. Between 1 and 3 days
3. Between 3 and 6 days 4. More than 6 days

Q23. Do you/your department keep the following information in a tabular/consolidated form: [Read out options]

	Yes	NO	D.K
a. Record of applications received	1	2	8
b. Date when information was sent	1	2	8
c. No. of applicants provided information	1	2	8
d. Number of applicants denied information	1	2	8
e. Justification of denial of information	1	2	8

(Please ask for copy and attach with the questionnaire)

Annexure - 4

Questionnaire IV

State ID Name of District/Capital Block

IV

PEOPLE'S RTI ASSESSMENT- 2008
QUESTIONNAIRE for HOD

Q1. Name and address of Public Authority

Name : _____
 Address: _____

 State : _____ Pin: _____
 email : _____ Tel: _____

Q2. Type of Public Authority:-

- 1. Central Government
- 2. State Government
- 3. District Government
- 4. Sub-Division
- 5. Village
- 6. Block

Q3. Name and Designation of the Official Interviewed

Name : _____
 Designation : _____
 Room No. and Floor: _____ email : _____
 Tel (Office) : _____ Mobile: _____

INTERVIEW BEGINS

Q1. Date of appointment of First Public Information Officer: (Record the Date)

Date Month 2 0

Q2. How many APIOs are there in your department? (Record the number of APIO Appointed till now) _____

Q3. How many PIOs are there in your department? (Record the number of PIO Appointed till now) _____

Q4. Total number of RTI applications received by the PA:

- a. In 2005-2006 _____
- b. In 2006-2007 _____
- c. In 2007-2008 _____

a			
b			
c			

Q5. Number of applications where information was given:

- a. In 2005-2006 _____
- b. In 2006-2007 _____
- c. In 2007-2008 _____

a			
b			
c			

Q6. Number of applications rejected:

- a. In 2005-2006 _____
- b. In 2006-2007 _____
- c. In 2007-2008 _____

a			
b			
c			

Q7. Number of first appeals: (Record the number of First Appeals)

- a. In 2005-2006 _____
- b. In 2006-2007 _____
- c. In 2007-2008 _____

a			
b			
c			

Q8. Department PIOs that have been penalised by Information Commission for late response:

Name of Department	Quantum of Penalty

Q9. Do you have any limits /constraints for financial provisions/approvals to cover the cost of servicing RTI applications? 1.Yes 2.No 8. Cant Say/ D.K

Q10. (If yes) What are the constraints you face?

1. Postage 2. Photocopy 3. Others (Specify) _____ 9. NA

Q11. On average, how much time do you spend per week on work related with RTI?

1. Less than 1 hour 2. Between 1 and 2 hours 3. Between 2 and 5 hours
4. Between 5 and 10 hours 5. More than 10 hours

Q12. How many of the PIOs have been trained on RTI? (Record the number of PIO)

Q13. What were the topics covered during the training and what was the duration?

Topic (s) of Training (separately for each programme/course)	Who conducted the Training? Your PA? Other Govt.Deptt.? NGO? Others (please specify)	Duration of Training (In days & Code)

Q14. Do you know about Section 4 of RTI? 1.Yes 2.No 8. Cant Say/ D.K

Q15. (If Yes) Does your Department in comply with Section 4 of RTI?

1.Yes 2.No 8. Cant Say/ D.K

Q16. Do your subordinates know about the RTI Act? 1.Yes 2.No 8. DK

Q17. (If Yes) How many subordinates know about the RTI Act?

1.All 2. Most of them 3. Some of them 9. N.A.

Q18. How many RTI applications have you received?

a. In 2005-2006 _____

b. In 2006-2007 _____

c. In 2007-2008 _____

a.			
b.			
c.			

Q19. In responding to information requests under RTI Act what difficulties does the department face? _____

Q20. Would you like to suggest any improvements in how the 'right to information' is currently serviced? _____

Annexure - 5

Questionnaire V

V

PEOPLE'S RTI ASSESSMENT- 2008
PA PREMISES INSPECTION

Name and address of Public Authority

Name : _____

Address : _____

State : _____ Pin: _____

Email : _____ Tel: _____

I 1. Was there a Sign Board with the following details: *[Tick the details displayed and code as 1. If not displayed code 0]*

		Yes	No
a.	a. Sign board prominently noticeable	1	0
b.	b. It was in local language	1	0
c.	c. It was easily readable	1	0
d.	d. Information displayed accurate	1	0

I 2. Was there display of following information? *[Tick the details displayed and code as 1. If not displayed code 0]*

