

An Summary of the Key Propositions and / or Recommendations

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ToR 1

To assess the extent to which the recommendations made by the Commissions, under section 25 of the RTI Act, have been implemented; and, to identify the major reasons, if any, for non-implementation of Commissions' recommendations

Introduction and Objectives

The basic aim of this ToR was to assess the nature of recommendations made by ICs in their Annual Reports (ARs) and the extent to which these recommendations have been implemented by the various entities concerned i.e. Appropriate Governments, various Departments of Central / State Governments and various Public Authorities (PAs) – to which one or more of these recommendations may have directly or indirectly pertained.

The findings and recommendations of this Study should help the authorities concerned to, first, take steps to address the lacunae in reporting (of compliance) by PAs to Depts. and by Depts. in turn to ICs and later to also do the needful to ensure that the issues raised and recommendations made in the ARs are discussed in the legislatures concerned and urgent steps taken to address the key concerns of non-compliance with the Act as well as the recommendations of ICs made over time.

Two action points for the methodology to be adopted by CGG for this study were:

- *First*, a detailed study would be made of all the available reports of various ICs.
- Through this study, all the issues pointed out in these reports would be culled out and the recommendations made to address these issues.

Note: It was suggested by the members in the lead role that all the suggestions recommendations – direct / indirect and whether made as stipulated by S. 25(3) and whether aimed at addressing an issue, should be covered by this Study.

Thereafter, inputs would be sought from the ICs concerned (i.e. those ICs whose ARs have been studied) regarding the action taken by the entities concerned to implement the IC's suggestions / recommendations.

The available reports of ICs, thus collected, were studied in great detail and all the issues and all the suggestions / recommendations in them were segregated for the consideration of the Sub-Committee.

These issues and / or recommendations – as identified – were classified under seven headings as follows:

- *Suo Motu Disclosure;*
- *Designation of PAs, APIOs, PIOs & FAOs; their Functions and their Service Conditions;*

- *Records Management;*
- *Payment of Fees;*
- *Capacity Building of public officials and Mass Awareness;*
- *Budgetary and other resource support to PAs and ICs;*
- *New Rules or Amendment of Extant Rules under the Act*

Certain other points incidental to the above areas or specific to the context of implementation of RTI in a given State / Department / PA have also been covered. These have been included under one of the above mentioned headings which are directly or indirectly related to them.

Key Propositions: Findings & Analysis

- In almost all the ARs studied, it was found that the ICs concerned had made observations, raised issues and stated recommendations pertaining to almost all the aforesaid 7 heads. The matrix presented in Annexure – II provides this information report-wise – as it can be clubbed under the heads proposed above.
- Some ICs have, in the ARs, pointed to a good practice / innovation by an entity which may be adapted by others.

The examples are: APIC's ICT initiatives; proactive disclosure by an MLA in Meghalaya, Jankari RTI Call Centre in Bihar.

The details of many of these initiatives are available in CGG's report of the study on Sub-Committee's ToR-4.

- In some cases, recommendations of some ICs get reiterated in subsequent AR(s). ARs of Andhra Pradesh, Himachal Pradesh and Uttarakhand are some such examples.

This is indicative of the fact that - by the time, the AR concerned was prepared, no action had been taken on the recommendations made in the previous AR(S).

- 5 State ICs – Andhra Pradesh, Himachal Pradesh, Kerala, Orissa and Maharashtra have released 3 reports (05-06; 06-07 & 07-08). Given that the third reports in these cases, have been released very recently, it may be assumed that recommendations therein (especially those that differ from the previous ones) are yet to be implemented.

This holds true for the Nagaland IC's 1st AR has also been released very recently.

- Those recommendations, which, more or less, reiterate the requirements of the Act have been implemented by the Departments / State Governments concerned - to varying degrees.

Recommendations of Information Commissions and their Implementation...

- Those recommendations that call for greater proactiveness or innovation or allocation of human / financial resources toward implementation of the Act remain either unimplemented or under consideration.
- 3 most important reasons cited by ICs¹ for cases of non-compliance with the Act or non-implementation of their recommendation(s) are:
 - (i) Recommendations are either not taken seriously or are not understood in a holistic manner. It may also be concluded that for several stakeholders on the supply side, the understanding of the Act is also not complete;
 - (ii) Paucity of financial and human resources with the Departments / PAs; and
 - (iii) Lack of enforcement powers with the IC including the power to hold the entities concerned in contempt.

¹ This refers an understanding of the responses – given by 7 ICs – to the questionnaire sent by CGG. CGG had prepared the questionnaire based upon a study of the available ARs of these ICs.

Common Issues / Common Recommendations / Status of compliance with the latter

Sl. No.	Common Issues Raised with Reference to:	Common recommendations made	Status of implementation of recommendations based on responses received from 8 ICs
1	<p>Compliance with S. 4(1)(b) ranges from unsatisfactory to poor to completely absent.</p> <p>This includes not making such information available on the Internet and not updating the available information.</p>	<ul style="list-style-type: none"> - Immediate / time-bound and full compliance called for; - Eminently visible display of details of APIOs / PIOs / FAOs necessary; - making such information available on electronic network – a must; - High-level monitoring necessary; - Existing citizen facilitation centers be utilized for accepting RTI applications 	<p>Only partial implementation in few cases.</p> <p>Room for further improvement.</p>
2	<p>Some PAs (especially NGOs, Boards Corporations, district & sub-district level offices) are unaware about being a PA.</p>	<p>Publication of Directories of PAs and PIOs is an urgent need.</p>	<p>----</p>
3	<p>PIOs of some PAs are not adequately senior.</p>	<ul style="list-style-type: none"> - ARC also suggested having reasonably senior PIOs in all PAs. - Necessary steps should be taken to ensure that PIOs are available in the office of the PA concerned. 	<p>Addressed only in a few isolated cases.</p>
4	<p>PAs in all States have a long way to go in improvement of record management practices. In some cases management of records is non-existent.</p>	<ul style="list-style-type: none"> - Need to chalk out a time-bound and integrated programme; - Adequate budget allocation (dept. & PA levels) & continuous high level monitoring needed; - Scientific and computerised records management must be accorded topmost priority; - There has been a suggestion for a 	<p>----</p>

		Public Records Act at the State level. ARC's recommendation of a separate Public Records Office has also been supported.	
5	Options for payment of fees	<ul style="list-style-type: none"> - Maximum options including cash, DDs, Indian Postal Orders etc. should be made available. - PAs should be allowed to retain all or a portion of the fees collected to meet the logistical costs of honouring applications from persons belonging to BPL category because the funds available with the PA fall short at times. - Clear directions should be issued that existing rules be followed. 	Expanding options for payment of fees has been implemented in almost all cases, except in Haryana, where the State Govt. has not found fee payment by Indian Postal Orders to be feasible because the revenue would go to the Central Govt.
6	Present capacity building and awareness efforts of Depts. / PAs as also of CSOs fall short of the huge demand.	<ul style="list-style-type: none"> - More such programmes need to be organised; - Cooperation from CSOs should be actively sought; - Depts. / PAs should earmark budgets for these activities; - Reference material should be brought out in simple and regional languages. 	----
7	Support to ICs	<ul style="list-style-type: none"> - Separate building and all other state-of-the-art facilities as also dedicated staff need to be provided. - Depts should regularly report to the IC. PAs should regularly report to Depts. 	----

Specific Issues / Specific Recommendations* / Status of compliance with the latter

* Almost all of these recommendations remain unimplemented.

Sl. No.	Issues Raised with Reference to	Specific Recommendations made	Other Remarks (if any)
1	Non-compliance or partial compliance with S. 4(1)(b) & poor records management.	<ul style="list-style-type: none"> - Model formats may be developed for manuals S. 4(1)(b) disclosure. (Meghalaya IC); - Once finalized, these formats should be sent to IC for approval. (Uttarakhand IC); - Secretaries / HoDs should be formally made responsible for compliance. (APIC); - S. 4(1)(b) disclosures may be made available as priced publication to cover the costs of printing / publishing them. (Meghalaya IC); - SICs be given the authority to penalise non-compliance with S. 4. (HPIC); - Citizens' Charters be incorporated in S. 4(1)(b) disclosure. (CIC, APIC, Karnataka IC, HPIC); - Notice Boards in PAs should furnish complete contact details of IC concerned. (UPIC). - Contact information of APIOs / PIOs / FAOs should be prominently placed at points of ingress and egress on the premises of a PA. (APIC, BIC) 	--
2	Increase in number of appeals / complaints received by ICs	<ul style="list-style-type: none"> - PAs need to revisit their procedures and streamline their complaint / grievance redressal mechanisms with respect to the services they provide. (CIC); - Appointment of more Commissioners needed in some cases; - ICs need funds for augmentation of their administrative staff, technological resources and other logistics. (Arunachal Pradesh IC). 	More Commissioners appointed in a few cases, but in several of these cases they haven't been provided with the facilities they are entitled to.
3	Service conditions of PIOs	<ul style="list-style-type: none"> - PIOs be compensated for the extra workload. (CIC, APIC); - RTI implementation should be made a consideration in writing the ACRs 	--

		<p>of the officials concerned. (CIC, APIC);</p> <ul style="list-style-type: none"> - All PIOs / FAOs should be brought under the administrative control of ICs. (CIC, APIC, Arunachal Pradesh IC, Bihar IC); - Transfer / replacement of PIO must have ICs' prior approval. (UPIC). 	
4	Improving Records Management	<ul style="list-style-type: none"> - National Archives should take initiative in helping ICs. (CIC); - State Govt. must consider enacting a legislation in line with the Central Government's 'Public Records Act, 1993. (Karnataka IC). 	--
5	Options for payment of fees	<ul style="list-style-type: none"> - Uniform fee structure be implemented by all Appropriate Govts. (CIC); - For the greater convenience of the citizens, it will be better if the mode of payment is also extended to acceptance of Revenue Stamps, IPOs or Non-judicial stamps (APIC); - PAs should be allowed to retain the money collected as application / further fees to meet the expenses for RTI implementation. - Fees for inspection of records are excessive when compared with the rules of the Central Govt. (HPIC); - Chargeable time slot should be increased to 30 minutes from the present 15 minutes. (HPIC). 	--
6	Resource support to ICs and PAs	<ul style="list-style-type: none"> - Warrant of precedence for Information Commissioners needs to be finalized. (CIC); - State Govt. should provide support to IC in the form of Grant-in-Aid. SIC should have autonomy in creating posts and recruiting staff. The stipulated perks and amenities for Information Commissioners should be provided. (Arunachal Pradesh IC); - PIOs should be provided with necessary contingency fund to carry out their responsibilities. (Bihar IC, Assam IC); - Office of the Panchayat Secretary should be well-equipped with all the necessary equipment. (Bihar IC); - SIC's office should be easily accessible to the public. (Assam IC); - GoI should give the State Govt. Central assistance for RTI implementation (Kerala IC, Orissa IC). State Govt., in turn, should make adequate funds available for 'District Rural Development Agencies' / 'Zilla Parishads' / 'Panchayat Samities' / 'Gram Panchayats'; 	--

7	Other Recommendations	<ul style="list-style-type: none"> - Some notifications / rules issued by State Govt. that are not in keeping with the Act need to be done away with. (Assam IC & Mizoram IC); - Commissions should be authorised to issue contempt proceedings. Compensation to the complainant for any loss or detriment suffered should be paid from the PIOs pocket. (Karnataka IC); - Applicants belonging to the 'Below Poverty Line' (BPL) category may be provided with the information free of cost to a maximum limit of Rs.150/- (Orissa IC); - It can be assumed that the powers of ICs under S. 18 will apply mutatis mutandis (with appropriate changes) to all the proceedings of the ICs. This needs to be clarified. (CIC); - All PAs must be asked to include a chapter titled "Implementation of RTI Act 2005" in their ARs. In recognition of their work, ICs could recommend to the Govt. to award them. (CIC); - The Govt. may set up a 'Centre for Accountability and Transparency' for undertaking activities relating to research in best practices in creating an open access regime and other such related activities that would effectively strengthen the Commission in pursuing its mandate. (CIC); - Set up a Citizens Council of RTI User Groups. (CIC). - The State Govt. should allot some funds to the 'Deputy Commissioners' of all districts exclusively for RTI campaigns through NGOs and other voluntary organisations. (Punjab IC) - Nodal Dept should be changed from Administrative Reforms and Training Dept. to 'Personnel Dept.' (Assam IC) - Guide book prepared by ATI should be updated (Bihar IC); - Functioning of Jankari Call Centre should be closely monitored. Block headquarters and field units should also be connected to it. (Bihar IC); - PIOs of Health Dept, who have created obstruction in RTI implementation should be transferred en masse (Bihar IC); - The post of the 'Secretary', SIC should be included in the list of 'Heads of Department' in 'Annexure II' appended to the 'Goa Delegation of Financial Power Rules', 1997 (Goa IC); - It would be helpful to designate an officer at the headquarters of a PA as a Nodal Officer for implementing the provisions of the Act (Uttarakhand IC); 	--
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		<ul style="list-style-type: none">- State Govt. should examine the recommendations made in the 2nd AR and take appropriate action regarding them. It is highly necessary to strengthen the RTI Cell at the level of the 'General Administration Dept. (Uttarakhand IC)';- Toward the objective of increased dissemination of the message of RTI, it would be appropriate that the Intermediate Education Council introduce the Act in the Syllabus for High School and Intermediate (UP IC).- SIC may be included in the definition of " Department" at rule 2(g) of the DFPRT 1994; Secretary, SIC may be delegated with the powers of the head of Dept. & head of offices of the Commission and be allowed to exercise all powers of head of office under DFPRT 1994. (Tripura IC).	
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IV. Summary of Recommendations

- ✚ In spite of the fact that it has been almost four years since the 'RTI Act, 2005' came into force, ARs of ICs still have to point to the lack even of basic compliance.

