

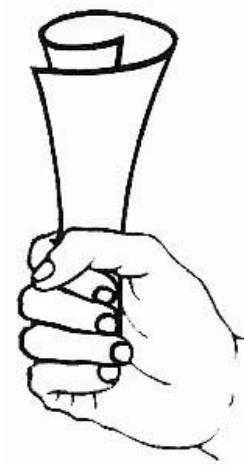
SAFE GUARDING THE RIGHT TO INFORMATION

Report of the People's RTI Assessment 2008

REVISED EXECUTIVE SUMMARY

&

DRAFT AGENDA FOR ACTION



**RTI Assessment & Analysis Group (RaaG)
and
National Campaign for People's Right to Information (NCPRI)**

October 2009

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Association for Democratic Reforms, Bangalore

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

JANPATH, Ahmedabad

Meghalaya RTI Movement, Shillong

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Shekhar Singh*

METHODOLOGY AND COVERAGE

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

PRIMARY DATA COLLECTION

- 18,918 persons were individually interviewed across ten states and the National Capital Region of Delhi, including 1415 PIOs and heads of offices/departments.
- 630 focus group discussions organised. Of these
 - 487 in 240 sample villages in 30 districts of the ten sample states.
 - 143 focus group discussions in four municipal wards in each of the 30 district headquarters
 - 18,786 people participated in these focal group discussions (FGDs).

In total, 37,704 people were interviewed, in villages, towns and cities across ten states and Delhi.

- 1027 public authorities' offices were inspected both in the rural and urban areas.

Over 800 RTI applications were filed in various public authorities across the country.

- Data regarding over 25,000 RTI applications analysed.
- Over 60 papers and magazines, in English, Hindi and six regional languages analysed for content and coverage.
- Over 5000 case studies extracted, depicting successes, failures and peculiarities of the RTI regime.

SCOPE AND COVERAGE

- Sample comprised the Central Government, 10 states and the National Capital Territory of Delhi, with 3 districts in each state and 8 villages in each district selected randomly.
 1. Assam – *Dibrugarh, Karbi Anglong, Nalbari*
 2. Andhra Pradesh – *Ananthapur, Nalgonda, Visakhapatnam*
 3. Gujarat – *Kutch, Narmada, Mahesana*

4. Karnataka – *Bijapur, Dakshin Kannada, Haveri*
 5. Maharashtra – *Aurangabad, Yavatmal, Raigad*
 6. Meghalaya – *South Garo Hills, West Khasi Hills, Ri Bhoi*
 7. Orissa – *Kalahandi, Deogarh, Kendrapara*
 8. Rajasthan – *Dungarpur, Jhunjhunu Karauli*
 9. Uttar Pradesh – *Azamgarh, Bijnor, Jhansi*
 10. West Bengal – *Burdwan, Cooch Behar, Uttar Dinajpur*
- **515** public authorities (PAs) surveyed across the country
 - Ten Central Government,
 - Five each from the 10 sample state governments, and Delhi,
 - Ten each from each of the 30 district headquarters (five upward from the village level, and five downward from the state level), and
 - Five each at the village level in each of the 30 districts.
 - **Rural PAs** included:
 1. *Pradhan's* office
 2. *Patwari's* office
 3. Village school
 4. Ration shop
 5. Sub-health centre, or village health worker, or Primary Health Centre
 - At the **District** level:
 1. District Collector's Office
 2. District Education Department
 3. District Civil Supplies Department
 4. District Medical Officer or Hospital
 5. Zila Parishad/ District Council
 6. District Revenue Department
 7. District Women and Child Welfare Department
 8. District Police Department
 9. District Rural Development Department
 10. District Public Works Department

- At the **State headquarters**:
 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** 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
 8. Ministry of Railways
 9. National Commission on Backward Classes
 10. Department of Personnel and Training

SUMMARY OF FINDINGS

RTI AND THE PUBLIC

Awareness

- Nearly 65% of the randomly selected inhabitants of ten state headquarters, and Delhi, stated that access to information, especially government information, would significantly help them solve many of their basic problems.
- In rural areas and district headquarters the overall percentage was similar, with nearly 65% of the FGDs concluding that access to information was helpful.

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.

- 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.
- In the rural areas, most people got to know about the RTI Act through news papers (35%), followed by television and radio, and friends and relatives (10% each), and NGOs (5%).
- Among urban applicants, nearly 30% learnt about the Act from newspapers, 20% from NGOs and a similar number from the TV, and almost 10% learnt about the RTI Act from friends and relatives.
- Unfortunately the government was not a major force in raising public awareness about the RTI Act.

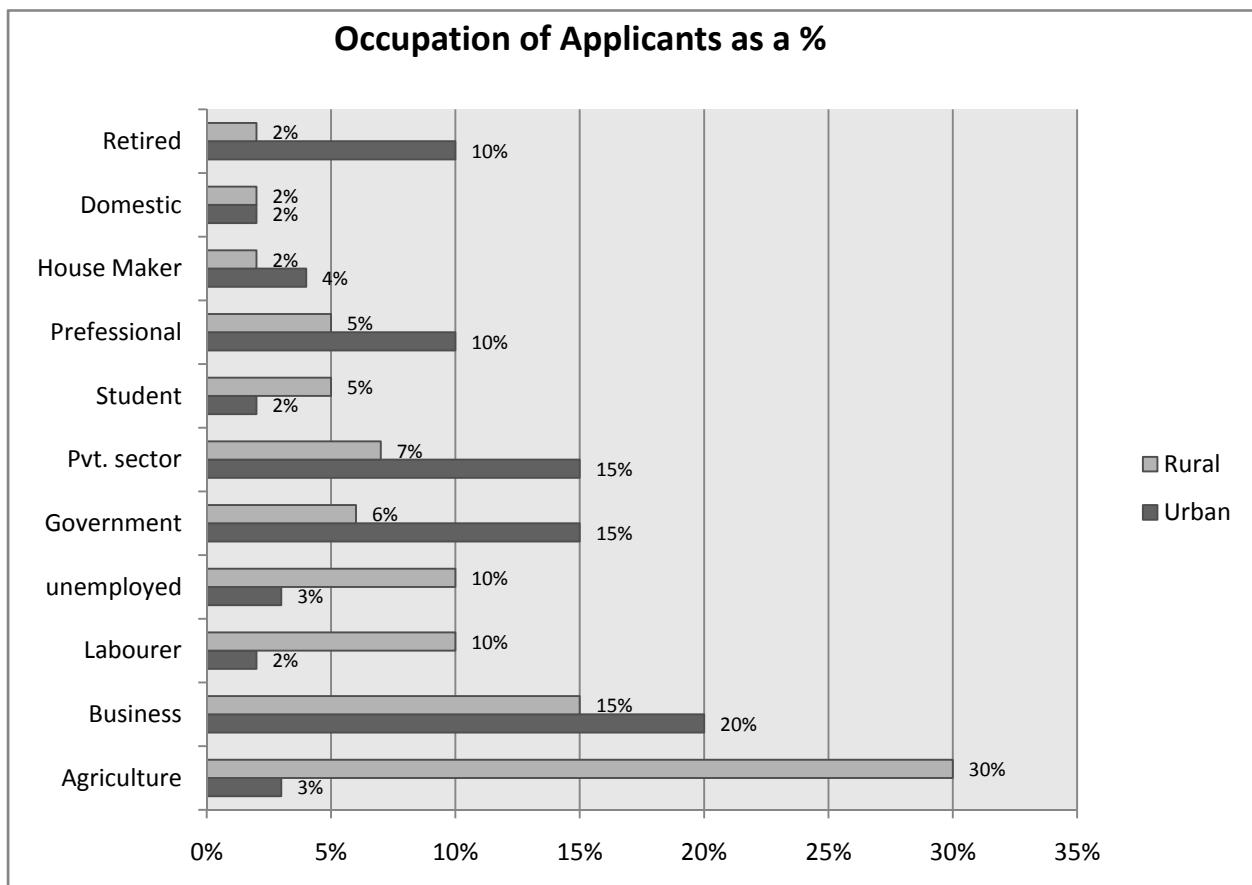
Number of RTI Applications Filed

- An estimated 400,000 applicants from the villages of India filed RTI applications in the first two and a half years of the RTI Act.

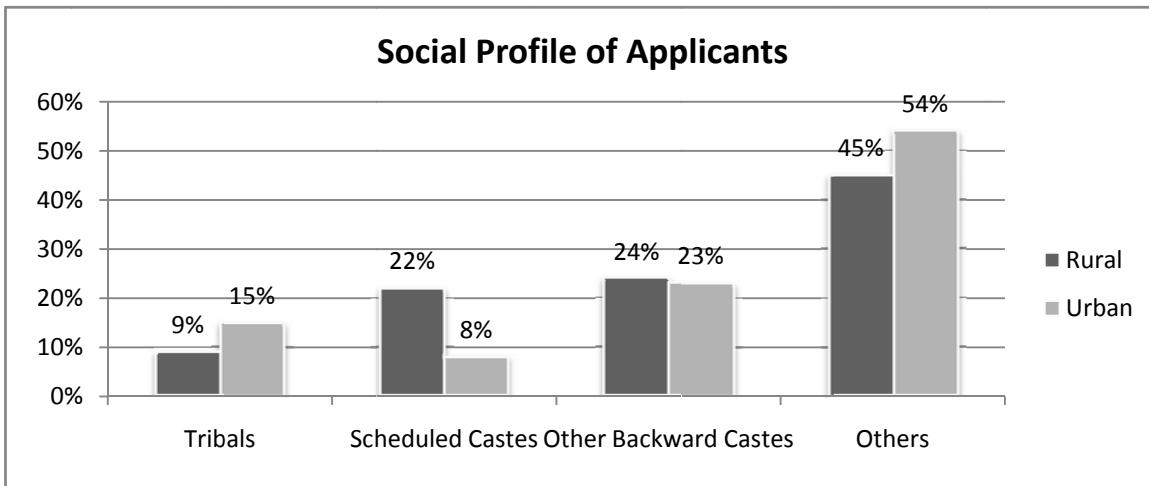
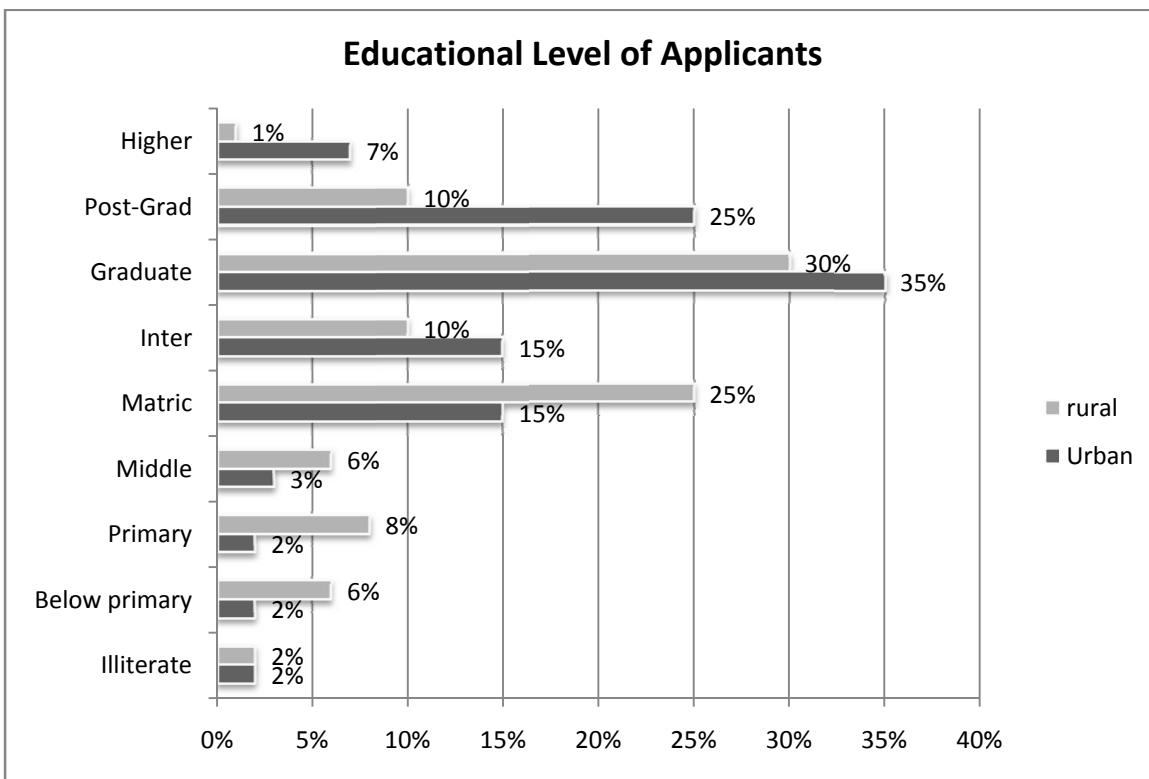
- An estimated 1.6 million applications were filed in urban areas in the first two and a half years of the RTI Act.
- Disturbingly, over 90% of the rural applicants and 85% of the urban applicants were males.