		Yes	No
a.	a. Name of PIO	1	0
b.	b. Telephone number	1	0
c.	c. Room number, if relevant	1	0
d.	d. Timings for submission of RTI	1	0
e.	e. Timings for submission of fee	1	0
f.	f. Quantum of fee / Mode of payments	1	0
g.	g. Room number for cashier	1	0

I 3. Information relating to Section 4(1)(b) (i)-(xvii) *[Tick the details displayed and available and code as 1. If not displayed code 0]*

		Section 4 (1) (b)		I 3. Displayed on notice board		I 4. Available as record for inspection	
				Yes	No	Yes	No
I 3.	I 4.	a.	Particulars of the organisation	1	0	1	0
		b.	Particulars of its functions	1	0	1	0
		c.	Particulars of its duties	1	0	1	0
		d.	Powers of its officers and employees	1	0	1	0
		e.	The duties of its officers and employees	1	0	1	0

Annexure - 6

Questionnaire VI

VI

PEOPLE'S RTI ASSESSMENT- 2008
CHECKLIST FOR PA RECORD INSPECTION

Name and address of Public Authority

Name : _____

Address : _____

State : _____ Pin: _____

Email : _____ Tel: _____

INSPECTION PROCESS

- | | | | | |
|----|--------------------------|---|----------------------------------|---------------------------|
| a. | <input type="checkbox"/> | I 1. Was there a display board with following details of PIO/APIO/FAA? <i>[Tick the details displayed and code as 1. If not displayed code 0]</i> | Yes | No |
| | | | | |
| b. | <input type="checkbox"/> | a. Name | 1 | 0 |
| c. | <input type="checkbox"/> | b. Designation | 1 | 0 |
| d. | <input type="checkbox"/> | c. Room No (for PIO and FAA) | 1 | 0 |
| e. | <input type="checkbox"/> | d. Telephone Number (PIO) | 1 | 0 |
| | <input type="checkbox"/> | e. Time of availability (PIO) | 1 | 0 |
| | <input type="checkbox"/> | I 2. Was the PIO available for inspection of records? | 1. Yes | 2. No |
| | <input type="checkbox"/> | I 3. <i>(If No)</i> Was another official deputed for inspection of records? | | |
| | | 1. Yes | 2. No | 9. N.A. |
| | <input type="checkbox"/> | I 4. Was the concerned official easy to locate? | 1. Yes | 2. No |
| | <input type="checkbox"/> | I 5. Did the inspection begin at the scheduled time? | 1. Yes | 2. No |
| | <input type="checkbox"/> | I 6. <i>(If No)</i> How long did you have to wait? | | |
| | | 1. Less than 15 minutes | 2. 15 minutes to half an hour | 3. Half an hour to 1 hour |
| | | 4. 1 and 2 hours | 5. More than 2 hours | 9. N.A. |
| | <input type="checkbox"/> | I 7. Were all the files/documents/records you asked for made available for inspection? | | |
| | | 1. Yes | 2. No | |
| | <input type="checkbox"/> | I 8. <i>(If No)</i> What was withheld? | | |
| | | 1. Files | 2. Documents | 3. Records asked for |
| | | 4. Any other <i>(Specify)</i> _____ | 9. N.A. | |
| | <input type="checkbox"/> | I 9. <i>(If No)</i> What reasons were given for withholding it? | | |
| | | 1. Falls under Section 8 | 2. Out of jurisdiction | 3. Record weeded out |
| | | 4. Not available | 5. Others <i>(Specify)</i> _____ | 9. N.A. |
| | <input type="checkbox"/> | I 10. Were file notings made available for inspection? | | |
| | | 1. Yes | 2. No | 8. Cant Say/D.K |

<input type="checkbox"/>	I 11. (If No) What were the reasons provided?	1. Not covered under the Act 2. As per DOPT website file notings are not covered 3. Do not have approval of HOD 4. Others (<i>Specify</i>) _____	9. NA
<input type="checkbox"/>	I 12. Did you pay an inspection fee?	1. Yes	2. No
<input type="checkbox"/>	I 13. (If Yes) How much was charged as inspection fee?		
<input type="checkbox"/>	1. No fee for first hour	2. Rs. 5 for first hour	
<input type="checkbox"/>	3. Rs. 5 for every additional hour or fraction thereof	4. More than Rs. 10	
<input type="checkbox"/>	5. More than Rs. 20	6. More than Rs. 50	9. N.A
<input type="checkbox"/>	I 14. (If Yes) Did you get a receipt on depositing the fee?		
<input type="checkbox"/>	1. Yes	2. No	9. N.A
<input type="checkbox"/>	I 15. Were you allowed to take notes?	1. Yes	2. No
<input type="checkbox"/>	I 16. Were you allowed to take photocopies?	1. Yes	2. No
<input type="checkbox"/>	I 17. (If Yes) Was a date and time given to collect photocopies?		
<input type="checkbox"/>	1. Yes	2. No	9. N.A
<input type="checkbox"/>	I 18. (If Yes) When were you are asked to come back to collect photocopies?		
<input type="checkbox"/>	1. Next Day	2. Next Week	3. Informed through mail 9. N.A