To this extent, their recommendations too remain restricted to asking PAs to comply with the RTI Act, 2005 and do not refer to any value-additions to their compliance beyond the letter of the Act.

It may be said that there is lack of seriousness / commitment among Depts. and PAs in general – toward implementing this Act.

- ✚ This is also the case with respect to suggestions other than those related to basic compliance by Appropriate Governments, Depts., PAs i.e. they remain unheeded to a fairly large extent.
- ✚ Reporting of the compliance by PAs / Depts. – on a regular basis – also leaves a lot to be desired. It can be seen from the statistics provided
- ✚ All ICs must insist that the appropriate Govts. / Depts. / PAs referred to in the issues / recommendations in the ARs submit 'Action Taken Reports' (ATRs) to them within 3 months of the AR being tabled on the floor of the Central / State legislature – as applicable.

In fact, this should be a standard recommendation in all the subsequent ARs – for the Legislature concerned to take note of it.

- ✚ All ICs should make appropriate reference to the ATRs thus submitted in the subsequent ARs so that the action taken – its appropriateness and adequacy – can be widely discussed and debated.

Those issues that have not been addressed and those recommendations that have not been implemented by the entities concerned should be clearly identified and reiterated with emphasis for immediate action.

- ✚ ICs should make all possible attempts to submit their ARs in time so that these can be debated on the floor of the Central / State Legislature – as applicable.

Those Depts. / PAs that fail to report to the ICs in time should be clearly listed out in the ARs.

- ✚ ICs should resort to effective monitoring (including surprise checks / field visit) to ensure that their recommendations have been implemented and their implementation has been sustained.
- ✚ All ICs should include, in their Annual Reports', a special mention to good initiatives and innovations (at Govt. / Dept. / PA / PIO levels) in the implementation of the RTI regime, not only from their respective State, but also from other States / UTs. They could themselves institute awards for such initiatives.

- ✚ Some ICs have themselves taken to the task of organising programmes for generating mass awareness. The sub-Committee should consider recommending that other ICs do the same.
- ✚ Further, it is proposed that, ICs actively advocate promotion of volunteerism in propagating the Act and creating public awareness. Greater awareness will act as a pressure lever on Govts. and PAs to raise their compliance with the Act's provisions as also the ICs' recommendations.
- ✚ ICs should coordinate, significantly, with / amongst each other for better results for reinforcing the RTI regime.

V. Other Key Points (emerging from the Study)

- ✚ Not all ICs have been able to bring out their ARs as required by the 'RTI Act, 2005' – the key reason for this being lack of availability of necessary information from Depts. and PAs.
- ✚ Not all ARs of ICs are uploaded on their websites or uploaded immediately after being officially released. A few ICs do not have their own websites.

Presentation of recommendations of various kinds and for different entities could be categorized on the basis of the stipulations under S. 25 of the 'RTI Act, 2005', for at present, many reports do not state the section / sub-section of the Act a particular recommendation relates to.

ToR 2

To prepare a comprehensive status report in respect of major themes of the Annual Convention of 2008...

RTI & Good Governance

Post-Independence, the Constitution of India brought to its citizens a host of rights, including the freedom of speech and expression. However right to information was not expressly spelt out, allowing the bureaucracy to conveniently fall back on the pre-British Official Secrets Act (OSA) in most administrative matters.

The democratic space for citizens did not expand much beyond the electoral participation through adult suffrage. In other words, the democratic space shrunk for want of a legislation that could enable citizens to access accurate information and respond to it. If the actions of those who rule are hidden, then citizens cannot be meaningfully associated with the affairs of society.

The right to information derives from the Universal Declaration of Human Rights, which states that everyone should enjoy freedom of opinion and expression, including the right to “seek, receive, and impart information and ideas”—a guarantee now. Freedom of information laws are driven by the notion that public bodies hold information not for themselves but as custodians of a public good”. Right to Information Act has its genesis in the demand for greater responsiveness from public service providers to the public service users.

Access to information not only promotes openness, transparency and accountability in administration, but also facilitates active participation of people in the democratic governance process. Based on the principles of good governance the governance institutions have a greater responsibility under the Right to Information regime to disclose information to the people and foster informed citizenry in the country.

The Right to Information Act 2005 was enacted by the Parliament on 15th June 2005 with the objective of bringing greater accountability and transparency in governance by opening up of the gates to an informed citizenry. The ‘Right to Information Act, 2005’ became fully operational from 12th October, 2005. This new law empowers Indian citizens to seek information from a Public Authority (PAs) and making the Government and its functionaries more accountable and responsible to the people.

RTI fosters an informed citizenry and better democratic dividends. An informed community can participate in decision making as well as monitor progress. In fact, RTI is a critical factor that is needed for moving from a representative to a participatory democracy, and in creating space for participation from groups hitherto excluded from the policy making processes.

The need to provide information on a regular basis is also likely to catalyze the development of an efficient information collection and management system within government agencies. ‘Right to Information’ (RTI) refers to the right of every citizen to access information held by or under the control of public authorities.

Experiences show that the use of RTI acts in two ways –through individual citizen’s actions under the Act by putting pressure on Public Authorities to disclose information as well as by forcing Public Authority to reveal information that was earlier held ‘confidential’.

- RTI is the only legislation which allows people to question the authority directly without the intervention of their elected representative, the court or the media.
- It is a form of direct democracy in a system built on indirect form of representation.
- It is important that public authorities own up RTI as an ally in transforming governance for their good.
- RTI is the most powerful assault on official corruption.
- Unbridled use of official discretion is known to be the most endemic source of corruption in developing countries. RTI is a direct assault on use of discretion, which prospers under secrecy and recedes under transparency.

Significant positive developments have emerged since the Act came into being in October 2005.

- There is a growing realization within the bureaucracy that they can no longer be opaque in their functioning. The tendency to hide information and take refuge under the Official Secrets Act 1923 is being slowly eroded. For the first time, officials are being forced to be accountable to the citizens.
- Even though the nature of implementation of the Act varies widely across states, most states have largely complied with the provisions of the Act by (a) appointing PIOs and Appellate Authorities in public authorities (b) framing appropriate rules as specified under the Act (c) setting up Information Commissions (d) taking up training programmes for supply side functionaries etc. At the central level, RTI has been tagged into the NREGA and this has further helped the cause of accountability and transparency.
- Although the composition of the Information Commissions has been skewed and they have lacked much needed resources, by and large they are functional authorities and increasingly playing the role envisaged for them
- There is evidently a slow but steady increase in the awareness of people of RTI. While there may have been limited state level initiatives, many proactive district administrations have undertaken public awareness drives to spread the message of RTI.
- The civil society has played an important role in ensuring the implementation of the Act. There have been pressure groups which have constantly advocated better implementation. At the local level, many NGOs have done great work to build awareness and capacity among people.
- Simultaneously, the media has completed the efforts of NGOs by devoting much reporting space to RTI. While some have undertaken high publicity campaigns, others have run dedicated columns.
- While the usage profile is skewed towards the urban middle class segments, there are increasing numbers of reports of RTI being used in the rural context by the poor and the vulnerable segments to demand information.
- Lastly, institutional mechanisms and capacities have been developed at national, state and local levels which continue to aid and assist the implementing agencies and demand side institutions in the implementation of the Act. The UNDP funded Capacity Building for Access to Information Project has contributed in no small measure in this regard. CGG, the national implementing agency has been selected as the National Resource Centre on

RTI. Capacities of civil society organizations have also been significantly strengthened.

Major obstacles in harnessing RTI as an instrument for promoting transparency and accountability

The State Governments, Judiciary and Legislature are recognized as competent authorities under the Act and are required to frame rules. Most state governments have done so but the High Courts and legislature in many states are yet to do so.

The rules specified also differ from state to state, particularly on the issue of fees and cost. There have been deliberate attempts in some cases to discourage people from using the Act by prescribing higher fees. RTI is a facilitative right and must be so.

The understanding of some of the RTI Act provisions also lacks uniformity and this is reflected in the rules framed, particularly on the issue of BPL fees. The issue of file notings has been resolved very recently.

The enforcement powers of the Information Commissions is not clearly articulated and in many state SICs have been rendered toothless, with resource and manpower crunch.

Operational Issues (Public Authorities)

While most states have appointed Public Information Officers, Assistant Public Information Officers and Appellate Authorities, such administrative orders have not been translated into actual practice. In most states, the people (and the officials concerned) continue to remain unaware of the channels through which the Act is to be implemented. Simultaneously, in most states, names of the designated officers are not properly displayed.

The levels at which PIOs and Appellate authorities have been appointed also vary from state to state. In states where junior level officials have been appointed as PIOs, the quality of decision-making is likely to suffer.

Compliance by public authorities with provisions of the RTI Act which augment the need for disclosure of information such as streamlining records management systems has been very poor.

There is great variance across states in their efforts to sensitize and train various supply side stakeholders on the RTI Act. Capacity building among functionaries at the frontline level has been particularly weak.

At the level of different Information Commissions in different states and their interpretations of RTI Act, there is:

- Huge pendency in disposal of appeals and complaints
- Lack of uniformity in decisions due to different interpretations of the RTI provisions
- Contradictory decisions given by different SICs in some matters
- Limited use of penal provisions in some states in spite of cases of clear disregard of RTI provisions
- Limited reach of Information Commissions to reach the rural hinterland – only Maharashtra has established division benches

- Many SICs are yet to file their first annual reports in spite of having got adequate time to do so.
- There has been limited emphasis given to networking and sharing of information across different Information Commissions.

Simultaneously, on-request disclosure of information as mandated u/s 6 (1) has been mainly hampered by the typical phenomenon of bureaucratic resistance. There are reports across different states of PIOs refusing to entertain RTI applications. The reason for doing so, in most cases is ignorance of the Act and the rules pertaining to the respective state. PIOs also refrain from being too indulgent for fear of neglecting their other work. Delegation of the PIO works to a junior level officer (APIO) for convenience has been held against the PIO for shirking RTI responsibility (CIC decision).

RTI applications are not disposed within the mandatory time limits (30 days) specified under the Act. Sometimes information is denied by frivolous application of exemptions criteria. For instance, as seen in a survey undertaken by CHRI (2009)²

Conclusion

While continuing with the system of disposal of appeals initiated by citizens, CIC/SCICs should attempt to address issues of systemic change in public authorities. The RTI Act exhorts (Section 4(2)) that voluntary disclosure of information by public authorities should become so common "*that the public have minimum resort to the use of this Act to obtain information.*" RTI Act serves best when the citizen feels the least need to use it.

Many an RTI-application will be rendered redundant when public authorities *suo-motu* embrace transparency in major aspects of their working and this is desirable in the long run. There should be greater usage of the provisions of Section 19(8)(a) by the ICs to force public authorities to initiate steps to promote transparency.

ICs feel strongly that section 19(8)(a) of the Act should be extensively used to:

- compel public authorities to give effect to `Section 4 of the RTI Act suo-motu disclosures
- force systemic changes to promote public good.

Commissions could identify select public authorities — especially those dealing with public welfare such as health, labour, rural development, transport, etc. — to bring about transparency-based systemic change over finite time-frames.

RTI should not be looked upon as an autonomous legislation, but should be treated as a prime-mover for proliferation of RTI-like laws / legislations. For example, a provision regarding transparency requirement may be included in the obligation of public authorities in their governing legislations.

It would be necessary to shun an excessively formal approach to disposal of RTI-related matters. To bring about systemic change as well as attitudinal change, it is important – rather imperative – that Commissioners establish a dialogue with key public authorities about transparency-based systemic change within given time-frames. Certain countries in the West follow the system of Commissioners holding

² RTI Compliance Report 2009

informal chats with public authorities in order to nudge those authorities to embrace transparency and to usher in change based upon maximum disclosure rather than maximum confidentiality.

Public authorities should be encouraged to bring into the public domain a “question bank” related to various aspects of their functioning. Not only questions, such authorities should also provide answers to those questions and disseminate it widely, specially through websites. A large number of queries, which are now being made through the RTI Act, will be automatically answered. This can happen only through serious self-examination and introspection by the public authorities of their work and their organizational culture.

The right to information laws, alongside expanding the citizens’ rights, should be systematically employed to transform governance. These laws could be a powerful magnet for mobilizing the people and enthusing them to use these laws to enhance and expand their choices for their own betterment.

RTI laws directly contribute to improvement in governance by breaking down the barriers between the government and the people by enhancing trust. RTI is the most powerful assault on developing countries’ endemic corruption. RTI should be an instrument to bring an end to the culture of governmental secrecy and the battle for transparency is to be fought and won in the minds of the civil servants.

RTI and Democracy

Freedom will be bereft of all effectiveness if the people have no access to information. Access to information is basic to the democratic way of life. The tendency to withhold information from the people at large is therefore to be strongly checked.³

The Right to Information (RTI) Act of 2005 is a progressive and formidable legislation that has the potential to change the nature of governance in India. The act itself is partly the outcome of nine years of struggle and campaigning by various civil society groups, and partly of the relentless efforts of the National Advisory Council. The coming of the Act displays India’s aim for greater transparency in an age when many countries are rolling back the culture of openness, using security concerns as an excuse, demonstrates the maturity of our democracy.