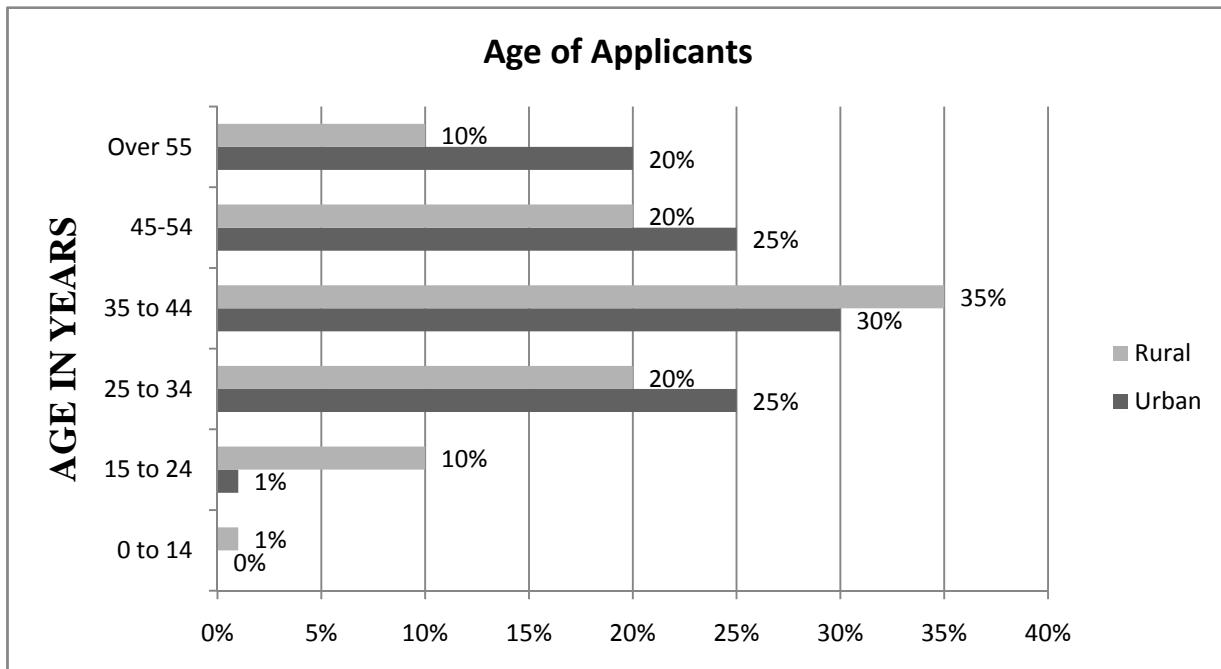
Profile of the RTI Applicants

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



- Note: There are very few government employees, discounting the myth that mainly government servants are using the RTI Act. Surprisingly, there were very few students.**



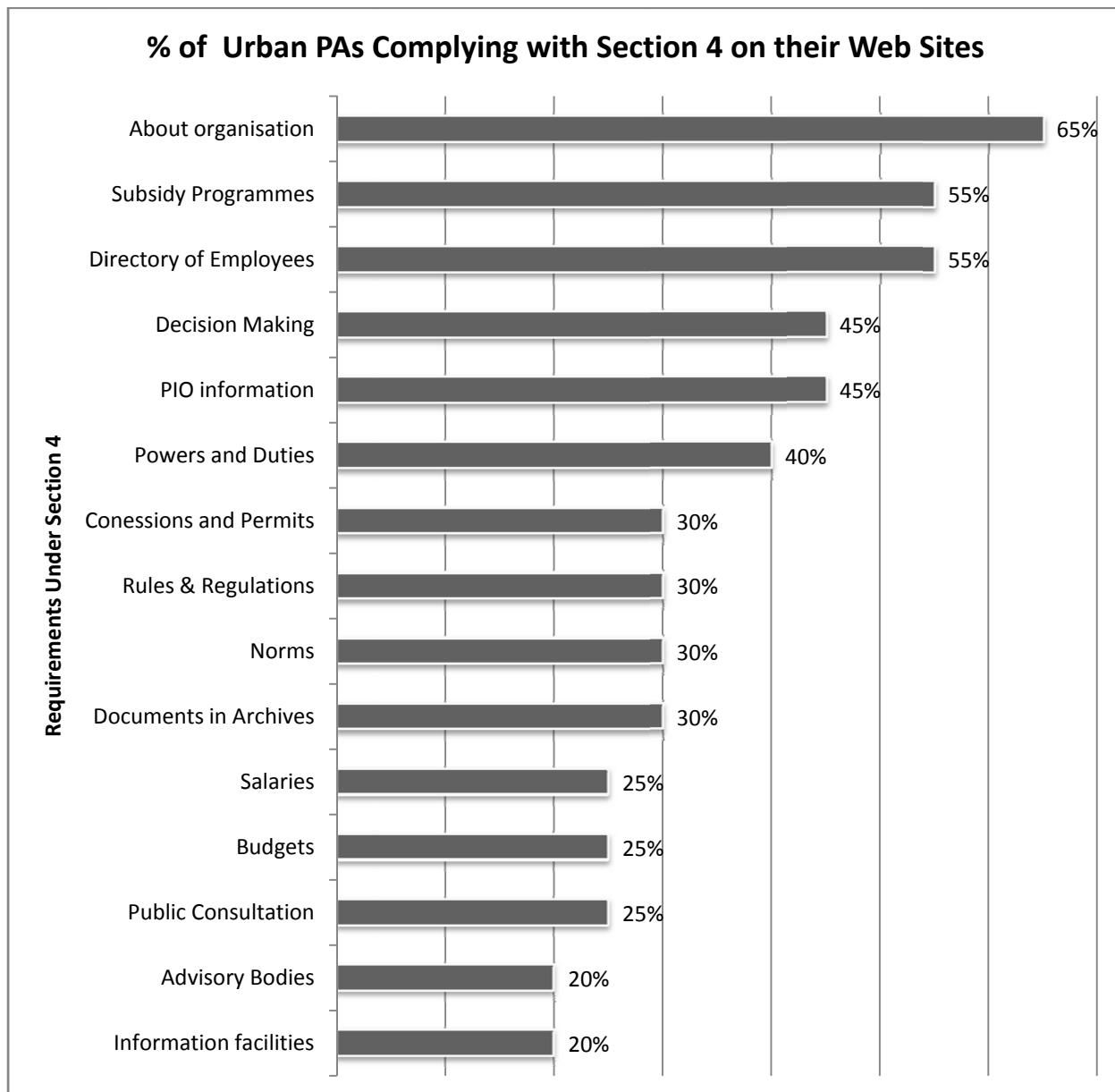


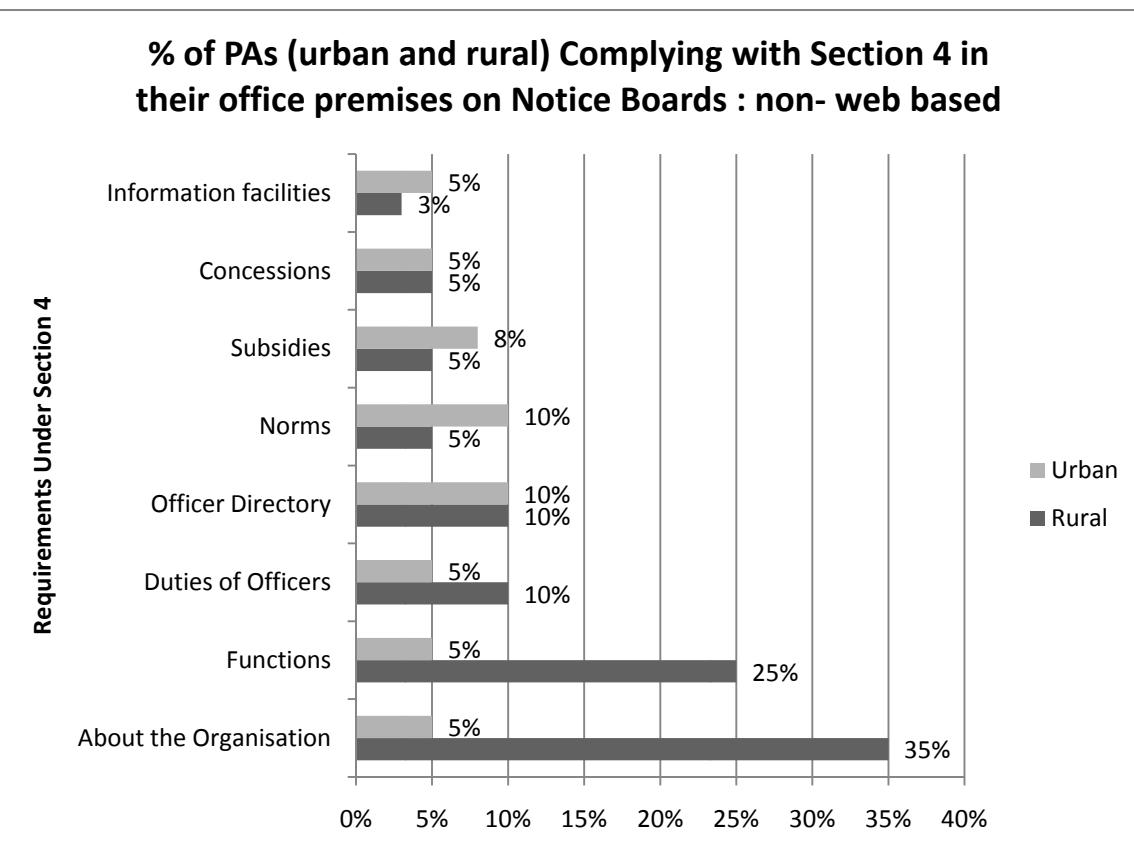
Constraints in Filing RTI Applications

- 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.
- Nearly 15% of urban respondents cited harassment from officials and uncooperative officials as the most important constraint.
- 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.
- Nearly 30% of the villagers filing RTI applications for us reported that they were discouraged by the PIO from filing the application.
- Very difficult to get addresses of PIOs, especially for district and sub-district levels.
- There are 88 different sets of RTI rules in India and no one place where they are all available. Differing rules mean differing amounts of fee to be paid, different modes of payment and even of filing applications.