		<i>Section 4(1)(b)</i>	<i>I 3. Displayed on notice board</i>		<i>I 4. Available as record for inspection</i>		
			<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	
<i>I 3.</i>	<i>I 4.</i>						
f.	<input type="checkbox"/>	f.	Procedure followed in decision making process, including channels of supervision and accountability	1	0	1	0
g.	<input type="checkbox"/>	g.	Norms set in discharging its functions	1	0	1	0
h.	<input type="checkbox"/>	h.	Rules, regulations, instructions, manuals and records used by its employees for discharging its functions;	1	0	1	0
i.	<input type="checkbox"/>	i.	Categories of documents that are held by it	1	0	1	0
j.	<input type="checkbox"/>	j.	Particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;	1	0	1	0
k.	<input type="checkbox"/>	k.	Boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;	1	0	1	0
l.	<input type="checkbox"/>	l.	Directory of its officers and employees;	1	0	1	0
m.	<input type="checkbox"/>	m.	Monthly remuneration received by its officers and employees, including the system of compensation as provided in its regulations;	1	0	1	0
n.	<input type="checkbox"/>	n.	Budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;	1	0	1	0
o.	<input type="checkbox"/>	o.	Manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;	1	0	1	0
p.	<input type="checkbox"/>	p.	Particulars of recipients of concessions, permits or authorisations granted by it;	1	0	1	0
q.	<input type="checkbox"/>	q.	Details in respect of the information, available to or held by it, reduced in an electronic form	1	0	1	0
r.	<input type="checkbox"/>	r.	Particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;	1	0	1	0
s.	<input type="checkbox"/>	s.	Names, designations and other particulars of the Public Information Officers;	1	0	1	0
t.	<input type="checkbox"/>	t.	Such other information as may be prescribed	1	0	1	0

Annexure - 7

Questionnaire VII

RTI Assessment Study 2008: Street Corner Interviews

Interviewer(s):
Location:

City:
Date:

VII

A. Observations by Investigator

- A1. Gender of respondent 1.[Male] 2.[Female] 3.[Other]
A2. Age of respondent 1.[Under 20 years] 2.[20-40 years] 3.[40-60 years] 4.[Over 60 years]
-

B. Questionnaire

B1. Have you ever felt the need to get any information from the government?

1.[Yes] 2.[No] 3.[Needs Explanation]

(If Yes, go to B3. If No, go to B4. If needs explanation, give explanation as below.)

B2. *Explanation:* For example, making an application to get anything from the government, or getting information about government schemes, or wanting to know about the status of something that the government was supposed to do such as making roads, water supply etc.

1.[Yes] 2. [No] (If after giving explanation the answer is No, go to B4.)

B3. If yes, for what purpose? (Select as many as apply) [DO NOT READ OUT THE OPTIONS]

- | | |
|---|---|
| 1. To get official documents/certificates | 4. To expose corruption |
| 2. To solve grievances | 5. To fix accountability and responsibility |
| 3. To question delays/inaction | 6. Other (please specify) |

B4. Do you think being able to access government held information can be helpful in any way?

(If No, go to question B6)

1.[Yes] 2.[No]

B5. If yes, how? [DO NOT READ OUT THE OPTIONS]

- | | |
|---------------------------------------|---|
| 1. In solving individual problems | 5. In preventing/minimising corruption/bad governance |
| 2. In solving community problems | 6. Other (please specify) |
| 3. In solving national problems | |
| 4. In improving government efficiency | |

B6. Have you heard of the Right to Information Act? (If No, end interview)

1.[Yes] 2.[No]

B7. If yes, do you think it is relevant to you? (If No, go to question B9)

1.[Yes] 2.[No]

B8. If yes, how is it relevant to you? [DO NOT READ OUT THE OPTIONS]

- | | |
|--|---|
| 1. It could help to solve grievances | 4. It could help to fix accountability and responsibility |
| 2. It could help to question delays/inaction | 5. Other (please specify) |
| 3. It could help to expose corruption | |

B9. Have you (and/or any one you know) ever used the Right to Information Act?