RTI and Participation

The right to political participation refers to citizens’ right to seek to influence public affairs. Political participation can take many forms, the most notable of which is voting in elections, but also including joining a political party, standing as a candidate in an election, joining a non-governmental advocacy group, or participating in a demonstration.

The foundational legal articulation of this right can be found in the UN’s 1948 Universal Declaration of Human Rights, and it has been further formalized and elaborated in later treaties, most notably the 1976 International Covenant on Civil and Political Rights. As currently implemented by the UN, various operating entities assess signatory states’ respect for this right and, when violations are determined to

³ (ibid)

have occurred, may call on states to change their practices.⁴ One aspect of the right to political participation merits special attention: its status as a *political* right.

The right to political participation is restricted to *citizens*. Whereas the other rights recognized in the Covenant inhere in human beings on the basis of their status as human beings, the right to political participation is limited to people endowed with the status of citizen. Such a status does not exist in isolation. A person can be a citizen only in the context of a political community and, most significantly, a government, and thus the right to political participation presupposes the existence of a government.

The case that needs to be understood is how right to information is an enabling factor behind citizen's participation in social, political and economic processes of government. Firstly we need to understand the pre-requisites for participation. Citizen's participation calls for a well informed citizenry, which means the citizens should have the right to demand information and the government should proactively display information.

The Right to Information Act thus empowers the citizen to demand information and thus enables participation. The meaning of political participation is not restricted to the right to franchise. It also means, right of the citizen in participation in decision making processes. Right to information empowers the citizenry to raise questions, not only at structural level but also regarding policy decisions and policy implementation. The culture of raising questions and the practice of being informed acts as mechanism of checks and balances for the prevailing political structure, thus making it further accountable and answerable.

RTI-Enabling Environment for Democratic Governance

There can be no democratic participation in decision-making without transparency and sharing information. Secretive government is nearly always inefficient in that the free flow of information is essential if problems are to be identified and resolved. Furthermore, a secretive governing culture fosters suspicion and encourages rumours and conspiracy theories. In such a culture, the public is likely to treat all government information with skepticism including public education campaigns, such as those dealing with important health issues like HIV/AIDS or those which may be particularly sensitive.⁵

People are more likely to be politically malleable, skeptical of government and its intentions, and resistant to change unless sanctioned by informal opinion leaders. The right to information is a key underpinning for work in democratic governance and is vital for promoting 'open governance' and the accountability of public decision makers as well as for strengthening transparency, participation and the rule of law.

The right to information is not only fundamental for an open and democratic society but is a key weapon in the fight against poverty and in accelerating human development. In 2006, over 68 countries had comprehensive laws to facilitate access to state records and many more are in the process of enacting such legislation. This

⁴ Klein, H.; May 29-June 1, 2005; 'The Right to Political Participation and the Information Society'; Presented at Global Democracy Conference.

⁵ Puddephatt, A.; (July, 2004); Right to Information: Practical Guidance Note; United Nations Development Programme

illustrates the growing recognition on the part of governments of the importance of access to information for enhancing democratic engagement, building confidence in government institutions and strengthening their credibility and effectiveness. However, in many States, including democracies, people are routinely denied access to official information—information that should be in the public domain.

The RTI legislation has not been a success all the way, and at times for the wrong reasons. One of these is that many persons view this right and the information commissions as agencies for redressal of their grievances – which they are not.

While the information received through the RTI Act may go a long way in setting a person's grievance, by itself, however, the commission has no powers to intervene either in a dispute or order an erring official to attend to matters he is supposed to, unless it involves providing access to the information sought for by the complainant. This point needs to be clearly understood lest the information commissions in the states and at the centre are unnecessarily burdened with such applications which only lead to a waste of time and effort and further disappoint the applicant.

Then there may be persons who may ask for information only for the heck of it. They could at times prove to be of great nuisance. This is understandable to an extent but with a heap of useless demands and complaints, the legislation and the commissions could collapse under this onslaught. So far, these fears have proved unfounded. It is reported that Delhi, which passed the Act in 2001, has so far received some 14,000 applications/complaints. If this is so, then taking into consideration the fact that the Delhi government has about 120 departments, this would mean a total of 116 appeals/complaints per department over a period of five years, thus meaning less than three complaints per department per year.

There is one apprehension that needs to be spelt out. This involves the possibility of large-scale destruction of sensitive files and records of different government departments. It is no secret that the best way to bury an issue of corruption is by destroying files related to it. This is not difficult and seems to be resorted to liberally.

It is imperative, therefore, that a committee be set up for recommending not only ways of record management (those guidelines are there but are very old and there is not enough awareness about them in government departments) but for ways for pin-pointing responsibility and also suggesting action to be taken against erring officials.

As a matter of principle, harsh action should be taken against the last three officials who have handled (and "misplaced") a sensitive file. This would make it in the interest of at least one of them to see that the file or its copy is always available. Ways have also to be found for maintenance of government data in forms other than government files.

The tendency on part of information commissions seems to be to act as negotiators between the public authority and the citizen seeking information and to try and placate both parties by finding a middle road. But the fact is that the act, one of the most powerful in the world, clearly lays down those parameters outside of which information cannot be denied: and these are so general and so common – sensible that in effect, the act prescribes no bounds.

Conclusion

Given this very broad parameter, it can easily be gathered that “conceding” information is no small task, and the heat is likely to build up as time passes. On the other hand, it may not. For if the public authorities reconcile themselves to this changed atmosphere the transition from a closed administration to an open one may be smooth. As of now, it is a mixed reaction.

There are some public authorities who have without much prodding, voluntarily opened up their records for scrutiny. But the legislation to be truly effective, all three: members of the public, the public authorities and the information commission, have to play an active and meaningful role.⁶

The government of the day has to see that the RTI Act is not weakened in any manner. If there are loopholes in the act, these must be attended to and rectified but always with a view to making it more convenient for a person to obtain information and not the other way round. Earlier talk of amendments such as closing of file notings or not revealing names of officials has finally died down. Our Right to Information Act is one of the most powerful acts in the world and should remain as such.

Together with this, it is incumbent on the government – which has shown so much sagacity and courage in passing the act – to ensure that the agencies responsible for implementing the act are not starved of funds and facilities so that they can function to their full efficiency.

The government should realize that it is in its own interest to see that the goodwill it has earned and created by passing the act should not turn into disappointment by weakening the implementation of it.

RTI & Poverty Alleviation

Traditionally, poverty has been understood in terms of income deprivation. *However it is being increasingly understood that while income deprivation is a real and tangible manifestation of poverty, poverty is a far more complex phenomenon of multiple deprivations and vulnerability on both social and economic levels quantitatively and qualitatively*⁷.

Amartya Sen has conceptualized poverty as *a lack of capabilities that enable a person to live a life he or she values, encompassing such domains as income, health, education, empowerment, and human rights* (Sen 1999:87-98). Poverty also translates into insecurity and powerlessness, a lack of access to information and institutions, and often a lack of self-confidence and voice. (Narayan et al. 2000b:37-38). The UNDP has used *three dimensions in deprivations* for calculating human poverty namely, deprivations in *longevity, knowledge and economic provisioning*⁸.

⁶ Kejriwal, O.P.; March, 2006; ‘Loopholes and Road Ahead’; Economic and Political Weekly

⁷ Govt. of Kerala. MGP: 1.1.1 ‘Towards an entitlement based approach to poverty reduction: development and application of entitlement index’, Modernizing Government Programme (MGP) : Strategic document – Theme 1
<http://www.kerala.gov.in/archive/111.pdf>

⁸ Claes Johansson. (2004), “The Human Development Indices”, UNDP
<http://hdr.undp.org/en/media/Measurement%20of%20Human%20Development%20using%20Composite%20Indices,%20Claes%20Johansson.ppt>

We have seen that poverty has multiple dimensions which include political, social and economic factors. However most poverty reduction and development strategies have been designed by the experts and policy makers behind closed doors, far removed from field realities, and keeping out, the very people who were supposed to benefit from the programmes.

Unsurprisingly, most of these programs which do not consider the feedback from the poor about the various aspects of the poverty they experience, have repeatedly failed to address the issue of poverty in India even after five decades of independence.

Access to Information in the public domain through a legally enforceable mechanism can significantly influence the poverty outcomes and can be used as an effective safeguard against the failure of government's poverty alleviation schemes. With respect to its impact on alleviation of poverty, RTI is mainly envisaged as a tool for facilitating effective delivery of socio-economic services. *"RTI empowers people to seek details about their entitlements and, accordingly, to take informed decisions in all matters affecting them so as to secure equity and justice"⁹.*

Access to information, granted by the Right to Information can thus go a long way in enabling the poor to get their entitlements and thereby help address at least a few factors that contribute to their plight.

Future directions for improving RTI's impact on poverty alleviation

"Development is a process aiming to expand the freedoms that people enjoy, and information is a way of enabling people to live better lives through empowerment"¹⁰. However, in order to bring about real empowerment, following are the important measures to be considered:

1. *Need for systemic changes*: While the RTI Act helps many individuals sort out personal grievances, its larger potential lies in bringing about systemic change, which is only possible when a single question establishes its links with a collective and becomes part of a larger democratic process.
2. *Focus on maximum impact areas*: RTI Act can be more effective in addressing poverty, if there is a special focus on the sectors whose information will most affect people, such as information on education, health, employment opportunities, land ownership and social programs.
3. *Enabling conditions*: Although Right to Information policy, law and administrative procedures are fundamental components of enabling Right to Information access, other factors are also essential. These include adequate communication infrastructures including access both to the Internet and to a plurality of media outlets¹¹.

⁹ M. M. Ansari, "Right to Information and its Relationship to Good Governance and Development", Central Information Commission

<http://cic.gov.in/CIC-Events/IC-MA-LectureAtUNESCO-04122008.pdf>

¹⁰ Caroline Millet.(2008), "Freedom of Information and Sustainable Development, Sealing the Link", Final report of the UNESCO Experts Meeting held in Paris on March 17-18, 2008

<http://portal.unesco.org/ci/en/files/26686/12095498593report.pdf/report.pdf>.

¹¹(Ibid)

4. *Need for cultural change*: The effective use of RTI Act requires a paradigm cultural and attitudinal change in the way that communication and information is understood. There is a need for transition from a culture of secrecy to one of openness – a culture that actively consults the public in decision-making.

Conclusion

The Right to Information is a human right which has an important role in helping the protection and development of human life. Access to information has the potential to solve many social and economic problems faced by many individuals and communities.

Right to Information legislation is necessary, but by itself it is not a sufficient remedy. There are pre-conditions related to economical, social, cultural and political development important for realizing the right to information in our country. It also needs to be kept in mind that access to information is not a panacea for all problems contributing to poverty. Lack of access to information is only one of the many problems faced by a poor man.

The obstacles that need to be surpassed by a poor household include low levels of education and literacy, poor communications and transport infrastructure, cultural and language barriers and social discrimination etc. Right to Information should therefore be coupled with other decisive measures to bring about social change and alleviate poverty from our country.

"A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce, or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own Governors must arm themselves with the power which knowledge gives" (James Madison, 1822)

RTI & Individual Right to Privacy

This paper identifies and examines certain key issues about the incidence of *Right to Information (RTI)* and *Right to Privacy (RtP)* in India. These issues pertain to:

- statutory recognition for the right to information and to privacy;
- protection to and enforcement of these rights; and
- compatibility or conflict in the exercise of these rights by citizens.

The said issues have been looked at in the context of the deliberations in the course of the Session on 'RTI and Protection of Individual Privacy'. Some of the key points that emerged from the Convention were:

- There is no absoluteness in a citizen's right to information. The State can impose reasonable restrictions on the exercise of this right.

S. 8 of the RTI Act thus imposes certain restrictions on this right in the form of certain kinds of information being exempt from the purview of the Act. In the same vein, S. 24 exempts certain organisations from the purview of the Act. Most types of information held by these organisations will not be given to the citizen.

- The parameters of right to privacy applicable to a public servant may not be the same as applicable to a private person. Health status of a public official to

the extent it would affect the discharge of her / his duties cannot be kept confidential.

- Finding a satisfactory solution to the real or seeming conflict (between right to information and right to privacy) would always require striking a balance between the two – on a case-by-case basis. There cannot be a one-size-fits-all approach.

The aforesaid brings forth the question whether enactment of the 'RTI Act, 2005', has adversely affected an Indian citizen's right to privacy.

Notwithstanding, the conflict that may exist between these two rights as concepts, there is no conflict among any laws as such, because no explicit right-to-privacy-law has been enacted in India before or after the enactment of the RTI Act, 2005 – which could lead to a conflict.

On the contrary, certain exemptions in the 'RTI Act, 2005' regarding personal exemption in fact give statutory protection to a citizen's right to privacy.

There is a caveat though in upholding non-disclosure of public information, because the RTI Act, 2005 clearly states that, where there is any question about disclosing information (especially by applying an exemption) the PIO / Appellate Authority (concerned) should apply the public interest test. Thus, if "public interest" in disclosing information outweighs the protected interest by not disclosing it, the information should be disclosed.

The RTI Act, 2005 does protect "**unwarranted** invasion of privacy", yet post-applying the Public Interest Test, a PIO or an Appellate Authority may decide that the invasion of privacy is warranted by the public interest involved. The interpretation by the PIO or the Appellate Authority of what is "unreasonable" and / or what is in "public interest" in a given case.