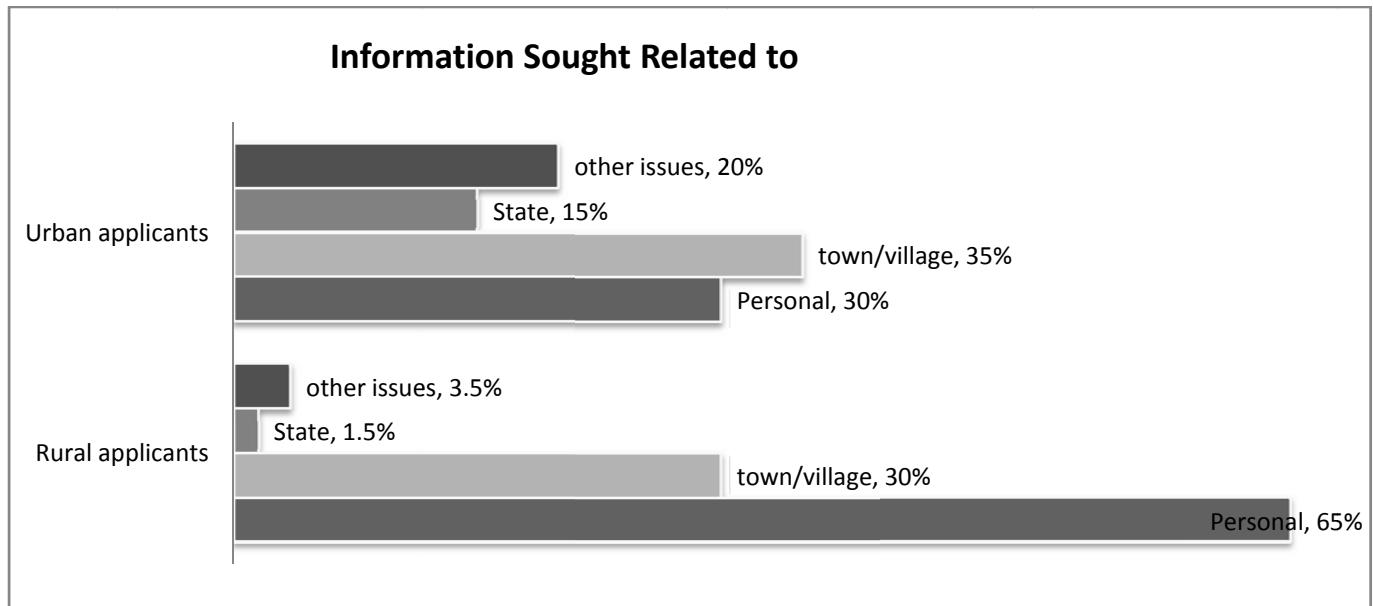
- Some states insist on sending even letters in the state's language, making it impossible for people from other states to access information (despite section 4(4) of the RTI Act).

Proactively Available Information



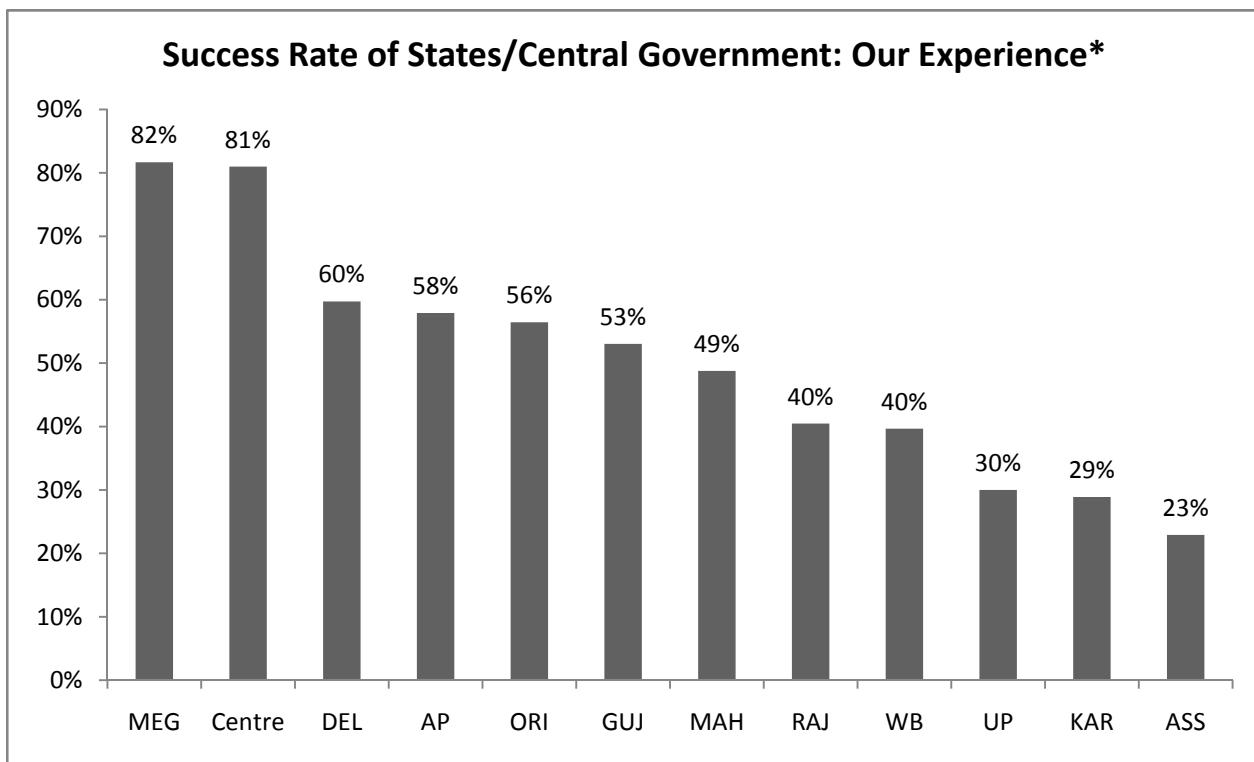


Type of Information Sought



Success Rates

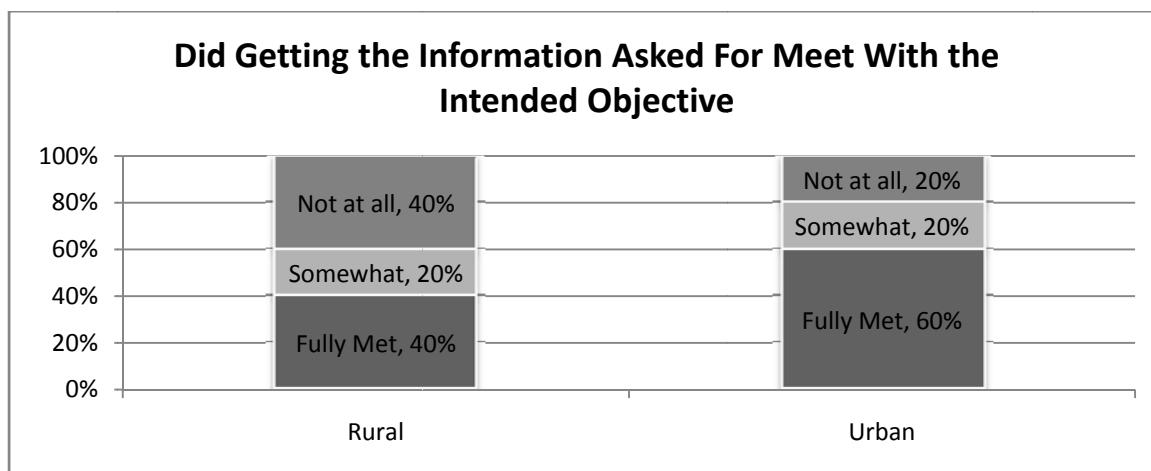
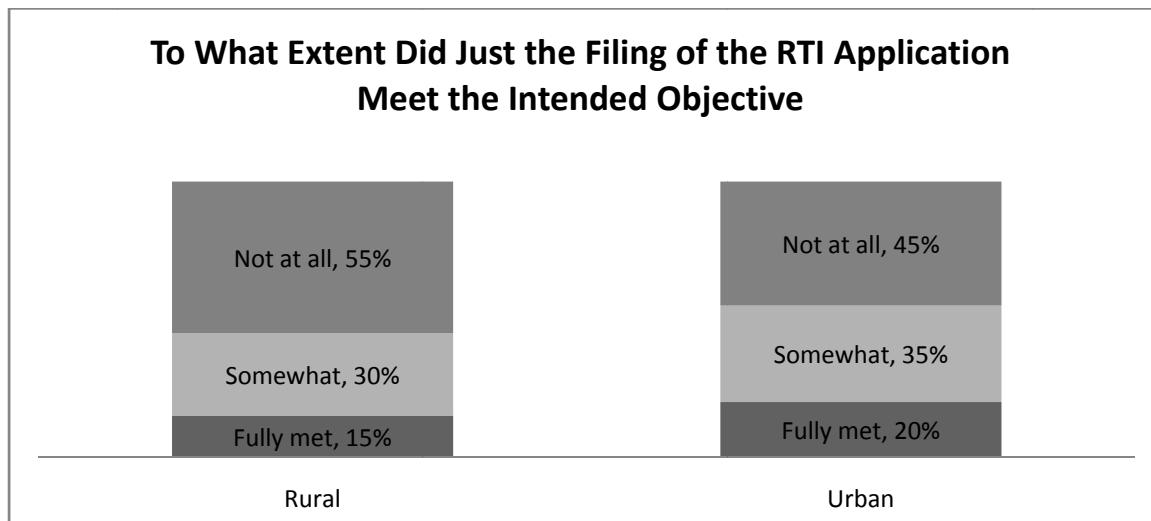
- Data supplied by the government indicates a success rate of 70/100, with a full mark for providing complete information and half a mark for part information.
- The actual applicants who were interviewed reported a success rate of around 60/100.
- Our own experience with the RTI applications we filed indicated a success rate of 55/100. There was, of course, variation between states (see table below).



* Based on the RTI applications filed by the RaaG team

- Government claimed that 90% of the time information was provided in time.
- Applicants' data suggested that 50% of the time that information was received, it was received in time.
- Our experience suggested 40%.

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. The types of impacts they illustrate can be classified into at least ten types:
 - Ensuring open information is actually open.
 - Preventing corruption.
 - Exposing corruption.
 - Curtailing wasteful public expenditure.

- Exposing misuse of power and influence
- Accessing justice.
- Accessing entitlements.
- Redressing grievances.
- Supporting good officials.
- Empowerment of the Public.
- Over 20% of the rural and 45% of the urban PIOs claimed that changes had been made in the functioning of their offices because of RTI. 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.

First Appeal

- 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.