(If No, end interview)

1.[Yes] 2.[No]

B10. If yes, did you (and/or the other person) get the information you asked for?

a. You 1.[Yes] 2.[No] 3.[Partially] 4.[NA]

b. The other person 1.[Yes] 2.[No] 3.[Partially] 4.[Don't know] 5.[NA]

Annexure - 8

Questionnaire VIII

State ID Name of District/Capital _____ Block

PEOPLE'S RTI ASSESSMENT- 2008
Focus Group Discussion

Village/Ward Profile

Name of the village/Ward _____ District _____

Name of Block _____ Gram Panchayat _____

Name of the subdivision _____

Name of town/city _____

Date of Focus Group Discussion / /

Any NGOs/CBOs/Clubs in the village 1. Yes 2. No

Total Population (*Record approximately*) _____

Introduction

The main purpose of the village (or ward) meeting is to determine the felt need for information in the village as a means to addressing their most important problems. It is possible that the villagers might not immediately recognise the lack of information as an important factor inhibiting the resolution of many of their problems. Therefore it is important to probe the levels of information they have about the genesis and cause of their problems and about the solutions that can be applied. However, it is important to do this in a manner that is not leading or suggestive, as we do not want them to come to the conclusions that we have assumed to be correct.

Once they have talked about the level of information they have relating to their problems, then we can link up their information needs to the RTI Act and find out whether they know about it, whether they recognise that it could be relevant to their lives, whether they know how to use it, whether they would like to use it or, whether there are factors that discourage them from using it.

This is the most important part of the rural survey for, the justification and rationale for the RTI Act is not the demand for the act (as many might not have yet heard of it, or know how to use it), but the demand for information, especially as a means of empowerment to address some of the basic problems facing the people.

Key Questions to initiate FGD

H1. What are the five most important problems facing your village (or ward)? [*Do Not Read Out Options*]

- | | |
|--|--|
| 1. Unemployment | 8. Lack of/poor road connectivity |
| 2. Inadequate health care facilities | 9. Shortage of drinking water |
| 3. Lack/shortage of irrigation water | 10. Problems with the ration shop/ PDS |
| 4. Problems related to educational facilities/school | |
| 4.1 Absent/incompetent/negligent school teachers | |
| 4.2 Problems with the mid day meals | |
| 5. Problems with supply/charges of electricity | |
| 6. Problems with seeds/agri extension services | 11. Lack of access to credit |
| 7. Indebtedness | 12. Lack of veterinary care |

13. Proposed land acquisitions	18. Upcoming projects
14. Problems with disbursement of pensions e.g. 14.1 Old age 14.2 Widow 14.3 Disability 14.4 others	
15. NREGA related problems	19. Problems with electoral card/rolls
16. Problems related to certificates 11.1 Birth 11.2 Death	
17. Problems related to the police	20. Any other (<i>specify</i>)

H2. Would Access to some information help you in resolving these problems or having these problems resolved? Yes No

H3. If so, how? [*Do Not Read Out Options*]

1. By knowing why the problem has occurred
2. By knowing who deals with the problem
3. By knowing what action has been or is being taken to solve the problem
4. By knowing what action has been taken on past complaints or requests
5. By knowing how long it would take to resolve the problem
6. By knowing what else you can do to resolve the problem
7. Others (please specify)

H4. Have you tried to access any of this information from the government/ other agencies?

H5. If so, what has been your experience?

H6. Have you heard/Do you know about the RTI Act? (modified as per each state's nomenclature of RTI) Yes No

H7. In what way, if any, can this Act be help solve your problems/ relevant to your lives/?

H8. How did you hear about it? [*Do Not Read Out Options*]

Newspaper _____ Radio _____
Television _____ Meeting _____
Through government/panchayat functionary _____
NGO/CBO/CLUB _____ Any other (specify) _____

H9. Has any person in the village (or elsewhere whom you know about) used it?

Yes No

H10. If yes, what is his/her name and address? *[Take Down Names and Addresses]*

H11. Do you all know if he/she got any response? Yes No

H12. Would any of you like to use the RTI Act? Yes No

H13. If so, for what?

Remarks of the Field Team

Number of Participants

Men _____ Women _____ SC _____ ST _____

Village office bearers *(Specify)* _____

Prominent Persons *(Specify)* _____

H14. Did the villagers/group recognize the link between access to information and their problems?

Yes No

H15. How universal was this recognition? (only a few, many, most, all)

H16. In your opinion, how many of the participants were aware of the RTI Act? (all, most, many, some, few, none)

H17. How many of the participants showed an interest in using the RTI act once it was explained to them?

H18. Was there anyone who had tried to use the RTI act but been prevented from doing so?

H19. In your opinion, was there an apprehension or fear about using the RTI Act?

H20. If yes, was this based on a specific incident or occurrence, or was it a part of the general fear of authority?

H21. Do you think the discussion in this group was open and all segments of the group were able and willing to speak freely?

H22. If not, please describe the constraints and limitations you noticed.