Such decision making becomes more difficult due to the fact that 'public interest' as such has not been defined in the 'RTI Act, 2005'. This could be a weak link in the implementation regime especially given the fact that not all officials vested with the responsibility of interpreting may not have adequate understanding of the issues involved (or of the Act itself for that matter – as several studies have pointed out).

The final decision would of course vest with the Information Commissions concerned and, in certain instances, with the Supreme Court and the High Courts as the case may be, but any such relief would only come at an additional cost to the citizen-applicant-appellant in addition to time overruns in getting the relief.

An important aspect of the RTI Act is the protection it grants to third parties – which could be individuals or organisations, whereby a PIO has to consult with a third party before parting with its information which may be implicitly, explicitly held in confidence.

Here, again a PIO has to apply the "public-interest-test" as mentioned above and may eventually decide to disclose such information in public interest, yet the 'third party' has been given an opportunity to appeal against the decision to the First Appellate Authority as well as to the Information Commission concerned.

Given that interpretation of public interest is also involved in this case, the problems as mentioned earlier also apply here. Yet, at the conceptual level, the law accords right to the privacy or non-disclosure of certain information about themselves to not just individuals, but also individual organisations – the kind of protection that was statutorily available only to public organisations (under the 'Official Secrets Act), but not to private entities.

In this regard, though another weak link is that the 'RTI Act, 2005' refers to a PIO being penalised only for not giving information as stipulated by the Act. There is no clause that disincentivises a PIO from disclosing personal information or third party information for reasons not covered by this Act or in a completely malafide manner – nor does the Act offer any compensation to the aggrieved party (as is the case with a party aggrieved due to non-disclosure of information or non-disclosure of information in time).

It needs also to be stated that the understanding that a Public Authority cannot reveal the identity and / or contact details of an applicant citing it to be personal information or information that could endanger the life of the applicant is an important safeguard built into the Act.

Likewise, the provision that a citizen, while applying for information, need not give any reason or state the prospective use for which such information would be put to are important protections accorded to the individual citizen that reflect a greater degree of sensitivity of the Act to the concern for individual privacy.

Recommendations

Notwithstanding, the experiences of other countries which have worked up a co-existence of sorts of, both, privacy and information laws, an important reason why a separate law for data protection / privacy is called for because such a could clearly define the terms privacy, personal information which the present Act doesn't.

Including these definitions in the 'RTI Act, 2005' as such would mean that only public authorities (defined in the Act) would be bound by them. Explicit protection of privacy within the RTI law might end up introducing confusion if not some contradiction within the 'RTI Act, 2005'

There is merit in the argument that 'RTI Act, 2005' should also be applicable to purely private organisations, yet its aptness for PAs in a prioritised manner cannot be denied, because it is about the accountability of governments elected by people and organisations that are run by public money (which is not equally applicable as far as private organisations are concerned).

Hence such an Act, in addition to the 'RTI Act, 2005', would not only define, for itself, key relevant and related terms for ensuring better implementation, but also guarantee individual privacy from being violated by private sector entities.

The ambit of information, as defined in the 'RTI Act, 2005' is very vast and covers areas which are clearly not related to individual privacy. Hence, having an Act dedicated to dealing with issues of

As mentioned earlier, the evolving Information and communication technologies have significant implications for protecting individual privacy. Hence, a law for protecting individual privacy would have to incorporate many technical / technological details

pertaining to data maintenance, data transfer, data sharing etc. which would be redundant in the text of an RTI law, hence further amendments to the existing 'RTI Act, 2005' to make it completely individual-privacy-friendly is not feasible.

Questions for Further Debate

Certain questions that crop up in the context of the present study do not have easy answers and would require further comparative research and empirical probing as well as conceptual contemplation. Some such key (as of now) unanswered questions are:

- Between the Right to Information and the right to privacy, which would supersede in the event of a conflict or contradiction of their provision?
- If public interest is the ultimate test, isn't protecting the right of every individual citizen and setting all the right precedents in this – a larger public interest. Is public interest only about serving the interest of the majority?
- What is the extent to which such terms as "reasonableness" and "public interest be defined" for the benefit of the implementation stakeholders?

Key Points

- RTI Act has not really in any way dented the right to individual privacy of citizens because, there had not been any explicit statutory protection enjoyed by Indian citizens as far as individual privacy is concerned before the enactment of the 'RTI Act, 2005'.
- RTI Act addresses – in a significant manner – some of the key concerns pertaining to personal / confidential information, subject to the public interest test – a concept which is widely applicable in interpreting relevant laws in many parts of the world.
- Protection of individual privacy is, undoubtedly, an important function of the State – more so in democratic societies like ours. Such a right is crucial for an individual's self-development.
- Even though RTI cannot be said to be antithetical to right to privacy, yet it would be apt to have a dedicated act that protects individual privacy in all its manifestations and in view of the recent technological advances.
- The success of a comprehensive regime of information and privacy can be guaranteed if individuals vested with the responsibility to implement these legislations are offered adequate sensitisation and skill training opportunities.
- In several ways, the right to privacy and right to information could, in fact, be mutually reinforcing as is the case with several countries where such legislations co-exist.

ToR 3

To assess the adequacy of facilitation process for accessing public held information, mainly in terms of compliance of various provisions of the Act for promotion of maximum disclosure of information ...

Right to Information is gaining popularity across the country. Generally speaking, there has been a significant increase in the number of citizens that are:

- looking for information contained in proactive disclosures of Public Authorities (PAs);
- submitting applications under the RTI Act;
- submitting 1st appeals; and
- submitting 2nd appeals as well as complaints to the Information Commissions (ICs).

However, the factors responsible for some of the above developments may not be all positive. Sometimes citizens are applying for certain kinds of information, which should have, normal course been made available voluntarily by the PA concerned.

Several of the complaints that ICs receive, could be avoided if PAs' compliance with S. 4(1)(b) and S. 5(1) & 5(2) is satisfactory. Many 2nd appeals are the result of lapses on the part of First Appeal Officers.

Yet, it is heartening to note that the use of RTI is on the rise and is going to increase even more. Positive developments as pointed out by the Andhra Pradesh Information Commission in its recent Annual Report (2008) have been that in 2008, 39% of the RTI appeals have come from the rural areas (in AP) and that the number of applicants increased by 573 percent in the last three years. Such demand is expected to grow.

In order to meet this growing demand and to ensure that various issues are duly addressed, PAs will have to gear themselves up to bring their compliance strictly in line with the various provisions of the RTI Act. There is an urgent need to combine implementation of the Act in letter and spirit with some of the key approaches and tools of '*good governance*', '*excellence in service delivery*' and '*Citizen-centric Administration*'.

This study seeks to ***assess the adequacy of facilitation process for accessing public held information for promotion of maximum disclosure of information***. It would examine the facilitation processes adopted by PAs, pro-active disclosure of select PAs, the compliance as reported to State Information Commissions (and as reported by ICs in their Annual Reports).

It presents a compilation of the capacity building and mass awareness programmes organised by Public Authorities and the information about such activities gathered from / through surveys and studies carried out by various organisations on various aspects of the RTI regime. It also focuses on certain aspects of the facilitation processes with reference to the arrangements made by the PAs functioning in rural areas to honour citizens' RTI.

This study attempts to capture the snapshots of how PAs, have, on the whole been facilitating the process of access to information. Part III discusses the documented efforts of PAs in making information accessible to the citizens. Cases from like Jaankari in Bihar, e-Sampark in Chandigarh, etc. have been illustrated to describe such initiatives.

Part IV presents relevant observations from the Annual Reports of Information commissions that have been published so far. Based upon an understanding of the issues in effective implementation of RTI, the reasons for inadequate implementation of the Act by PAs have also been identified.

Various Organizations have undertaken studies and surveys to take stock of RTI compliance by Public Authorities and point out gaps in implementation of the Act. The findings of these studies, gathered through secondary sources, give a clear picture of areas of concern and the need for improvement. These findings have been included in Part V. These have been supplemented by the inputs received from CGG's dip-stick studies looking at the proactive disclosures by 10 PAs (at different levels) on their respective websites. These have been presented in Part VI of the study report.

Part VI also discusses the responses received by some PAs regarding their compliance with the RTI Act as also the responses of CSOs on a questionnaire. The questionnaires were prepared based upon the findings and recommendations of the studies of various organisations that have been included in part V. The questionnaires were prepared to probe some of these issues further.

As one of the outputs of this study, a checklist related to compliance – especially by Public Authorities in rural areas has been attempted. This checklist has been presented in Part VII along with the summary of recommendations.

Summary of Issues and Recommendations

The key reasons for inadequate implementation of the Act by PAs – identified so far – are:

- Not all APIOs / PIOs / FAOs have received appropriate, adequate training. APIOs / PIOs / FAOs have NOT even read the Act and / or the applicable rules.
- Many officials in the PAs continue to see the Act as a “personal threat”. This is evident from their general resistance to implement it.
- Implementation of the Act has only meant (or is at least perceived as) additional work, for the officials concerned especially for the PIOs, who whether they are already overburdened or not, are hostile toward the Act.
- They feel that the organisation they work for has not done enough to alleviate their burden by either providing necessary assistance or by incentivising their additional work or by arranging for providing more and more information suo motu.
- There is no knowledge really about ALL the PAs that exist at the Central / State, especially, given that the NGOs who fall within the category of those substantially funded by the government
- There is no clarity among the designated officials concerned about the division of roles / responsibilities – no clarity, for instance, in several cases, that the APIO cannot decide on information applications (but only has to forward them); that the PIO (of every PA) should be easily accessible by the citizen and that

s/he cannot hear first appeals against himself or against another PIO (of the same PA); or that FAO has to adhere to certain time limits while hearing first appeals.

- Few PAs are so overwhelmed with responding to information applications, that they are not able to dedicate enough resources to bring their proactive disclosure in line with the requirements of the Act.
- There is abject lack of a whole-of-the-organisation-thinking about how the Handbook (to be prepared under RTI should be drafted so as to make it fully compliant as well as user-friendly or how other key issues like effective records management and effective proactive disclosure at all appropriate levels has to be achieved.
- The previous issue emanates from the fact that there is no ownership of / leadership for RTI implementation in the organisation.
- Scarcity of resources at the level of PAs only add to their problems. No separate budgeting has been provided to Departments and, in turn to Public Authorities for RTI implementation. Same is the case with channelizing of appropriate technological inputs.

Some Action Points that emerge are:

- Detailed Review of proactive disclosure must be initiated by all Departments by making the Head of every Public Authority responsible for time-bound completion of this exercise.
- This exercise should also involve filling in all the gaps by securing requisite information from senior officials of the organisation – covering all areas of the organisations mandate and functioning.
- A task group must be constituted within every Department to look into an integrated policy and plan for appropriate reorientation of existing record maintenance practices and bringing them in line with, both, proactive as well as reactive disclosures stipulated under the 'RTI Act, 2005'.
- Making specific positions / officials responsible for updating the information, ideally, after every change or at least every year as required by S. 4(1)(b) and 5(1)(2) of the Act.
- Making senior officials of a department / PA responsible for monitoring the over all implementation through short-period reviews. They should also be made responsible for ensuring timely reporting by all PAs to the relevant Departments.
- Making adequate budgetary provisions at the Department and PA levels is also an imperative. The estimates should be carefully worked out taking into account all short-, medium-and long-term activities.
- Special efforts need to be put into (and resources earmarked for) devising customised inputs for various marginalized sections of the society. Moreover, special care need to be taken to address their concerns (to the maximum extent possible) in accessing information during their visit to a public authority, or even by post or over the Internet. Appropriate technology will, accordingly, have to be used.
- Use by PAs and by Departments of various Information and Communication Technology applications / tools should be appropriately replicated and / or benchmarked with by all concerned.
- RTI-related Capacity Building of the Public Authorities and simultaneous Public Education and awareness should be carried out on a large scale by involving public authorities and civil society in such efforts.

- Speedy disposal of complaints and pending cases should be a priority for Information Commissions to avoid, as far as possible, an uncontrollable rise in the number of appeals and complaints pending hearing. Appropriate governments should provide them with all necessary technological and human resource support.
- Time limit for disposal of cases of RTI relating to life and liberty should be stipulated clearly as 15 days at both levels of appeal.
- PAs should expand the scope of disseminating information proactively beyond the 17 areas mentioned in Section 4 (1)(b).
- There should be time limit for disposal of all appeal cases by the Information Commission.
- Abuses of RTI by Information seeker should be brought under the purview of law.

Checklist of Public Authorities¹²

As one of the outputs of this study, a Checklist to assess Compliance by Public Authority (PA) and Information facilitation arrangements in rural areas has been attempted.

This checklist has been prepared in view of the functioning of three key departments in rural areas. It has elements that would be common to all the three department (Nos. 1 - 22) and elements specific to the three key departments, viz Revenue, Agriculture and Rural Development.

Does the Public Authority proactively disclose the following?

1. Information pertaining to its organization structure
2. Information pertaining to its functions and duties
3. The details of services it provides
4. The names, designations and contacts of its officers and employees
5. The procedures followed in decision making processes
6. The mechanisms for accountability and transparency present in the PA
7. The norms set by it for discharge of its functions.
8. The rules, regulations, instructions, manuals and records that are under its control
9. A statement of categories of documents held by it or under its control
10. The particulars of any arrangement that exists for any consultation with, or representation by, the members of the public in relation to the formulation of any policy or implementation thereof.
11. A statement of the board, councils, committees and other bodies constituted details of the meetings held or the accessibility of the minutes of meeting by the general public.
12. A directory of its officers and employees.