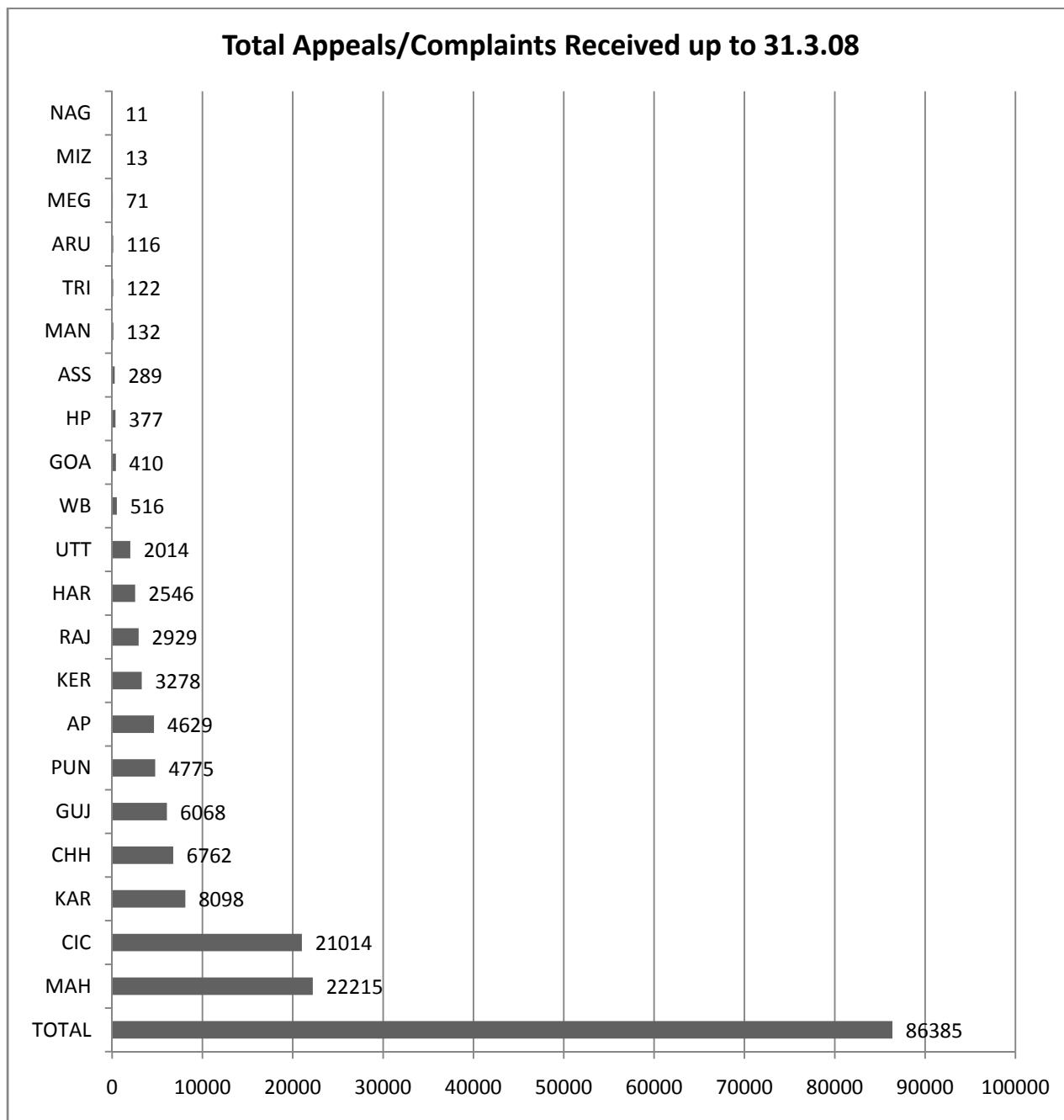
INFORMATION COMMISSIONS

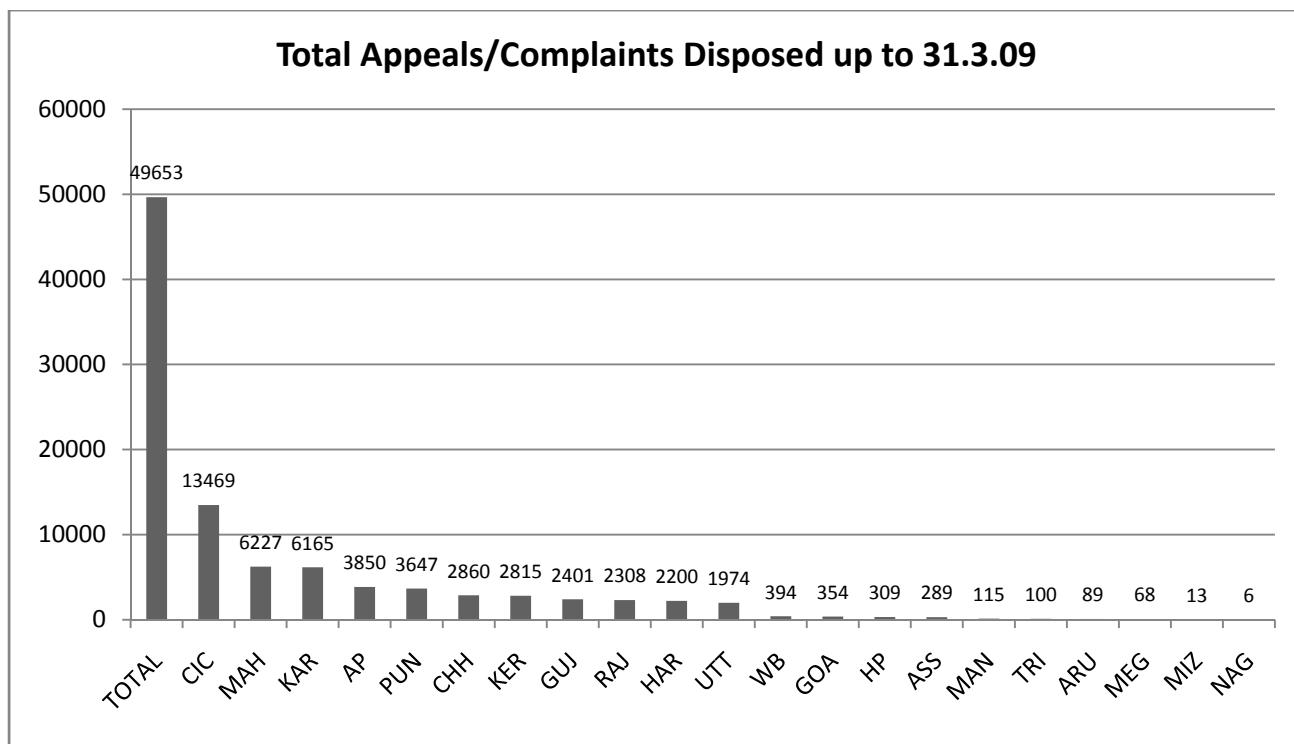
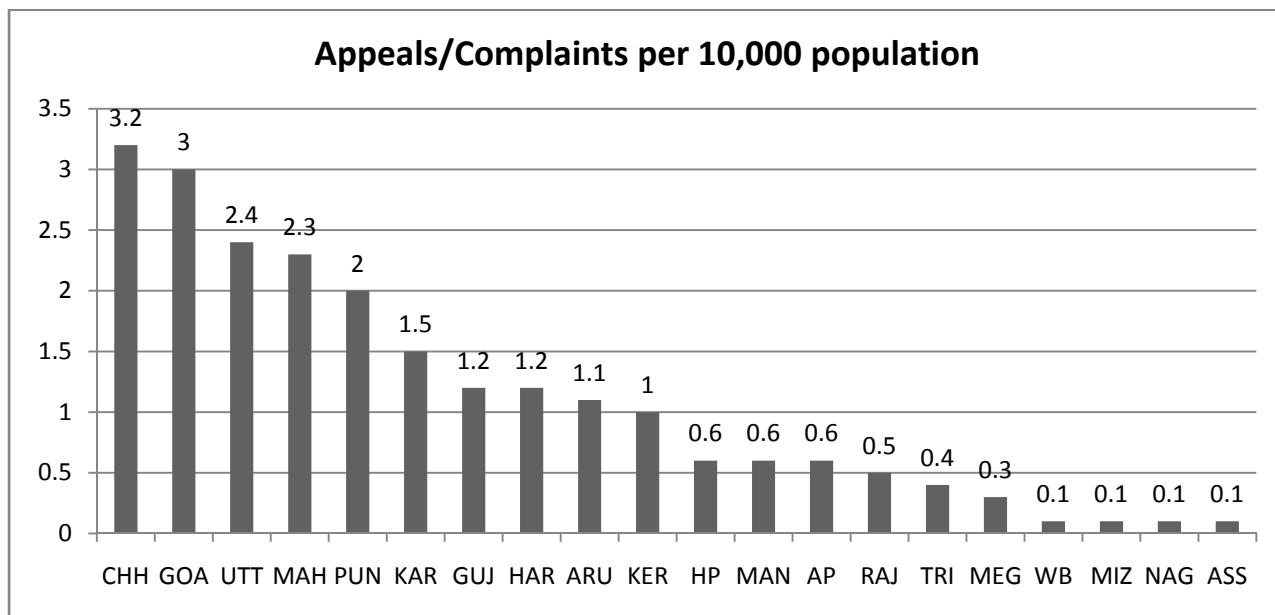
Composition

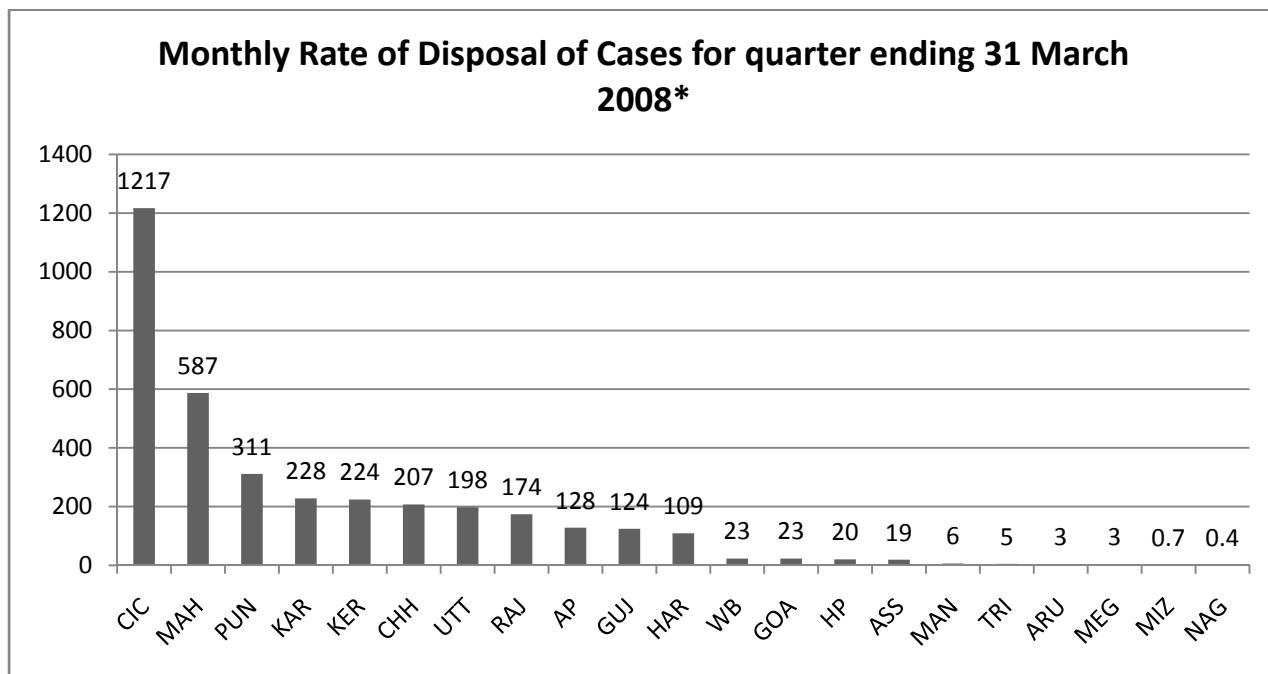
- Of the one central and 27 state Chief Information Commissioners initially appointed, 23 were retired IAS officers, 3 were retired judges (UP, Bihar and Jharkhand), one a retired IPS officer (Assam), and one a former Member of Parliament (Arunachal Pradesh).
- The first four states to operationalise their information commissions were Karnataka (July 2005), Madhya Pradesh (August 2005), and Punjab and Maharashtra (October 2005), even before the RTI Act came into full effect. Uttarakhand and the CIC followed soon after, in October 2005 itself. The last state to set up an information commission was Arunachal Pradesh, a year after the RTI Act came into effect, in October 2006.

Second Appeal/Complaint

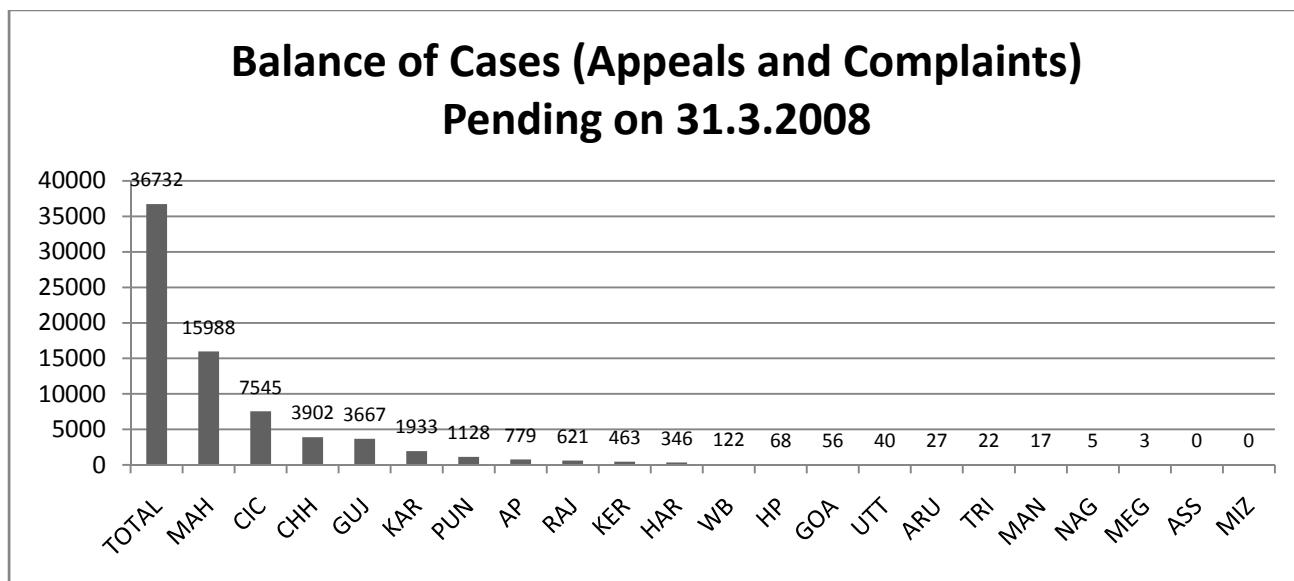
- The most important issue regarding many Information Commissions is the delay in disposing of complaints and appeals. Given below are the data collected on this aspect of the functioning of the ICs.