¹² It is requested that this checklist be considered along with the framework and indicators for grading PAs submitted in the Study report on ToR-V.

13. The monthly remuneration received by each of its officers and employees.
14. The system of compensation as provided in its regulations
15. The budget allocated to each of its agency.
16. The particulars of all plans, proposed expenditure and reports on disbursements made.
17. The manner of execution of subsidy programmes.
18. The details of beneficiaries of such programmes
19. The particulars of recipients of concessions, permits and authorizations granted by PA.
20. The details of information held by PA, reduced in an electronic form.
21. The particulars of facilities available to citizens for obtaining information, including working hours of a library or reading room, if maintained for public use.
22. The names, designations and other particulars of Public Information Officers.

Revenue

1. Are the following forms available with you?
 - a. Application for issue of integrated caste certificate
 - b. Application for assignment of Govt/ceiling surplus land for agricultural purpose
 - c. Application for grant of house site pattas
 - d. Application for issue of certificates –date of birth and date of death
 - e. Certified copies of pahani/adangal and 1 (B) register of Registration of Records (ROR)
 - f. Application for sub division of fields/lands
 - g. Application for effecting mutations under land records
 - h. Application for issue of ration cards and also transfer of ration cards from one Fair Price shop to another
 - i. Application for issue of possession certificate
 - j. Application for issue of income certificate
 - k. I (A) claims for issue of pattadar pass books and title deeds
 - l. Application forms relating to social welfare measures-NFBS, NMBS, NOAP, GCPS, PAISSS, SFS, GRS, Apathbandu etc,
2. Where are the above mentioned forms available?
3. Is there any official responsible to clarify all the doubts that arise while filling the columns accurately in the said forms? Kindly provide the details (name, designation and contact) of the official.
4. Is there a nominal fee that is charged against these forms?
5. Is the amount displayed publicly somewhere in office?
6. Are there booklets available in local language regarding the following items of the Revenue Department to facilitate people to clarify all the doubts that arise while filling the columns accurately in the said forms?
 - a. The relevant Government order for issue of integrated caste certificates
 - b. The procedure of application to issue certified copies of adangal/pahani /1(B) register of ROR
 - c. The preparation of Integrated village accounts

- d. The procedure of enquiries relating to issue of D-form pattas for agriculture and house site purposes
 - e. The rules relating to ROR Act
 - f. Procedure for issue of ration cards
 - g. The rules relating registration of electors in the electoral roles of local bodies/ Assembly segments
 - h. Rules and regulations of Birth and Deaths
7. Is there a specific timing during morning and evening when these above mentioned booklets/records are made available? What are the timings?
 8. Is there a person, who is in charge of these booklets/records? Please give details.

Agriculture

1. Is there an officer at the village level, to provide revenue related information?
2. If yes, then what are the different types of revenue related information provided by the officer at the Village level?
3. Are there Assistant Agriculture Officers designated for Mandals?
4. If yes then how many are there?
5. What kind of information is provided by them?
6. Where are their offices located and what are the timings in which farmers can visit the offices?
7. Does the Assistant Agriculture Officer undertake visits to villages and disseminate information about services of the department?
8. Is there an Agriculture Officer at the Mandal Level?
9. What kind of information is provided by him/her?
10. What are the timings when farmer can visit him in his office?
11. Is he/she in charge of any records or documents?
12. What is the mechanism to announce the new schemes of government and also announce the eligibility to be a beneficiary under the scheme?
13. Is the Panchayat involved in any way in disseminating the information, mentioned in question number 12?
14. What is the method in which the beneficiaries of a certain scheme are mapped and identified?

Rural Development

1. Does the Department publish the Information manual containing the details of the functions of the Department?
2. Do citizens have access to the Information Manual?
3. Is the Manual uploaded online and updated regularly?
4. Do citizens have access to the Manual?
5. Can citizens visit the office at any time to access the required information?
6. In case of information not available in the published form like process notes, internal note files, etc., can the citizen ask for information in the prescribed form?
7. Are the requisite forms in which the citizen can request information made available?

8. Are there designated officers to disseminate the information manuals to the citizens at village levels?
9. The office has a RTI help desk to disseminate the information to the villagers.
10. Whenever new schemes are implemented, the designate department officials visit the beneficiaries to explain them of the scheme.
11. The beneficiaries are identified according the guidelines provided.
12. The guidelines are transparent and accessible to the citizens.
13. What is the role of the Panchayat in the dissemination of the information?
14. Are the registers about the manner in which RTI applications / appeals are disposed being maintained?
15. Are there any booklets or printed material available at the village level office for the dissemination of information?
16. In case of illiterate villagers, are there any additional facilities of a scribe made available for filling the appeals?
17. Is the assistance of Self Help Groups, Panchayati Raj Institutions as well as National Literacy Mission and other Agencies being availed in developing and disseminating user friendly developmental literature?
18. Is the electronic media being used in disseminating information of the schemes?
19. Is the print matter made available in the local language?
20. The display of information – by painting on boards, mandatory display of lists on notice boards, putting information up on websites etc.
21. Information is being be read out aloud to people at crucial points
22. Social audit forum, where the gram sabha is to come together to look at a mandatory set of questions related to all the work carried out in the preceding period is being conducted.
23. The kinds of documents that should be proactively displayed have been listed in the local language.
24. Awareness camps are being arranged to facilitate the access of information to the information seekers.
25. The concerned department officials are present in the office to cater to the information requirements.
26. At the public hearings, social audits, camps and campaigns, the concerned public authorities are present with the required information being sought.

Other Key Points Emerging from the Study

- Although there have been definite attempts of mass awareness campaigns in the rural areas, the extent to which this has been done so far is not sufficient to cover the entire rural populace. Therefore, PAs in rural areas have to undertake sufficient mass awareness campaigns to educate rural poor and specifically, women organizations and SHGs – including on what questions could / should be asked.

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- Specific capacity building and training programmes have to be developed for enhancing the capabilities of the officials at the grass-root and administrative levels.
- A representation could be made to the Central Governments / State Governments / Planning Commission mandate this in all central and centrally-sponsored schemes and to provide the resources for training and other requirements to make them implementable.

ToR 4

To identify the best practices in implementation of RTI Act to promote open Government and to outline an action plan for adoption/adaptation by public authorities ...

Introduction and Objectives

In the last three years since the Right to Information Act has come into being, several attempts have been made by State governments, Public Authorities, Information Commissions, and Non-Government Organisations to implement the Act as per its letter and spirit.

The practical regime prescribed by the Act calls for changes in the way of functioning of Public Authorities, by designating officers, identifying possible information needs of the citizens and thereby drafting and publicizing their *suo-motu*- disclosure, introducing information technology for upkeep of files, records and other important documents etc. All these changes were subject to resource allocation and availability. Hence there is at this point of time, no uniformity in the way Public Authorities have adhered to RTI. There are variations in ways of adaptation and these are evident from the fact that, different states have framed rules for themselves (as called for by the Act).

Of the various attempts made by the States, Public Authorities, Information Commissions and other institutions, some stand out for being the first one to do so. Such attempts have been publicized in the media and have found national recognition. The call centre approach of Bihar (*Jaankari*) and the first transparent office in AP are cases in point. There are however district and local attempts that are self-motivated models for emulation to establish transparency and accountability in the performance of the government.

In all there have been significant efforts made to adhere to Right to Information Act that need to be noted.

The good practices are presented as per the initiators of the practice and have been categorized as state-led / state level initiatives, Information Commission led initiatives, Civil Society initiatives and some international good precedents.

The cases presented in the compilation highlight initiatives taken up at different levels such as government level- wherein capacity building has been taken up at different levels through a planned project intervention, such as the Capacity Building for Access to Information (CBAI) project by DoPT; enabling implementation of the RTI at all levels through a high level body to monitor the same such as the High Power Committee in Andhra Pradesh, setting up facilitation centres to enable greater access to information for the poor like *Jaankari* in Bihar. The role of IT in enabling citizens' access information has been critical to the success of the RTI Act. India's First Transparent Office highlights ways to provide critical government information at the click of a mouse. While meso level initiatives pave the way, micro level initiatives through district level officials follow suit, as is evidenced in the case of a district office in Kulu, Himachal Pradesh.

Information Commissions have played a key role in setting the tone for some best practices, such as ranking public authorities by way of weighing their compliance to

RTI requirements in Uttaranchal, creating easy access to check RTI status through SMS in Andhra Pradesh, landmark orders passed by the Goa Information Commission on non-compliance of public authorities to the stipulations as per the RTI, decentralizing Information Commission(er)s in Maharashtra and taking recourse to enablement for internal tracking of appeals in Andhra Pradesh Information Commission. A good practice followed by the Nagaland Information Commission is that it has arranged for all the voluntary disclosures of PAs under S. 4(1)(b) to be uploaded on the SIC's website. Citizens can view the information by accessing the SIC's website at www.nlsic.gov.in

Civil society organisations (CSOs) have played a significant role in ensuring that RTI Act is enacted and they have been at the fore front in using the Act. It is at the behest of the civil society that some of the issues related to corruption are being addressed through RTI. Anti-corruption campaigns carried out by KABIR and other CSOs. Toolkits to enable Public Authorities assess their level of compliance to proactive disclosure have been prepared by CGG. Panchayats as the lowest body of governance are accountable to the villagers – a practice of Total Quality Management (TQM) in Kerala is highlighted for information. Similarly *Samarthan* in Bhopal has facilitated self-disclosure of panchayats in their intervention areas in Madhya Pradesh.

It is envisaged that while accessing information through RTI, efforts are made to improve service delivery of departments engaging in service delivery. Instances of some such efforts are highlighted through action studies taken up by KABIR, an MLA making a *suo-motu* disclosure of development and schemes undertaken through MLA funds in Meghalaya and the mass awareness programmes in Andhra Pradesh through an RTI network are also showcased.

RTI initiatives taken up by neighbouring country in Nepal, that seem apt – such as immediacy of disclosure of information and setting up of a National level Institute for Access to information are also highlighted. As Freedom of Information (FoI) has an international origin and has lead some countries to take some exceptional steps in its implementation, there are instances provided of such initiatives that are worth knowing and considering for better implementation of RTI in the country.

In all, the compilation strives to put together some of the known and published practices that could be worth emulation. However they are not exhaustive. Issues on which action could be taken by advocates of / for RTI are highlighted towards the end in specific recommendations.

Right to Information Act has come to be for the last three years and its heralding has meant a lot of back office work for the designated Public Authorities to make themselves RTI compliant. In the three years that have gone past, attempts have been made in several states, at several levels to make the Public Authorities adhere to their action plans and pro-actively disclose critical information related to their working, services being provided, decision-making process and grievance redressal procedures.

There are also attempts made by individuals and civil society actors to ensure the spirit of the Act, is kept alive. Information Commissions have also played a critical role in ensuring the same.

In all there have been significant efforts to approach Right to Information Act that needs to be taken stock of.

The objectives of this compilation are 'to identify the best practices in implementation of RTI Act to promote open government and to outline an action plan for adoption/adaptation by public authorities.

1. Identify best practices in implementation of the Right to Information Act;
2. Provide insights to promote open government;
3. To outline an action plan for adoption / adaption by public authorities

This documentation has been carried out by drawing on the information gathered over time in the implementation – at various levels – of the 'Capacity Building for Access to Information Project'. As well as other available key resources containing well-drafted / documented narratives of cases that throw light on significant initiatives undertaken to improve openness among public authorities.

Ever since the Right to Information (RTI) Act came into effect in October 2005, there has been a palpable optimism about its onset. There is wide-spread anticipation of greater space for citizen's and civil society in accessing information earlier the prerogative of the officials, holding the officials accountable for their actions and greater transparency from those in authority wielding power.

Not belying these hopes are cases and instances of best practices that are being practiced / have been adopted by authorities / institutions and people to ease and smoothen the flow of information. Such practices are found to be available at different ends and levels of information flow – supply side to demand side.

The best practices cases presented here are categorized on the basis of their initiators: the Government, Information Commissions, Civil Society and individual contributions. It has been attempted to cases per se a

Conclusion

1. Right to Information Act has brought about significant changes, although best practices are more local. Some of the implications of the Act are explicit in that they have been used for soliciting crucial information and have provided the impetus for service delivery.
2. While changes have been effected from supply-side with Public Authorities and Information Commissions taking lead in enabling effective access to information and paving the way to better service delivery, there has been demand-side pressure as well. We may say then that, pro-active role played by officials and by civil society alike, have ensured that Right to Information Act stays at the centre stage for greater accountability and transparency at all levels.
3. Good practices need to be shared across states and Information Commissions to enable mutual learning and possibilities for emulation.
4. A national level agency to oversee facilitation on RTI for both supply and demand side requirements would be worthwhile.
5. Information technology has played a significant role in shortening the path to information sharing. It has eased the way to access information, and provided a wider outreach as far as government information is concerned. There are still avenues to be reached and dynamic information to be updated periodically.

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6. A platform for sharing views and opinions and challenges and constraints would be critical in pooling together experiences. A national level agency that could provide help in managing the knowledge resources on this would be worthwhile.
7. Salient conclusion of the assessment surveys conducted were ` low compliance resulting from weak political will and administrative commitment, indifference of public authorities, failure of bureaucracy, lack of accountability for implementation, prioritizing categories of information, expediting pace of cataloguing, indexing and computerizing records, incentives for disclosure and penalty for not doing it. Actionable points need to be prioritized on the basis of identified gaps.