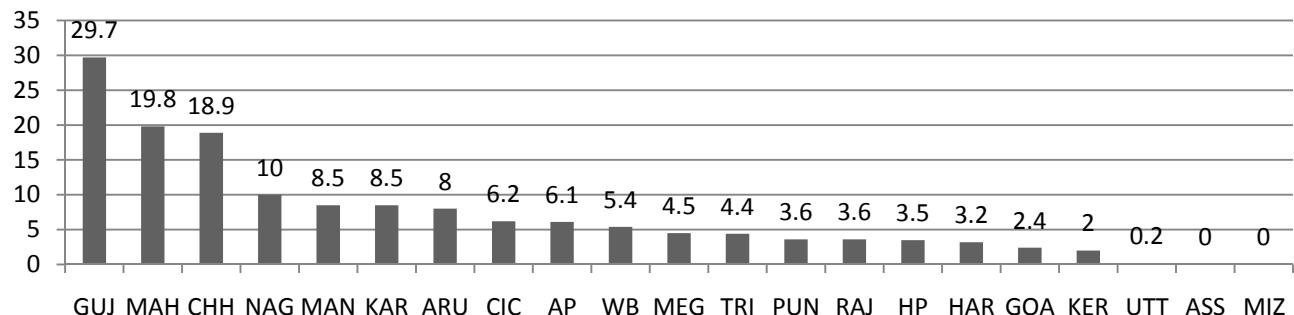




* Except for MAH, KAR, GUJ and ARU, where quarterly breakup was not available. There average has been taken. Also, for MAN, MEG, and NAG huge variations between quarters, so again average has been taken.

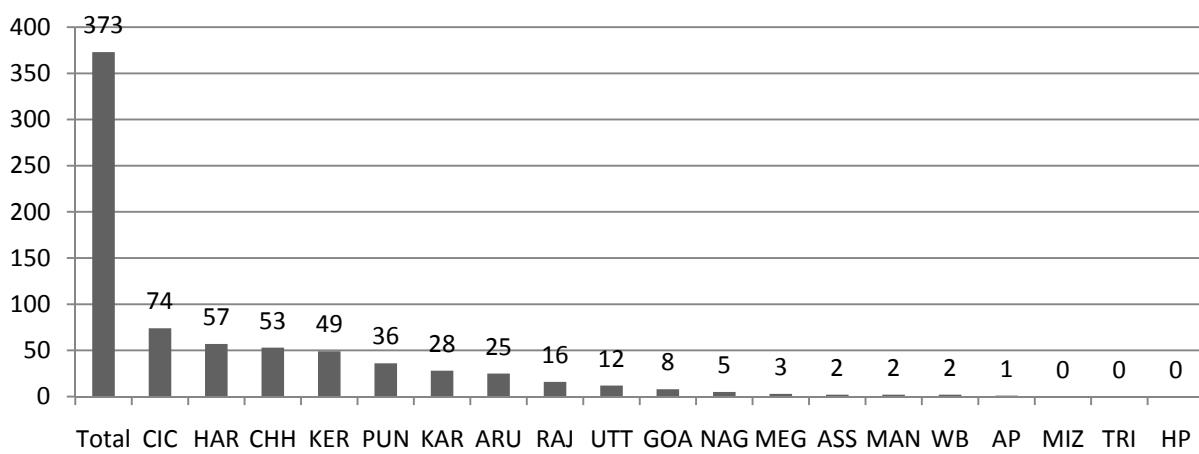


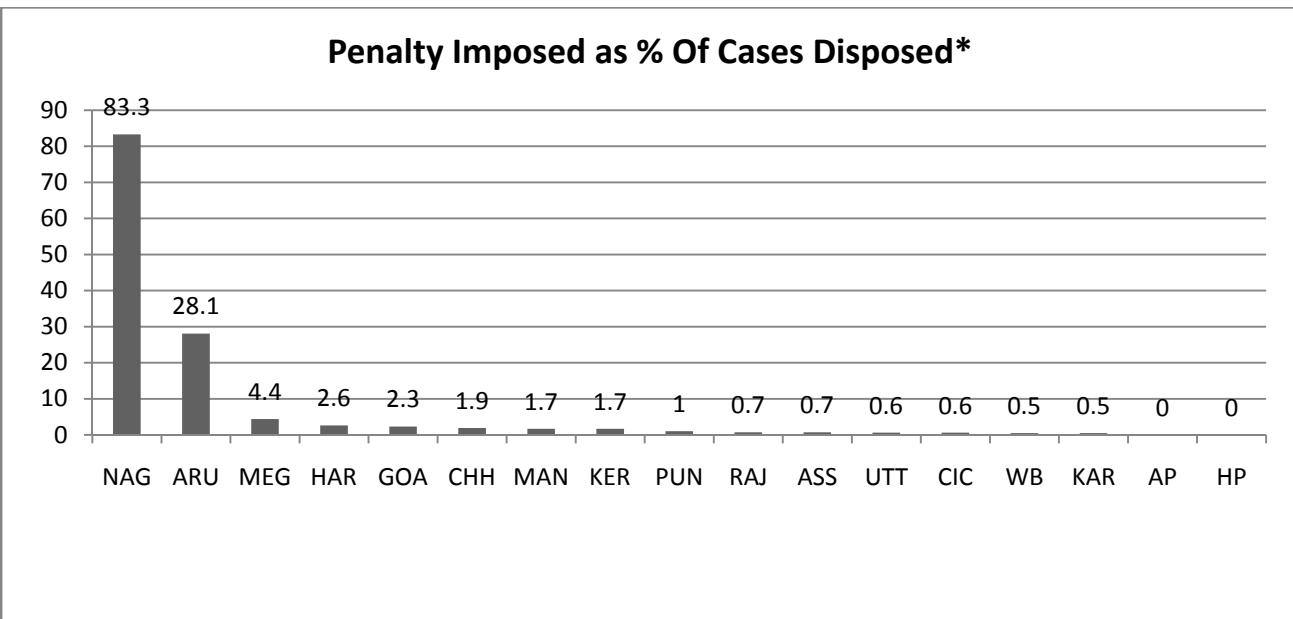
Waiting Time (in months) for Disp[osal of Appeal/Complaint as of 31.3.08



Interestingly, if the interpretation of the RTI Act done by the Department of Personnel and Training, Government of India, that only full benches of all information commissioners together can hear cases, is accepted then the worst hit would be the CIC and the ICs of Maharashtra, Karnataka, Andhra Pradesh, Punjab, Haryana, and Goa, as they all have multiple benches and heavy work load. Waiting time will climb up to six years or more in Maharashtra, three years or more at the CIC and in Punjab, and nearly two years in the others. And considering that the number of appeals and complaints are going up every year, as time goes along this will get worse and the appointment of additional commissioners will not help.

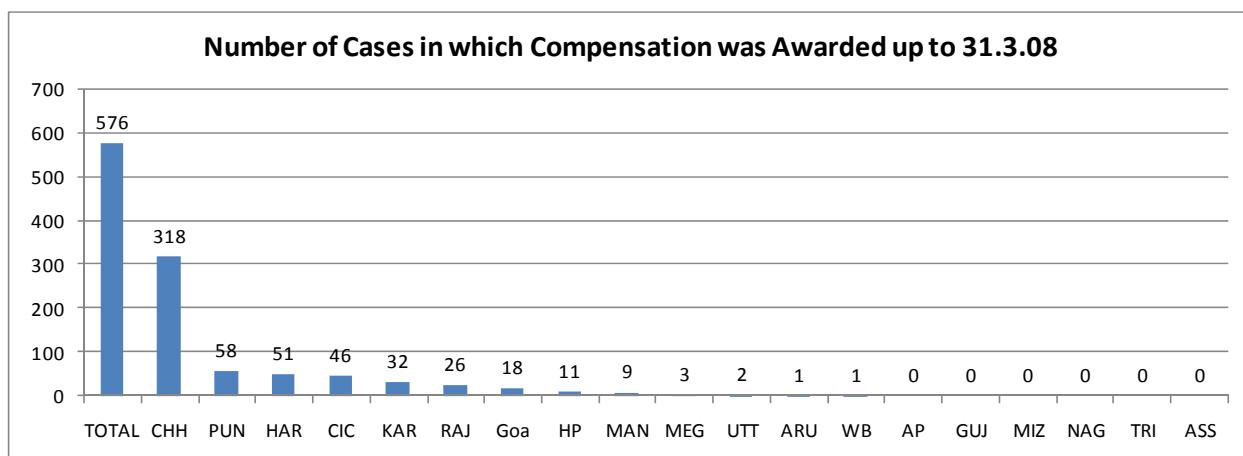
Number of Penalties imposed till 31.3.08





* zero means less than 0.1

- The number of cases where some penalty should have been imposed (just for delayed supply of information), 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 373, or in about 1.9% of the cases where it should have been imposed!!



Budget and Infrastructure

- Almost all the information commissions responding 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.

Budgets of some Information Commissions

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

- Half of the information commissions responding stated that the budgets allocated to them were not adequate.
- 85% of them thought that the staff sanctioned to them was not adequate.
- 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
Uttarakhand	18	2014	1	111.9	18
West Bengal	15	516	1	34.4	15