Key Recommendations Emerging from the Study

Of the several innovations and unique practices mentioned in the compilation, some or all could be adapted with immediate effect and or in the near future. These along with the responsible actors for doing these are highlighted below:

S No.	Key Recommendation(s)	Precedents	Action to be taken by / at
1	Constitute `High - Powered Committee` to monitor implementation of the Right to Information Act. Decisions of High-powered committees should be treated with sanctity and should by definition NOT be open to review or re-examination by any other entity than the Cabinet concerned.	Andhra Pradesh, Haryana, Meghalaya, Karnataka	State Governments
2	Establish RTI Call Centres to facilitate RTI applications from non-literate sections of the population and to make submission of application more convenient for others as well. The prospects or opportunities for instituting public-private-partnership models for operationalising a Call Centre should be explored. All future models should attempt to appropriately address such possible glitches as could be caused due to inadequate technological or human resource support. Any improved model should be so devised that, if the improved model (in the State where a beginning has already been made or in any other State) is initiated at the State level first, it can be easily scaled up to cover more States or all the States - on a single technological platform. Such possibilities for integration of technology and of other processes should be provided for in the beginning itself.	Bihar, Delhi, Orissa	State / National level(s).
3	Pro-active disclosure of static / dynamic information through the official website should necessarily be done as required by the `RTI Act, 2005`. Where Public Authorities do not have their own websites, such disclosure should be made on the website of the `parent department`. Appropriate links should be provided to access such proactive disclosures of individual public authorities from the homepage of the parent department's website. Moreover, Heads of departments and, in turn, Heads of Public Authorities should be made responsible for that.	Meghalaya, AP, Nagaland	Public Authorities / all states and central
4	A methodology for thoroughly assessing compliance of Public	Uttarakhand	ICs and High

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	<p>Authorities with the 'RTI Act', 2005 should be devised. It should be circulated to all nodal departments as also to other stakeholders whereby a public authority can assess its own compliance.</p> <p>In fact, such a framework or tool could be used by an external agency as well to gauge the compliance of a Public Authority or to verify a Public Authority's claims of compliance.</p>		power committees
5	<p>Technology updation at all levels of government functioning. This should be aimed, among others, at effective records management including maintenance, retrieval and destruction of records; facilitating proactive disclosure on online networks to the extent possible, as also to put in place a communication system for timely and accurate reporting as well as for a citizen-friendly interfaces (as adopted, for example, by the APIC).</p>	Kerala, CIC, Tamil Nadu (TN), AP	State and Central PAs
6	<p>E-tools for tracking RTI applications, PA compliance should be adopted to keep the citizens informed about the status of disposal of their applications and first appeals (in case of Public Authorities) and especially in case of second appeals and complaints made in case of ICs.</p> <p>It is important to note here that many RTI applications are filed by citizens to get particular grievances redressed or to find out what action was taken on a citizen's complaint in case of unsatisfactory delivery of a particular service.</p> <p>Hence, the service delivery, including the grievance redressal mechanisms / processes of public authorities should be RTI compliant such that all such applications are properly responded.</p> <p>Technology can be used to build effective MIS for this purpose. Citizens should also be allowed to know / track the status of their complaints / grievances.</p>	AP, Karnataka	ICs
7	<p>Separation of Public Interest Cases from other cases for prioritization.</p>	Orissa	IC
8	<p>Sorting applications at <i>dak</i> stage for ensuring appropriate disposal based upon the nature of the application.</p>	Tamil Nadu	PAs
9	<p>Decentralized functioning of Information Commissions by constitution of benches region-wise could facilitate speedy disposal of cases and could, possibly also facilitate closer monitoring & evaluation of implementation decisions / recommendations through field investigations.</p> <p>This could also benefit appellants in terms of having to travel comparative shorter distances for being present during the hearing of the second appeals concerned by the respective Information Commissioners.</p>	Maharashtra, Karnataka	ICs
10	<p>Reinforce mass awareness and IEC dissemination at PA level. This can be done best by preparing customised aids (guides / handbooks / toolkits), especially for the marginalised sections of the society.</p>	AP	State level and PAs

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11	Encourage internships at information commissions for bringing more and more youth into the fold of facilitating the implementation of RTI. It is proposed that such exposure will make them better messengers of RTI in future. Moreover, it would help ICs better handle their caseload.	Kerala, Bihar	ICs
12	Incentivize consistent RTI Compliance. This could be done for, both, Public Authorities and for individual implementing officials within Public Authorities. To the extent they share extra workload (as can be objectively determined), the need, perhaps, to be compensated. Outstanding instances of initiatives / contributions that not only uphold the RTI Act in letter and spirit, but also set an example for others to follow should be duly recognised and disseminated, if not rewarded per se.	Orissa	State and Central
13	Set definite criteria to identify a Public Authority. The initiative in Karnataka is a laudatory initiative for others to follow. Similarly, as suggested by several other information commissions (in their Annual Reports) the Appropriate Government should notify rules, non-government organisations which It would be ideal for all appropriate governments to discuss and arrive at a common consensual understanding for identifying (as far as possible objective) criteria that will qualify NGOs as public authorities and require them to scrupulously comply with the Act. It may be suggested that the initiative to arrive at a common consensual understanding among appropriate governments may be taken up by DoPT and the recommendations made by the Administrative Reforms Commission in this regard could be an appropriate reference for such discussions.	Karnataka	State and Central govt.
14	Ensure pro-active disclosure at all PA levels - panchayat, district, state levels	Kerala, Madhya Pradesh, Chattisgarh, Himachal Pradesh	Central and State PAs
15	RTI facilitation centres be established at sub-district levels where the offices of public authorities are usually located in a cluster or even within key public authorities- for, in most States, it is at these levels that compliance of the supply side is the weakest and the demand from the citizens could be higher than it presently is if the Public Authorities are made more approachable.	Punjab, Gujarat	
16	Set up a knowledge base for keeping track of best practices	CIC	State RTI Cells, ICs, National Agency
17	Set up a National and / or State level Agency to support compliance by PAs and performance of ICs from time to time including carting out monitoring and evaluation from time-to-time.	International precedents (Honduras)	Central Government / State Governments

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18	Encourage the coming together of all the stakeholders – at various levels (State / regional / district / sub-district) – to work together in a synergised manner for the cause of strengthening and continually improving the RTI implementation regime envisaged by the 'RTI Act, 2005'.	ICs (Annual Convention)	National / State- level / District-level agencies.
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ToR 5

To evolve an approach and suggest a methodology for assessing and grading public authorities in terms of greater transparency and accountability and least corruption...

Transparency, Accountability and Least Corruption Index (TALC Index) adopts the second approach. This is a generic methodology to get information related to opportunities, incentives or disincentives for promotion of Transparency and Accountability and discourage Corruption. Though it does not measure actual levels of Transparency, Accountability and Corruption, it can provide useful pointers in that direction. [13] The goal of the TALC Index is to provide data on preparedness of the public authorities to promote transparency and accountability and contain corruption. It does not reflect the effectiveness or impact of these measures. It just examines whether these mechanisms exist and inspects their accessibility. Performance of such mechanisms is not guaranteed simply because they exist, but it would be worse if these mechanisms do not exist. For the TALC Index, the Indicators are organized into 8 main categories with 100 indicators. The categories are as follows:

1. Citizen's Charter
2. Citizen's Grievance Redressal
3. Citizen Interface
4. Internal Transparency/Accountability/Efficiency
5. Records Management/Maintenance
6. Accessibility and Participation
7. e-Governance Readiness
8. Compliance with the Right to Information Act, 2005

The following points describe the methodology for scoring Public Authorities (PAs) using TALC Index.

1. Each question carries a maximum of 1 mark and a minimum of '0'. There are no negative marks.
- 2.
3. The responses to the questions can broadly be categorized into 2 categories i.e.
 - a. Yes/No, whereby, each 'Yes' carries '1' mark while each 'No' carries '0' marks.
 - b. Multiple choices, whereby, each response option carries a specified score. The scores have been so assigned that the maximum score (summation of scores of the multiple response options, where applicable, does not exceed 1, which is the maximum score for all questions.
4. The performance of the PAs, as assessed by this tool, could be classified under 5 grades. The classification is based on the 'percentage' (total number of marks obtained/total number of questions attempted) of marks obtained by the PA. The higher the percentage a PA scores, the better; it is deemed, to perform on the

¹³ Though dozens of studies adopt the first methodology, very few studies adopt the second methodology. The Global Integrity Index is one such study. The Global Integrity Index assesses the existence, effectiveness, and citizen access to key national-level anti-corruption mechanisms used to hold governments accountable. The Index does not measure corruption. Rather than examine the "cancer" of corruption, the Index investigates the "medicine" being used against it — in the form of government accountability, transparency, and citizen oversight. Global Integrity monitors the systems that prevent, deter, and curb corruption.

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parameters of transparency, accountability and integrity (least corruption). The classification is as under:

5.

S.No	Percentage of Marks Obtained by the P.A	Grade
1.	90 % and above	A
3.	70 % to 89 %	B
4.	50 % to 69 %	C
5.	Below 50 %	D

Note: During the second meeting of the Sub-Committee in New Delhi on 18.04.2009, two recommendations had been offered by two Information Commissioners of the Central Information Commission. These were as follows:

- **Prof Ansari stated that the output of this study should be an approach / methodology / conceptual framework which anybody can adopt to rate transparency, accountability and lack of corruption in PAs.**
- **Shri Satyanand Mishra suggested that this methodology could be handed to the General Administration / Administrative Reforms Departments of State Governments to use it to improve the functioning of the Departments.**

In view of the above, it is proposed that this index could be suggested to Nodal Departments (of Appropriate Governments) / Competent Authorities, they could use it to gauge their compliance levels as also pass the methodology on to the PAs within their jurisdiction so that it can aid them to assess themselves.

- Alternatively, this index could also be used by an external agency to gauge a PA on any of the aforesaid parameters.

This simple methodology can be applied even by a small group of concerned citizens.

The Indicators

The Indicator Checklist for assessing the transparency, accountability and least corruption among Public Authorities (PA) are given in the following pages.

GENERAL INFORMATION

1. Name of the Public Authority (PA) : _____
2. Place/Location : _____
3. Date of Assessment : _____

3.1. CITIZEN'S CHARTER (15 Indicators)

1. The Public Authority (PA) has its own citizen's charter or its services and other related details are covered by the citizen's charter of the PA's parent department

1. Yes 2. No **Score:** 1 0

2. The citizen's charter of the PA is presently in force. *(If 'No' go to question 16)*

1. Yes 2. No **Score:** 1 0

3. The charter is displayed prominently in the premises of PA such that it is clearly visible to the public.

1. Yes 2. No **Score:** 1 0

4. The officials of the PA are aware and are fully committed to the service norms mentioned in the charter.

5. 1. Yes 2. No **Score:** 1 0

6. PA has prepared the Charter with active involvement of citizens and/or Civil Society Organizations.

1. Yes 2. No **Score:** 1 0

7. The Charter provisions are adhered to within the PA on a daily basis.

1. Yes 2. No **Score:** 1 0

8. The Charter mentions against each service, *(Tick what applies)*

1. Only, the entitlements of the user	Score: 0.25	<input type="checkbox"/>
2. Only, service standards	0.25	<input type="checkbox"/>
3. Only, remedies available to the user in case of non-adherence to standards	0.5	<input type="checkbox"/>
4. All of options '1. to 3'	1	<input type="checkbox"/>
5. None of the Above	0	<input type="checkbox"/>

9. PA undertakes the review of its Charter. *(Tick what applies)*

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1. Once every year	Score: 1	<input type="checkbox"/>
2. Once in two years	0.75	<input type="checkbox"/>
3. Once in three years	0.5	<input type="checkbox"/>
4. Once in four years	0.25	<input type="checkbox"/>
5. Has not yet reviewed	0	<input type="checkbox"/>

10. Where necessary, Internal restructuring of the PA in the form of one or more of the following, preceded Charter formulation. *(Tick all that apply)*

1. Additional staffing/reorganizing staff	Score: 0.2	<input type="checkbox"/>
2. Simplicity of process	0.2	<input type="checkbox"/>
3. Fixing timelines for specific services	0.2	<input type="checkbox"/>
4. Training of staff members on service delivery standards	0.2	<input type="checkbox"/>
5. Use of Information and Communication Technology	0.2	<input type="checkbox"/>

11. PA has put in place a system (Procedure) to obtain the feedback on the charter from citizens.

1. Yes	2. No	Score: 1	<input type="checkbox"/>	0	<input type="checkbox"/>
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12. PA has a monitoring system in place to assess its service delivery performance.

1. Yes	2. No	Score: 1	<input type="checkbox"/>	0	<input type="checkbox"/>
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13. PA has mechanisms in place for awareness generation on the Citizens' Charter.

1. Yes	2. No	Score: 1	<input type="checkbox"/>	0	<input type="checkbox"/>
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14. PA has taken steps to orient its staff on various components of the Charter.

1. Yes	2. No	Score: 1	<input type="checkbox"/>	0	<input type="checkbox"/>
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3.2. CITIZEN's GRIEVANCE REDRESSAL (12 Indicators)

15. PA has Citizen Grievance Redressal Mechanism in place. *(If 'No' go to question 28)*

1. Yes	2. No	Score: 1	<input type="checkbox"/>	0	<input type="checkbox"/>
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Recommendations of Information Commissions and their Implementation...

- 16.** PA has appointed an officer to look into Redressal of Public Grievances.
1. Yes 2. No **Score:** 1 0
- 17.** PA displays the name, address, phone number & other contact details of the public grievance officer.
1. Yes 2. No **Score:** 1 0
- 18.** PA has published grievance lodging, redress procedure, and timelines for redress of grievances.
1. Yes 2. No **Score:** 1 0
- 19.** PA monitors newspaper reports everyday for grievances and promptly responds to them.
1. Yes 2. No **Score:** 1 0
- 20.** The Citizen’s Charter of the PA contains provisions to levy penalties for non-adherence to timelines.
1. Yes 2. No **Score:** 1 0
- 21.** PA has prepared guidelines for recording and classifying grievances and takes action accordingly.
1. Yes 2. No **Score:** 1 0
- 22.** PA has a provision to register grievances through the following. *(Tick all that apply)*
- | | | |
|-------------------------|-------------------|--------------------------|
| 1. Telephone/Oral | Score: 0.2 | <input type="checkbox"/> |
| 2. Web/e-Mail | 0.2 | <input type="checkbox"/> |
| 3. Postal Communication | 0.2 | <input type="checkbox"/> |
| 4. Fax | 0.2 | <input type="checkbox"/> |
| 5. SMS | 0.2 | <input type="checkbox"/> |
- 23.** PA has a mechanism in place to facilitate Social audit.
1. Yes 2. No **Score:** 1 0
- 24.** PA has Internal/Independent Grievance Redressal Mechanism for employees.
1. Yes 2. No **Score:** 1 0
- 25.** PA provides training opportunities to employees to enhance their Service Delivery Preparedness.

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1. Yes 2. No **Score:** 1 0

26. PA has constituted an Internal Complaints Committees to deal with cases of sexual harassment at workplace and cases of atrocities on SC/STs and Dalits.

1. Yes 2. No **Score:** 1 0

3.3. CITIZEN INTERFACE (12 Indicators)

27. PA has established an information facilitation counter and is located at the main entrance which is easily accessible to the public. **(If 'No' go to question 36)**

1. Yes 2. No **Score:** 1 0

28. The facilitation counter is able to provide the following on demand. (Tick what applies)

1. Brochures/pamphlets etc. on services & schemes of the PA	Score: 0.25	<input type="checkbox"/>
2. Brochures/pamphlets etc., containing procedures to avail the above	0.25	<input type="checkbox"/>
3. Verbal responses to queries	0.25	<input type="checkbox"/>
4. A combination of any 2 of the above	0.5	<input type="checkbox"/>
5. All from 1 to 3.	1	<input type="checkbox"/>

29. Required forms for procedures in the PA are available in a printed form at the facilitation counter.

1. Yes 2. No **Score:** 1 0

30. The facilitation counter receives complaints, issue acknowledgment slips, indicating the section dealing with the complaints.

1. Yes 2. No **Score:** 1 0

31. The facilitation counter provides free assistance to the public in addition to the above responsibilities.

1. Yes 2. No **Score:** 1 0

32. The facilitation counter gives a numbered acknowledgment to the citizens who visit the PA with applications / complaints / grievances and the acknowledgement indicates the date by which the decisions will be taken, orders issued or request granted.

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1. Yes 2. No **Score:** 1 0
- 33.** There is an information/notice board which displays various services, time limits for delivery of services, visiting hours and various procedures and their disposal.
1. Yes 2. No **Score:** 1 0
- 34.** Various details pertaining to the programmes and schemes like budgets, list of beneficiaries etc., implemented by the PA are made available for public scrutiny.
1. Yes 2. No **Score:** 1 0
- 35.** Various details pertaining to the programmes and schemes like budgets, list of beneficiaries etc., implemented by the PA are made available for public scrutiny.
1. Yes 2. No **Score:** 1 0
- 36.** The PA has an officer/s designated to see visitors.
1. Yes 2. No **Score:** 1 0

3.4. INTERNAL TRANSPARENCY, ACCOUNTABILITY & EFFICIENCY (16 Indicators)

- 37.** There is an internal mechanism (i.e. phone hotline, e-mail address, local office) through which employees can report complaints.
1. Yes 2. No **Score:** 1 0
- 38.** The information of the complainant is kept confidential.
1. Yes 2. No **Score:** 1 0
- 39.** PA has framed transfer guidelines for transparent and unbiased transfer process.
1. Yes 2. No **Score:** 1 0
- 40.** Service Delivery procedures of the PA are in simple language and understandable.
1. Yes 2. No **Score:** 1 0
- 41.** Employees are trained to enhance their Service Delivery Preparedness.
1. Yes 2. No **Score:** 1 0

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- 42.** The PA has a monitoring mechanism to effectively check the efficiency of the employee involved in a particular service delivery.
1. Yes 2. No **Score:** 1 0
- 43.** Various guidelines pertaining to service matters are accessible to employees.
1. Yes 2. No **Score:** 1 0
- 44.** PA provides performance based incentives for its employees.
1. Yes 2. No **Score:** 1 0
- 45.** Employees declare the value of any gift received from any source if it exceeds a certain value.
1. Yes 2. No **Score:** 1 0
- 46.** PA strictly adheres to the Code of conduct prescribed by the government for their employees.
1. Yes 2. No **Score:** 1 0
- 47.** PA has identified the 'Focal Jobs' that are prone to corruption.
1. Yes 2. No **Score:** 1 0
- 48.** Focal jobs are rotated periodically so as to prevent any nexus developing between the officers posted there and the citizens.
1. Yes 2. No **Score:** 1 0
- 49.** PA looks into complaints on procurement procedures followed.
1. Yes 2. No **Score:** 1 0
- 50.** PA has introduced e – Procurement, where applicable.
1. Yes 2. No **Score:** 1 0

3.5. RECORDS MANAGEMENT/MAINTENANCE (7 Indicators)

- 51.** PA has set up an organized Records Room with sufficient space.

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1. Yes 2. No **Score:** 1 0

52. PA maintains all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Right to Information Act.

1. Yes 2. No **Score:** 1 0

53. PA provides for periodic inspection of records.

1. Yes 2. No **Score:** 1 0

54. PA has nominated Departmental Records Officers under the Public Records Act 1993/applicable state Act Nomination of Records Officers.

1. Yes 2. No **Score:** 1 0

55. PA arranges for periodic training to its officers in Records Management.

1. Yes 2. No **Score:** 1 0

56. PA has Record Retention Schedule of substantive functions.

1. Yes 2. No **Score:** 1 0

57. PA revises the record retention schedule where necessary, once every five years.

1. Yes 2. No **Score:** 1 0

3.6. ACCESSIBILITY & PARTICIPATION (5 Indicators)

58. PA publishes all relevant facts and considers suggestions and comments from public while formulating important policies or announcing the decisions that may affect the public (Section 4(1) (c) of the Right to Information Act).

1. Yes 2. No **Score:** 1 0

59. When asked for, PA provides reasons for its administrative or quasi-judicial decisions to affected persons (Section 4(1) (d) of the Right to Information Act).

1. Yes 2. No **Score:** 1 0

60. PA invites and considers suggestions and comments from public while formulating important policies

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or announcing the decisions which may affect the public.

1. Yes **2.** No **Score:** 1 0

61. PA holds regular consultations/public hearings as may be applicable with members of public & members of the community who use the services offered by it.

1. Yes **2.** No **Score:** 1 0

62. PA provides for participation of the public in policy planning, implementation, service delivery and monitoring of schemes and programmes implemented by the PA.

1. Yes **2.** No **Score:** 1 0

63. PA has barrier-free environment under the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995 such as ramps in public buildings and Braille symbols and auditory signals in elevators or lifts under section 46.

1. Yes **2.** No **Score:** 1 0

64. PA reserves required percentage of posts under section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995.

1. Yes **2.** No **Score:** 1 0

3.7. e-GOVERNANCE READINESS (8 Indicators)

65. PA has an intranet and Local Area Network (LAN) facility.

1. Yes **2.** No **Score:** 1 0

66. PA has concrete plans to adopt e-governance in the near future or has already done so.

1. Yes **2.** No **Score:** 1 0

67. PA has a Chief Information Officer or a similar officer with a leadership role to manage e-government programme.

1. Yes **2.** No **Score:** 1 0

68. PA allocates budget annually for e-government activities.

1. Yes **2.** No **Score:** 1 0

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- 69.** The allocated budget for e-Governance is utilized fully within the stipulated period.
1. Yes 2. No **Score:** 1 0
-
- 70.** Public Authority has a 'Citizen Friendly Portal' which includes information about the PA and its Acts, Rules, Instructions, Services and Contact list of officers.
1. Yes 2. No **Score:** 1 0
-
- 71.** The website of the PA provides for the following. online forms (redesigned and adaptable to e-Governance) for the services it renders to the citizens. *(Tick all that apply)*
- | | | |
|---|-------------------|--------------------------|
| 1. Online Forms (Redesigned & Adaptable to e-governance) | Score: 0.2 | <input type="checkbox"/> |
| 2. Citizen Services | 0.2 | <input type="checkbox"/> |
| 3. Mandatory publications under RTI | 0.2 | <input type="checkbox"/> |
| 4. Other published information and other departments related information | 0.2 | <input type="checkbox"/> |
| 5. Provision for e-suggestions | 0.2 | <input type="checkbox"/> |
| 6. All the above | 1 | <input type="checkbox"/> |
-
- 72.** The PA website has the following citizen interface provisions on the website. *(Tick all that apply)*
- | | | |
|---|--------------------|--------------------------|
| 1. Complaints Facility | Score: 0.25 | <input type="checkbox"/> |
| 2. e-Mail facility to contact Public Authority | 0.25 | <input type="checkbox"/> |
| 3. e-surveys/e-opinion polls/feedback | 0.25 | <input type="checkbox"/> |
| 4. Provision to communicate with the staff of the PA | 0.25 | <input type="checkbox"/> |
| 5. All the above | 1 | <input type="checkbox"/> |
-
- 73.** Wherever necessary, the processes of the PA have been re-designed to make them adaptable to e-Governance.
1. Yes 2. No **Score:** 1 0
-
- 74.** The above mentioned changes are backed by necessary policies or orders from Government
1. Yes 2. No **Score:** 1 0

3.8. COMPLIANCE WITH THE RIGHT TO INFORMATION ACT (8 Indicators)

- 75.** The PA has designated an officer as PIO as per the requirements of the RTI Act.
1. Yes 2. No **Score:** 1 0
- 76.** In case the information requested is concerning the life and liberty of a person, the PA disposes the same within 48 hours and other information requests within 30 days of the receipt of the request.
1. Yes 2. No **Score:** 1 0
- 77.** The PA has an information board displaying the names, designations and contact details of the Public Information Officers.
1. Yes 2. No **Score:** 1 0
- 78.** PA allocates Budget for RTI implementation.
1. Yes 2. No **Score:** 1 0
- 79.** PA has submitted its annual report under section 25 of the RTI Act after the end of the previous year.
1. Yes 2. No **Score:** 1 0
- 80.** PA distributes booklets/pamphlets to the public on the procedures, entitlements and grievance procedures in availing benefits from schemes & services implemented by it.
1. Yes 2. No **Score:** 1 0
- 81.** PA has prepared the handbook under Section 4 (1) (b) of the RTI Act, which is updated annually and also available in local language.
1. Yes 2. No **Score:** 1 0
- 82.** PA updates these handbooks annually and where necessary.
1. Yes 2. No **Score:** 1 0
- 83.** PA makes available printed handbooks with the PIO, for distribution to public for free or for a nominal cost.
1. Yes 2. No **Score:** 1 0

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84. The electronic form of the Handbook/s can be accessed by public from PA's website.

1. Yes

2. No

Score: 1 0

3.8-A. THE HANDBOOK UNDER SECTION 4(1)(b) CONTAINS INFORMATION REGARDING THE FOLLOWING (16 Indicators)

85. The particulars of its organization, functions and duties of the PA.

1. Yes

2. No

Score: 1 0

86. The powers and duties of its officers and employees of the PA.

1. Yes

2. No

Score: 1 0

87. The procedure followed in decision making, including channels of supervision and accountability.

1. Yes

2. No

Score: 1 0

88. The norms set by the PA for the discharge of its functions.

1. Yes

2. No

Score: 1 0

89. The rules, regulations, instructions, manuals and records, held by the PA or under its control or used by its employees for discharging its functions.

1. Yes

2. No

Score: 1 0

90. A statement of the categories of documents that are held by it or under its control.

1. Yes

2. No

Score: 1 0

91. The particulars of any arrangement that exists for consultation or representation by the public in relation to the formulation of its policy or implementation.

1. Yes

2. No

Score: 1 0

92. A statement showing details of the boards, councils, committees and other bodies consisting of two or more members created as part of the PA or as an advisory body and whether the minutes of meetings of these boards/councils/committees are accessible to public.

1. Yes

2. No

Score: 1 0

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93. A directory of its officers and employees.

1. Yes **2.** No **Score:** 1 0

94. The monthly remuneration received by each of the PA's officers and employees including the system of compensation made available by the PA as per its rules and regulations.

1. Yes **2.** No **Score:** 1 0

95. The budget allocated to each of the PA's agencies, indicating the particulars of all plans, proposed expenditures and reports on disbursements made.

1. Yes **2.** No **Score:** 1 0

96. The manner of execution of subsidy programmes, if any, including the amounts allocated and the details of beneficiaries of such programmes.