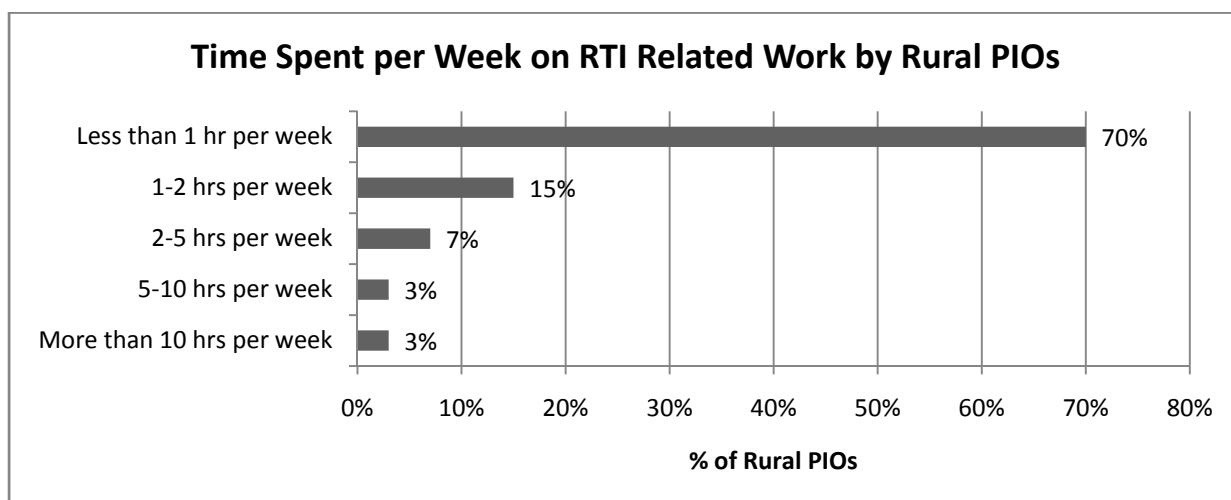
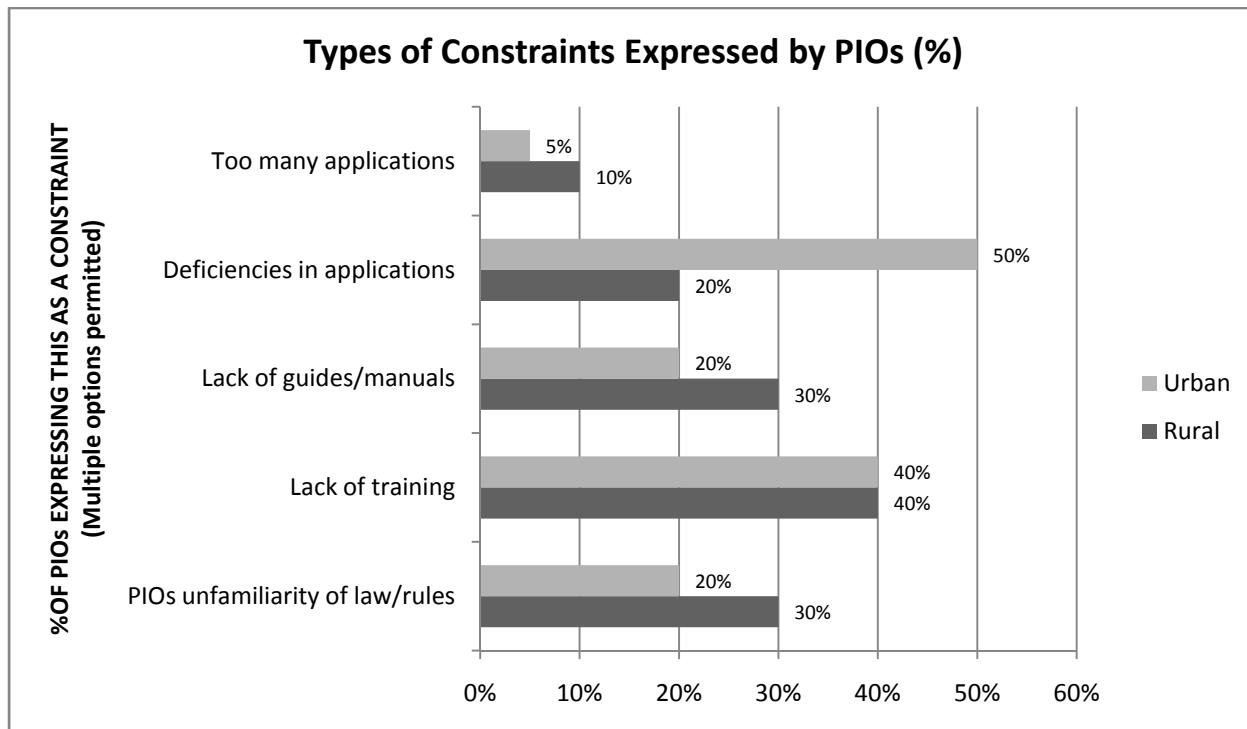
- Nearly 60% of the commissions did not have what they considered to be adequate infrastructure.
- The point that emerges from all these statistics is that there is no uniformity in the funding or staffing patterns of information commissions. Considering their work is similar, if not identical, it should not be difficult to develop norms of staffing and funding that could be applicable across the country.

Autonomy of Information Commissions

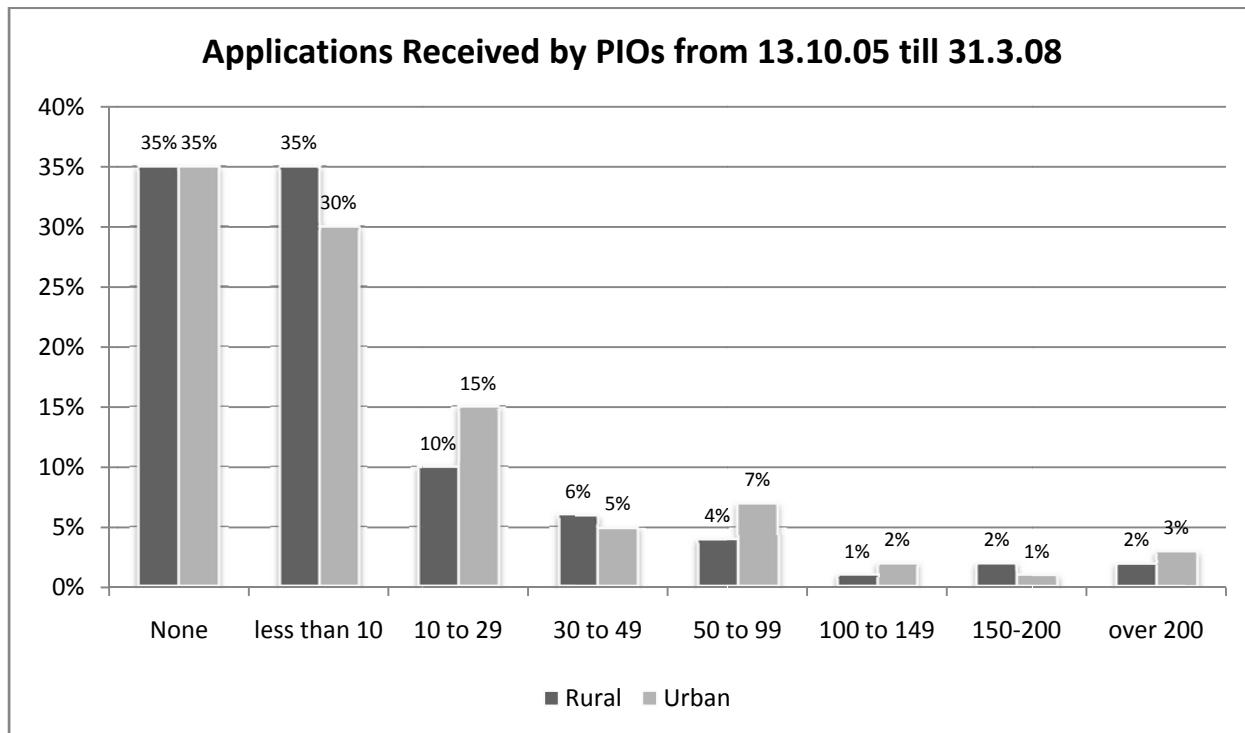
- 75% of the ICs responding to our questionnaire admitted that they were not financially independent.
- Only half of the ICs responding had offices independent of other government offices.
- Only four of the 13 responding ICs: Andhra Pradesh, Meghalaya, Tripura and Uttarakhand, were satisfied with the manner in which state governments were following the orders of the state information commission.

GOVERNMENT AND THE RTI

Public Information Officers (PIOs)

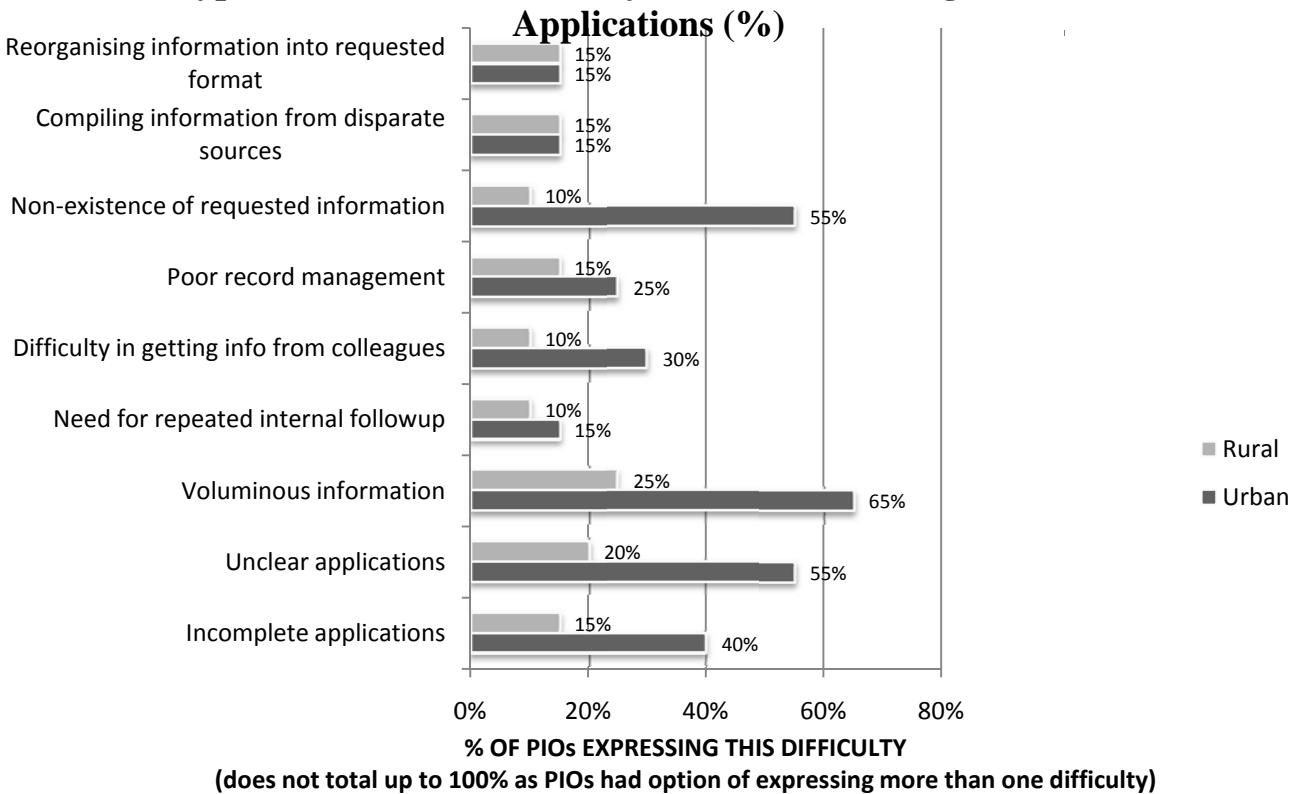


- Though comparable data was not available for urban PIOs, by and large the average load was not dissimilar (see table below).



- 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% refusing to comment, over 15% saying they wanted to be PIOs and less than 10% willing to admit that they did not want to be PIOs.
- Over 10% of the PIOs cited the lack of financial or other incentives 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.

Types of Difficulties Faced by PIOs while Dealing With RTI



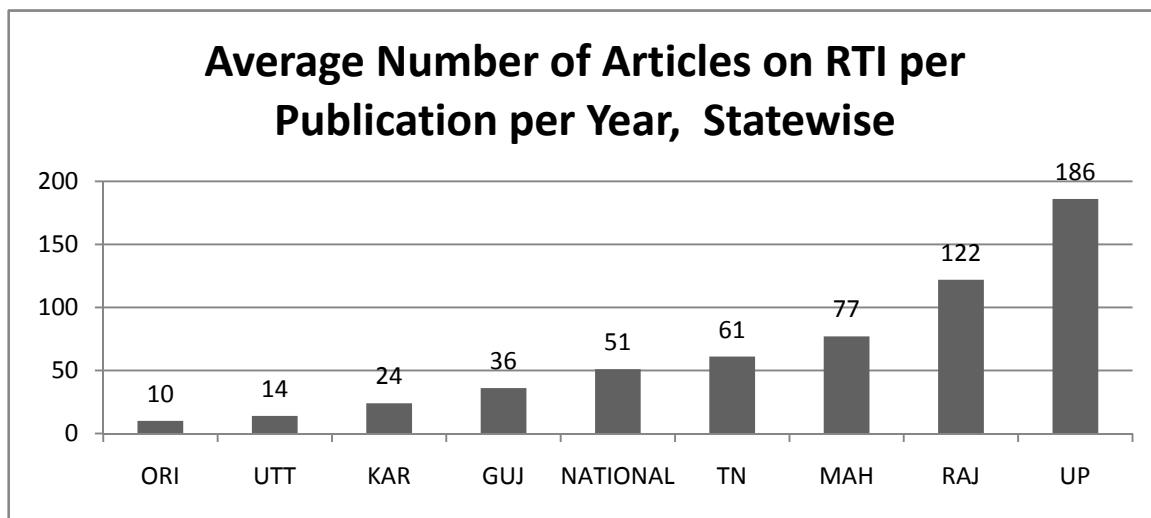
- Interestingly, over 30% of the **rural** PIOs admitted that they did not know the provisions of the RTI Act. All of the **urban** PIOs claimed that they knew the RTI Act well.
- Nearly 60% of the **rural** and a similar proportion of **urban** PIOs responding stated that they had not been trained.
- 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. had received no training on the RTI Act.

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!

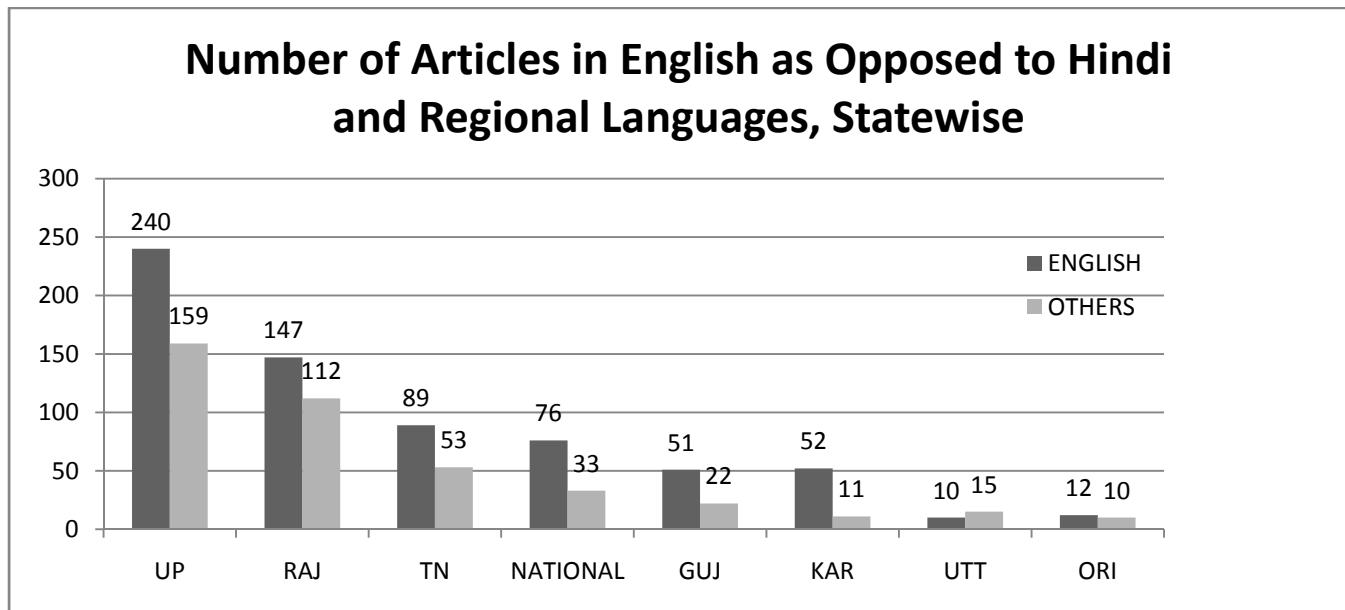
MEDIA AND THE RTI

Coverage

- 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.



- English publications seemed to have printed an average of two times as many RTI articles as their Hindi and regional language counterparts.



- 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 contain 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 *Pavat Piyush* in Uttarakhand.

Raising Awareness

- 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.

Tone and Perspective

- 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.
- Interestingly, among at least at the national level, the English media seemed to highlight successes far more than the Hindi media, which appeared to dwell more on the failures.

Using the RTI Act 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.
- 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.

NGOs AND THE RTI

- 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.
- 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 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.

PERCEPTIONS AND SUGGESTIONS ABOUT THE RTI REGIME

People's Perceptions and Suggestions

- 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 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.
- 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, *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.

Media's Perceptions

- Interviews with editors and journalists across the country yielded two primary messages.
 - The press sees the RTI primarily as a boon for citizens, rather than itself.
 - 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.

Information Commission's Suggestions

- Improve and strengthen the infrastructure in the commissions.
- Give commissions the power to enforce their decisions.
- Enhance the budgets of the commissions.
- Give greater financial and administrative autonomy to commissions.
- Give commissions the ability to monitor compliance by public authorities.
- Increase training for the staff of public authorities.
- Improve record management at public authorities.
- Make much greater efforts to raise awareness about the RTI Act.

PIOs Suggestions

- A large majority of the PIOs stressed on enhanced training and the raising of awareness.
- Other suggestions included: substantially increase the fee, punish those seeking malafide/malicious information, restrict timeframe of information that can be sought, provide additional staff, increase the time allowed for processing application, stop misuse of the Act, restrict scope of RTI applications, provide additional finances, create separate RTI

cells, provide financial incentive for PIOs, promote e-processing, remove fee exemption for those below the poverty line.

Heads-of-Departments' Perceptions and Suggestions

- The **district and sub-district** heads of departments/offices (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%).
- 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%.
- There was a clear consensus amongst HoDs at the **Central and State Governments** that transparency was crucial to effective governance.
- There was also a recognition of the fact that the government's architecture for responding to the RTI was inadequate. Amongst the key issues cited were:
 - Poor record management
 - Inadequate budgets
 - Wrong mind set of civil servants
 - Lack of human resources
 - Lack of Training and knowledge about the provisions of the Act
- The Positive Aspects of RTI included
 - Citizen empowerment
 - Faster decision making
 - A boon for honest officers
 - Some Improvement in record management

- The negative aspects of RTI included
 - Misuse
 - Use mainly by the elite
 - Little impact on the decision making process
 - Undermined the authority of the executive
- Opinion was divided as to whether the RTI Act has had an impact on politicians.
- Has greater transparency resulted in greater accountability of the government? On balance, HoDs felt that the jury was still out as the Act was young and its full potential had not yet been realized.

Our Perceptions

- In the final analysis, what seems to emerge from the discussions is 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’, is generally welcomed as a step in the right direction. However, there was concern regarding the negative spinoffs of the RTI Act.
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.

MAJOR FINDINGS AND A DRAFT AGENDA FOR ACTION

Finding I:

There is poor awareness about the RTI Act, especially in the rural areas.

Recommended Action:

1. A task force should be set up at the national level, headed by an eminent media personality or public communications expert, to design and implement suitable public awareness programmes. Information regarding the RTI Act and its relevance to the people should be imparted in conjunction with information about other basic rights, highlighting how the RTI Act can be used to ensure access to these other rights. This would not only contextualize information about the RTI Act but also raise awareness about other rights. **[ACTION: DoPT, MoI&B, NGOs, Media Houses, Television Channels, Folk Theatre Groups]**
2. To start with, teams using a mix of traditional and modern methods, including song and dance, folk theatre, films, posters, etc. could move from village to village. Similar teams could also be active in urban areas and the programmes could be recorded and broadcast on national TV and radio, and use the web and other electronic media.
3. Case studies and other material could be provided to creative people in the broadcasting and television industry to inspire them to fictionalize RTI stories and popularize the concept through television serials in Hindi, English and various regional languages.
4. A module on RTI should be made mandatory (though without credits) in school curriculum for 11th and 12th classes, and for all undergraduate and postgraduate courses in India. **[MoHRD]**

Finding II:

Less than half the PIOs and even a lesser proportion of other civil servants have been oriented and trained towards facilitating the right to information.

Recommended Action:

5. Appropriate governments and the ICs should direct all PAs and training institutions (invoking, if need be, S.19(8)(a)(v)), that, apart from conducting separate training courses for PIOs/FAAs and other officers, a module on RTI should be incorporated into

all training programmes, considering every government employee is subject to the RTI Act. [DoPT, CIC, SIC]

6. In order to facilitate the recommended training courses, a committee of RTI and governance experts should be constituted, also involving CICs/ICs from various states and the Centre, to develop a training plan and a model syllabi for training modules at different levels of the government. This exercise can be anchored by one of the state or national training institutions.
7. Concurrently, it is also important to identify and train trainers. A roster of trainers, in different languages and for different levels of officials, need to be set up so that training institutions have access to trained trainers.
8. Training material, in the form of printed material and films also needs to be compiled and, where required, developed in the various languages. State training institutes and other state level institution could be made repository libraries for training material, to be accessed by departments and institutions for use in training programmes.
9. An agency, within or outside the government, needs to be given the responsibility of monitoring the state of preparedness among a sample of PIOs and officers, in order to assess the efficacy of the training programme.
10. Advisories Could be sent (perhaps once a month and at least once every three months) by Information Commissions (ICs), under section 25(5) of the RTI Act, to all public authorities bringing to their notice important interpretations of the law decided by the ICs, with the recommendation that these should be brought to the notice of all PIOs and maintained by them as reference material. Such advisories could also alert PAs and PIOs against common errors made by them in disposing RTI applications (like denying information just because it is third party, or just because it is subjudice, or just because it concerns a police investigation.)

Finding III:

All state and union territory governments (a total of 34), all the high courts (19) and legislative assemblies (29), the central government, the Supreme Court and both houses of Parliament have a right to make their own rules. This can result in 86 different sets of rules in the country. In addition, the 28 information commissions also have their own rules and procedures, a total of 114 sets of rules relating to the RTI in India! Consequently, an applicant is confronted with the often insurmountable problem of first finding out the relevant rules and then attempting to comply with the application form, identity proof, or mode of fee payment requirements, which differ from state to state and are often virtually impossible to comply with.

Recommended Action:

11. The Government of India needs to develop a consensus among all appropriate governments and competent authorities on a common set of minimum rules that would enable applicants from residing in one state to apply for information from any other state, without first having to find, study and understand the rules of each state and competent authority. **[DoPT, Appropriate Governments, Competent Authorities]**
12. Though, given the provisions of the RTI Act, it might not be possible or even desirable to insist on total uniformity, at least the basic application fee should be the same. There should be at least one mode of payment (perhaps the suggested postage stamp – see 17 below) that should be acceptable to all states and competent authorities. Applications on plain paper should be accepted by all with at least the following three bits of information: Name of the Public Authority, details of the information sought, and name and address of the applicant. Where exemption under BPL category is sought, relevant proof of BPL status should also be enclosed.
13. Similarly, basic rules for filing first and second appeals must also be uniform across the country, so that people are enabled to pursue their applications (even where there is a deemed refusal or no response from the first appellate) without having to study 114 sets of rules.
14. Beyond this, appropriate governments and competent authorities could exercise the freedom of allowing additional modes of payment specifically appropriate to their conditions, or give additional concessions (like the waiver of application fee in rural areas of Andhra Pradesh).
15. The Information Commissions could support the imperative for basic common rules and procedures across the country by invoking the powers given to them under S. 19(8)(a) of the RTI Act. **[CIC, SIC]**
16. Meanwhile, nodal departments in all appropriate governments should ensure that all the 114 sets of rules relevant to different governments/competent authorities/ICs in India are on their website and regularly updated.
17. Special effort must be made to ensure easy payment of application and additional fee. Though Indian Postal Orders (IPOs) are the easiest of the currently allowed modes of payment, especially for those who do not live close to the public authority or do not want to go personally and pay in cash, IPOs are not easy to purchase, especially in rural areas. Besides, many states and competent authorities do not accept IPOs. Rather than introducing a new instrument for payment of fees, perhaps all states and competent authorities can be persuaded to accept postage stamps (including post cards) as a means

of payment. These are widely available. Where the amount is large, especially where a large number of pages have to be photocopied, all public authorities should be willing to accept money orders.

18. Prescribed forms must be discouraged as they are difficult to access for the rural Indian, especially those who do not have access to the internet. Whereas generic forms can be made that guide applicants on what details to provide, applications should not be rejected just because they are not in any specific form.
19. Appropriate governments and competent authorities must refrain from prescribing exorbitant application or photocopying fee. Whereas an exorbitant fee might deter a few non-serious applicants, it would prevent a large number of poor people from exercising their basic right and thereby defeat the whole purpose of the RTI Act.

Finding IV:

Applicants, especially from the weaker segments of society, are often intimidated, threatened and even physically attacked when they go to submit an RTI application, or as a consequence of their submitting such an application.