1. Yes **2.** No **Score:** 1 0

97. Particulars of recipients of concessions, permits or authorizations granted by it.

1. Yes **2.** No **Score:** 1 0

98. Details in respect of the information, available to or held by it, reduced in an electronic form.

1. Yes **2.** No **Score:** 1 0

99. The particulars of facilities available to citizens for obtaining information, including the working hours if maintained for public use.

1. Yes **2.** No **Score:** 1 0

100. The names, designations and other particulars of the Public Information Officers.

1. Yes **2.** No **Score:** 1 0

OTHER OBSERVATIONS

4. KEY POINTS

Note: The following points are to be considered while using the indicators:

- Though an attempt has been made to create an index/set of indicators such that they could be commonly applied to all the P.As, the same has not been possible.
- This is owing to the diversity of the P.As in terms of their size, location, extent of use of information technology in their functioning etc. Thus, all sections of the indicator set may not be applicable to all the P.As.
- In line with the above point, the percentage of marks scored by a P.A must be calculated such that the maximum marks is limited to the summation of scores obtained for the indicators attempted.

To illustrate this point, P.A 1 has attempted (found applicable) all the 100 indicators and has scored 90 marks. The percentage obtained by P.A 1 would be 90%. On the other hand, P.A 2 has found only 80 of the 100 indicators to be applicable (and has attempted only 80) to its case and has scored 72. The percentage obtained by P.A 2 would also be 90%. Thus the percentage of marks obtained by P.As is a function of number of attempts and the score obtained.

ToR 6

To suggest modalities for creation of a permanent broad-based body for the purpose of coordination of various activities of CIC and SICs

ToR 6 of the sub-Committee pertained to "suggesting modalities for creation of a permanent broad-based body for the purpose of coordination of various activities of CIC and SICs"

It came to be suggested early on that the said "permanent broad-based body" would be a 'Registered Society'. In this regard, during the first meeting of the Sub-Committee on 28.01.2009, an agreement was reached that:

Centre for Good Governance would also provide study assistance to the sub-Committee

The lead members of the Sub-Committee who would provide necessary guidance to the CGG team would be Shri K. K. Mishra, CIC, Karnataka and Shri P. S. Rana, CIC, Himachal Pradesh.

On 12th -13th March 2009 Shri Mishra and Shri Rana visited CGG and met with the DG, CGG and with the CGG team working on the ToRs for the Sub-Committee and discussed the modalities of the proposed entity and provided some valuable suggestions regarding the points to be included in the 'Memorandum of Association' and 'Rules and Regulations' for the proposed entity. It was also proposed that the name of the entity would be 'National Federation of Information Commissions in India' (NFICI) and that the newly formed entity would have its office in the Andhra Pradesh Information Commission with CGG, Hyderabad being its Secretariat.

Accordingly, CGG prepared the first draft of MoA and Rules and Regulations, which was discussed during the 2nd meeting of the **Sub-Committee meeting in Delhi, wherein the following suggestions were made:**

- Appropriate terminology for the Governing Body could be either Board of Directors or Board of Governors and the latter would be more appropriate.
- Some inadvertent Inconsistencies in the draft as far as reference to office bearers is concerned be removed.
- A Secretary General should be provided for to the entity the body.
- An Admission Fee of Rs. 5 lakhs as a one-time contribution and Rs. 1 lakh as Annual Membership Fee could be charged. A separate participants' fee should be collected for the various events conducted from time-to-time.
- The word Networking, per se, should be omitted, even though the Federation would definitely facilitate networking.
- ICs could be clubbed together region-wise. Membership could be, accordingly, allocated. Each group would nominate a member to the governing body with due concern to seniority. This will ensure regional representation in the Federation as also in its governing body.
- Elections could be avoided. Each regional grouping could nominate its representative from amongst itself. Some rotation formula could be worked out by which each Commission could be represented.

- The objectives and composition of the Board of Governors need to be further deliberated upon by the members of the Sub-Committee.
- The documents should be legally vetted before registration.
- Bringing out various publications should be one of the key activities of the Federation. This should be explicitly stated in the MoA.
- A proposal could be sent to the Government of India (GoI) to give an annual grant to the Federation.
- The Sub-Committee should consider following the NREGA pattern, which provides for co-opting with Civil Society Organisations.
- Membership should be restricted only to Information Commissioners. The events organised by the Federation could be thrown open to all NGOs to participate.
- The 'Administrative Reforms Commission' (ARC) has suggested that an organisation be set up for coordination among ICs. ARC has used a specific term for it. The proposed Federation could be named accordingly. This would make it easier to get a grant from the GoI.
- Another option for receiving a grant would be to approach the 'Planning Commission' for a contribution to the Federation's corpus – interest on which could fund some of the recurring expenditure.

The Convener, SCIC, AP suggested that a 4-member Group consisting of him; SCIC, HP, SCIC, Karnataka and Prof. Ansari would further deliberate upon the draft.

This group met at Shimla and deliberated further upon the constitution of the proposed.

Key suggestions made after the Shimla meeting pertained to considering registration of the entity under the 'Societies Registration Act, 1860' and having its office registered in Delhi. These points were reiterated during the 3rd Sub-Committee meeting. **Further it was suggested that CGG seek legal opinion on the matter of registration of a society under the Central Act and the AP Societies Act.**

It was also suggested that the registration of the society may be done well before the next Annual Convention.

In the 4th meeting of the Sub-Committee on 22.08.2009 in Hyderabad, the discussion on ToR6 began with Shri K.K. Mishra's elaboration on the aims and objectives of the proposed Federation, along with its Memorandum of Association including certifications to be done and a declaration to be made, rules and regulations, Bye-laws, functions of the Executive Committee and office bearers as well as certain draft declarations and affidavits that will have to be signed.

Shri Mishra dilated on the composition of the General Body and the procedures for calling of meetings and conduct of its proceedings. The powers and functions of the President as well as the constitution of the committees and sub-committees were also elaborated. In special circumstances, the procedure for convening special meetings or calling for special invitees was also explained. He also graphically explained the composition of the Board of Governors which will administer, manager and control the Federation. Powers and functions of the Board of Governors were explained at length including the frequency of its meetings.

A nucleus staff headed by an Executive Secretary was also explained along with the details of functions and powers of the Executive Secretary. Inter-alia issues connected with operation of Bank Accounts, legal proceedings, indemnity, validation of Acts, Annual List of Board of Governors and the limited liability aspect was also explained. The procedure for amendment of Memorandum of Association and rules was also explained. He also explained the rotation formula that will be adopted so as to maximize participation from all the constituents.

Prof. M.M. Ansari fully supported the concept paper as presented and stated that this is in harmony with the recommendations made by the Administrative Reforms Commission chaired by Mr. Veerappa Moily. He also informed that approval has also been obtained of the proposed Federation from the Chief Information Commissioner, Central Information Commission, Shri Wajahat Habibullah who has already appended his signature as a token of acceptance of the proposals made. Shri Suresh Joshi, CIC, Maharashtra and Dr. Mohd. Shakeel Ahmed also expressed their support for setting up the Federation.

CIC, Himachal Pradesh, Shri Rana circulated a hand written note expressing some concerns on certain aspects. He was of the view that preferably the Federation should be registered in Delhi under the Central Act rather than the State Act as it will have pan Indian applicability. Secondly, he was of the view that the term "Executive Committee" should be substituted for the term "Board of Governors" as it has a better acceptability. Lastly, he also suggested certain changes in the composition of the Executive Committee in as much as there should be a provision for re-constitution of the Executive Committee on yearly basis.

Responding to the legal implication, Dr Rajeev Sharma, responded that legal opinion has been obtained which states as follows:

* * *

This is in response to the query regarding the registration of a society of multi-state representation being formed under the aegis of the Central Information Commission for the purpose of coordination of activities of the State Commissions & Central Commission.

The matter regarding the registration of proposed "National Federation of Information Commissions" as a society has been examined. The following points emerged from the back ground material given to me:

This federation is intended to be registered as a society and not as a co-operative society. There is a provision under the Multi-State Cooperative Societies Act that a cooperative society operating in different states has to be registered only in Delhi, the registration being done under Sec.6 & 7 of the said Act. Since the intent is to register this federation as a society and not as a cooperative society, we cannot resort to registration under Multi State Cooperative Societies Act, 2002.

1. *As far as the Society Registration Act 1860, which is the Central Act, is concerned, it stands repealed with the enactment of A.P. Societies Registration Act, 2001, the repeal clause being clearly given under Sec.32 of the Act. Therefore, a Society having its office in Hyderabad has to be necessarily registered under the A.P. Societies Registration Act. There is no bar for such a society to operate on all*

India basis even though it might have been registered in Andhra Pradesh with office in Hyderabad.

- 2. There is a provision under the Society's Registration Act 1860, as adopted by NCT of Delhi, that a society of national (multi-state) character with all India territorial jurisdiction can be registered in Delhi only when it necessarily has its office in Delhi. In addition, another requirement is that it should have a minimum 8 different members from 8 different states of the country. Since the office of the proposed federation is going to be located in Hyderabad, this society cannot be registered under this provision in Delhi.*

Therefore, it is suggested that the National Federation of Information Commissions in India with its proposed registered office at Hyderabad should be registered under A.P. Societies Registration Act 2001.

After receiving this clarification, Shri Rana conceded that though there is no legal impediment in having the Registration done at Hyderabad **yet he was of the view that there should be no unseemly haste in Registration. His suggestion was to first obtain the opinion of all the 28 State Information Commissions and State Governments as well as the Central Information Commission and only thereafter have the Registration done. At his personal level he explained that he cannot be a party to a decision without first consulting his other colleagues in the Himachal Pradesh Information Commission as also in the absence of obtaining the views of the State Government.**

Shri K. K. Mishra, Prof. M.M. Ansari as well as Shri C. D. Arha tried to impress upon Shri Rana that in as much as there are no legal impediments in registration, the balance of convenience would be to go ahead and have it registered. Setting up of federation will be in conformity with the recommendations made by the Kashyap Committee as well as the recommendations made by the Administrative Reforms Commission. Subjecting the registration to prior consultations and feed back to be obtained from all the State Information Commissions/Governments concerned will be extremely dilatory, time consuming and laborious.

It was mentioned by the Convener Shri C. D. Arha that in any case, joining or not joining is a voluntary decision to be taken by the respective Commission. There is no coercive mandate for becoming a member and it is open to individual decisions of the Commissions concerned.

As to Shri Rana's suggestion of altering the designation from "Board of Governors" to "Executive Committee", this was accepted and keeping in view his suggestion it was recorded in Document 2 (Bye-laws) under item 12 "the Board of Governors will be the Executive Committee of the Society". Even after Kashyap Committee's recommendation as well as ARC's recommendations and even after a near unanimous acceptance of the proposal it was agreed that the balance of convenience would be to proceed ahead and adopt the sub-committee recommendations on setting up of permanent broad based body for the purpose of co-ordination of various activities of CIC and SICs and have it registered. In this eventuality, at least there will be one firm concrete and tangible object achieved.

In the end it was concluded that Registration can be proceeded with and simultaneously efforts will continue to convince Shri Rana of the merits of the case.

Accordingly, the NFICI was registered on 1st September, 2009.

A copy of the registration certificate was distributed to the members of the Sub-Committee present for the 5th meeting of the Sub-Committee on 17.09.2009. During this meeting, it was Shri C. D. Arha reiterated his stand that in registering NFICI , at least one specific and tangible output had been achieved by the Sub-Committee.

He added that in line with the recommendations of the Kashyap Committee that CGG would be a useful resource-support-organisation for any forum that would be created for better coordination between all the Information Commissions and for providing appropriate inputs to different stakeholders with the objective of strengthening RTI implementation.

Moreover, he said that coordination would become a very difficult and uneconomical task if the Federation is to be headquartered in New Delhi and it will be initially impossible to provide it with backstopping support.

He also brought it to the notice of the house that that the present document of registration of the Federation had not been cast in stone and that, suitable changes could be made to the provisions of the existing document if the members of the Federation deem fit.

In any case, he stated that, there was no compulsion on any Information Commission to join the federation and it was entirely voluntary.

Shri K. K. Mishra suggested that now that the Society had been registered, it was time to take the next steps toward circulation of the registration-document not only to all the members of the Sub-Committee, but also to all the Information Commissions so as to start enrolling them for membership of the Federation.

Shri C. D. Arha mentioned that the Chief Information Commissioner, Shri Habibullah had suggested that the communication regarding the establishment of the Federation should go from the Central Information Commission to the State Information Commissions. He requested Shri B. B. Shrivastav to do the needful in this regard. At this point, Shri K. K. Mishra pointed out that the Executive Committee of the federation would have to meet once every 3 months, in which case it would be apt for the newly-registered entity to have its first meeting planned some time before or after the 2-day Annual Convention in coming October. Subscription of other members is not needed for now.

The Executive Committee as mentioned in the Registration document could meet and subscription for other members could be opened immediately after the first meeting. Meanwhile, copies of the document as registered could be circulated among the prospective members and this could be done by the Central Information Commission. Later he mentioned that the first meeting could be attended only by the members of the Executive Committee and some special invitees.

The Sub-Committee approved the detailed reports as prepared for ToR 1 to ToR 6 and in token of their approval appended their signature in a letter to be handed over to the Chief Commissioner, CIC. Formal handing over will be done after the after convenience of the Chief Commissioner, CIC has been obtained.

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Note: Soft / hard copies of 1) Registration certificate of the Society, 2) the legal opinion sought by CGG, Hyderabad; 3) Shri P. S. Rana's comments, 4) Memorandum of Association; 5) Byelaws and 6) Rules and Regulations have been separately provided.