Recommended Action:

20. Complaints of such intimidation, threat or attack to ICs must be treated as complaints received under S. 18(1)(f) of the RTI Act and, where *prima facie* merit is found in the complaint, the IC should institute an enquiry under S. 18(2) read along with S. 18(3) and 18 (4). [CIC,SIC]
21. Such intimidation, threat or attack, in so far as it is an effort to deter the applicant from filing or pursuing an RTI application, can clearly be considered as obstruction and falls within the gamut of S. 20(1) as a penalisable offence. Therefore, where the enquiry establishes the guilt of a person who is a PIO, the IC must impose such penalty as is appropriate to the case and acts as a deterrent to other PIOs.
22. Where the guilty party is not a PIO, the IC must establish a tradition of passing on the enquiry report to the police, where a cognizable offence is made, or otherwise to the relevant court, and use its good offices (and its moral authority) to ensure that timely and appropriate action is taken.
23. It would also help if public authorities designated Assistant Public information Officers (APIOs), as required under S. 5(2) of the RTI Act, from neutral agencies. Following the example of the Government of India, it would be a good idea if post offices across the country are made universal APIOs, so that any applicant can file an application in any post office pertaining to any public authority. This would also otherwise facilitate the

filing of RTI applications, especially for the rural applicant. [DoPT, Appropriate Governments, Competent Authorities, MoCommunications]

Finding V:

*Despite a very strong provision for proactive (*suo moto*) disclosure under section 4 of the RTI Act, there is poor compliance by public authorities, thereby forcing applicants to file applications for information that should be available to them proactively, and consequently creating extra work for themselves and for information commissions.*

Recommended Action:

24. Given the very poor implementation of Section 4 by most public authorities, the ICs could recommend (under S. 25(5) read with S.18(8)(a)) that each PA designate one PIO as responsible for ensuring compliance with all the relevant provisions of section 4. The Commission would hold this PIO responsible for any gaps or infirmities, subject to provisions S. 5(4) and 5(5) of the RTI Act. [CIC, SIC]
25. Where an appeal or compliant comes before an IC relating to information that should rightly have been made available *suo moto* under section 4 of the RTI Act, but was not, the IC should exercise its powers under S. 19(8)(b) and compensate the appellant/complainant for having to waste time and energy seeking information that should have been provided proactively. This will not only encourage applicants to complain against PAs not complying with S.4, but also encourage PAs to fully comply.
26. To ensure that the information proactively put out is up to date, the ICs could direct all PAs that each web site and publication relating to S. 4 compliance must carry the date (where appropriate for each category of information) on which the information was uploaded/printed and the date till which it is valid/it would be revalidated.
27. Concurrently, appropriate governments should commission competent professional agencies to develop a template for S. 4 declarations, with the required flexibility to be usable by different types of PAs. This or some other agency should also be in a position to help PAs to organize the required information in the manner required.
28. The ICs should also require each PA to make a negative list of those subjects/files which might attract any of the sub-sections of section 8(1) and thereby be exempt from disclosure. This list should be sent to the ICs, with justifications, and the advice of the ICs considered before finalizing it. The remaining subjects/files should be declared open and any RTI request relating to them should be automatically honoured. Further, all the relevant information in these open files should be progressively made public *suo moto*, so that there is finally no need to invoke the RTI Act in order to access such information. [DoPT, Appropriate Governments, CIC, SIC]

29. Appropriate governments and competent authorities should encourage the setting up of information clearing houses outside the government, especially by involving NGOs and professional institutions for subjects related to their area of work. Such clearing houses could function as repositories of electronic information accessed from the concerned public authorities. They can systematically and regularly access information that is of interest to the public. They can demystify, contextualize, and classify such information and make it easily available to the public through electronic and other means. They can also send out alerts regarding information that needs urgent attention. However, such clearing houses should not absolve public authorities of their own obligations under the RTI Act and should actually motivate governments to be more proactive and organized while disclosing information. **[Appropriate Governments, Competent Authorities, NGOs, Professional Institutions]**

Finding VI:

One major constraint faced by PIOs in providing information in a timely manner is the poor state of record management in most public authorities.

Recommended Action:

30. Section 4(1)(a) of the RTI Act obligates every public authority to properly manage and speedily computerize its records. However, given the tardy progress in this direction perhaps what is needed is a national task force specifically charged with scanning all office records in a time bound manner. Apart from saving an enormous amount of time and valuable space, the replacing of paper records by the digital version would also make it more difficult to manipulate records, or to conveniently misplace them, provided proper authentication and security protocols are followed. **[DoPT, MoInfo. Tech.]**
31. A priority should be given to scanning records at the village, block and sub-divisional level. As facilities for digitizing records are not usually available at this level, it is recommended that a special scheme for scanning rural records, using mobile vans (or "scan vans") fitted with the requisite equipment and with their own power source and wireless communication facilities should be commissioned to cover all rural records in a time bound manner.

Finding VII:

Certain public authorities, especially those with extensive public dealing (like municipalities, land and building departments, police departments, etc.) receive a disproportionate share of RTI applications compared to other public authorities. In some cases there is resentment among

PIOs as they have to deal with a large number of RTI applications in addition to their normal work.

Recommended Action:

32. Without illegitimately curbing the citizen's fundamental right to information, there are various ways of ensuring that the numbers of RTI applications received by a public authority do not become unmanageable. First, each public authority should assess every three months what types of information are being sought by the public. As far as possible, the types of information that are most often sought should then be proactively made available, thereby making it unnecessary for the citizen to file and pursue an RTI application. **[Appropriate Governments, Competent Authorities]**
33. Second, most often RTI applications are filed because there are unattended grievances that the public has with the public authority. These are mostly delays, lack of response to queries, not making the basis of decisions public, seemingly arbitrary or discriminatory decisions, violation of norms, rules or laws by the public authority, and non-disclosure of routine information that should have been disclosed even without the RTI. If heads of public authorities periodically (say once in six months) reviewed the basic reasons behind the RTI applications received, they could initiate systemic changes within the PA that would obviate the need to file these applications.
34. Besides, such systemic changes would ensure that the benefits of the enhanced transparency and accountability consequent to the RTI Act do not only go to those who actually use the Act, but to even those who might be too poor or otherwise unable to take advantage of it.
35. Another practice that would minimize the work load of many public authorities is the putting of all RTI queries and the answers given (except where the information relates to matters private) in the public domain. This would allow people to access information that has already been accessed by someone earlier without having to resort to filing an RTI application. This would also be a good way of ensuring that information accessed under the RTI Act is not used to blackmail anyone. Once all accessed information has been proactively put into the public domain, the potential blackmailer would have no remaining leverage.

Finding VIII:

There are huge and growing delays in the disposal of cases in many of the information commissions, with pendency of cases growing every month. The main reasons behind the delays seem to be the paucity of commissioners in some of the commissions (eg. Gujarat, Rajasthan –

both with only a CIC) and the low productivity of some of the other commissioners, mainly due to inadequate support.

Recommended Action:

36. There is a need to develop a consensus among information commissioners, across the country, on norms for budgets and staffing patterns of ICs, based on the number of cases/appeals received, the number of information commissioners, and other relevant state specific issues. **[CIC, SIC, DoPT, Appropriate Governments]**
37. Similarly, there needs to emerge, through a broad consensus, a norm on the number of cases a commissioner is expected to deal with in a month. This could help determine the required strength of commissions, the period of pendency, and also indicate to the public the norm which the commissioners have agreed to follow for themselves. Of course, such a norm should be developed after discussion with other stake holders, especially the public.
38. In order to have the ability to evolve a consensus among information commissioners on these and other such issues, it is important that there be a community or body of commissioners, formal or semi-formal, perhaps as a collegium.

Finding IX:

Many information commissions feel that their dependence on the government for budgets, sanctions and staff seriously undermines their independence and autonomy, as envisaged in the RTI Act, and inhibits their functioning.

Recommended Action:

39. The budgets of information commissions must be delinked from any department of the government and should be directly voted by the Parliament or the state assembly, as the case may be. The CIC should be the sanctioning authority with full powers to create posts, hire staff, and incur capital and recurring expenditure, in accordance with the budget, based on budget norms developed for information commissions across the country (see 36 above). **[DoPT, Appropriate Governments]**

Finding X:

Information commission orders are of varying quality, often with poor consistency on similar issues across commissions, within commissions and even among orders of the same commissioner. Many orders contain insufficient information for the appellant/complainant to assess the legal basis for, or the rationale behind, the order.

Recommended Action:

40. Newly appointed information commissioners must be provided an opportunity to orient themselves to the law and case law. Incumbent commissioners should have an opportunity to refresh their knowledge and understanding and to discuss their experiences and thinking with commissioners from other commissions. Towards this end, it might be desirable to link up with the National Judicial Academy, in Bhopal, and request them to organize orientation and refresher workshops, the latter over the weekend, in order to minimize disruption of work. This is similar to the workshops being organized by them for High Court judges. [CIC, SIC]
41. There also needs to be a standardized format for IC orders that ensures that at least the basic information about the case and the rationale for the decision is available in the order. This again needs to be discussed with other stakeholders and agreed to by the community of information commissioners.

Finding XI:

Often, orders of information commissions are not heeded to by the concerned public authority. Many commissions do not have workable methods of monitoring whether their orders have been complied with, leave alone for ensuring that they are complied with.

Recommended Action:

42. All ICs must fix a time limit within which their orders have to be complied with and compliance reported to the commission in writing. Every order of the commission where some action is required to be taken by a public authority should also fix a hearing two weeks after the deadline for compliance is over, with the proviso that the IC will only have a hearing if the appellant appeals in writing that the orders of the commission have not been complied, to be received by the commission at least three days before the date of hearing. Where no such complaint is received, the hearing should be cancelled and the orders assumed to have been complied with, unless evidence to the contrary is presented subsequently.[CIC, SIC]
43. Where there is a lack of compliance by a PIO, automatically show cause notices should be issued for imposition of penalty and unless compliance follows in a reasonable time, penalty should invariably be imposed.

Finding XII:

A very small proportion of the penalties imposable under the RTI Act (less than 2%) are actually imposed by commissions. Though further research needs to be done on this aspect, preliminary data suggests that there is a correlation between the number of penalties imposed and the record of PAs in terms of making information available.

Recommended Action

44. Information commissioners across the country should get together and collectively resolve to start applying the RTI Act more rigorously, especially as four years have passed since the Act came into effect, and this is more than enough time for the government, and for PIOs, to prepare themselves to implement the Act. [CIC, SIC]
45. At the same time, a dialogue needs to be initiated between the public and information commissions to discuss why they are not imposing penalties even where clearly no reasonable ground exists for delay or refusal of information, etc. To that end, it is required that groups of interested citizens join hands with the media and the legal professionals, and progressive former civil servants and judges, and start on a regular and systematic basis, analyzing orders of commissions, so that a meaningful dialogue can be had with commissions on the need for imposition of penalties. [NGOs, People's Movements]

Finding XIII

The mechanisms for monitoring the implementation of the RTI Act, and for receiving and assimilating feedback, is almost non-existent.

Recommended Action

46. There needs to be a National Council for the Right to Information, to monitor the implementation of the RTI Act and to advise the government from time to time on the measures that need to be taken to strengthen its implementation. This council should be chaired by the concerned Minister and have as members, apart from people's representatives, nodal officers from various state governments on a rotational basis. The Central Information Commissioner and CICs from a certain number of states on a rotational basis should be permanent invitees to the Council. [DoPT]

Finding XIV:

The composition of information commissions across the country has a bias towards retired government servants. It is desirable to have a more balanced composition so that diverse expertise is represented in the commission.

Recommended Action:

47. Towards this end, the process of short-listing candidates for appointment to information commissions must be participatory and transparent, allowing public consultation and debate before a short-list is finally sent to the selection committee. [DoPT, **Appropriate Governments**]

Finding XV:

There is a need for setting up follow up mechanisms where information accessed by using the RTI Act can be expeditiously acted upon, where required, without again having to access the over-burdened and /or ineffective courts and departmental mechanisms.

Recommended Action:

48. The Central and state governments need to set up independent grievance redressal authorities (along the lines of the one in Delhi – but with more teeth), so that instances of delay, wrong doing or inaction can be independently and speedily adjudicated and corrective action initiated.